

UNDERSTANDING IRELAND'S WHISTLEBLOWER PROTECTION LAW: A SIMPLIFIED GUIDE

What is whistleblowing?

'Whistleblowing' describes the practice of drawing attention to wrongdoing. The term relates to the report of fraud, abuse, corruption, dangers to public health and safety etc. to someone believed to be able to effect action. In Ireland, the [Protected Disclosures Act](#) (PDA) 2014 amended in 2022 to reflect the [EU Directive on Whistleblowing](#), provides protection for reporting persons who make reports which meet a criteria.

Key features of the whistleblower protection law

Any one can report wrongdoing. PDA protects certain categories of persons who are at risk of retaliation for doing so. The amended PDA widened the scope of reporting person to protect a broad range of 'reporting persons' or 'workers' – which include interns, volunteers and **shareholders**.

If you are *reporting person* making a *disclosure of information*, which in their *reasonable belief, tends to show* one or more *relevant wrongdoings* and which came to their attention in a *work-related context* then you may be making a protected disclosure under PDA.

A relevant 'wrongdoing' can include something you reasonably believe to be a criminal offence, failure to comply with legal obligations, endangering the health and safety of individuals, damaging the environment, misuse of public funds, grossly negligent acts or omissions by a public body, concealment, a breach of EU law, or destruction of information about any of the above wrongdoing or any attempt to conceal or destroy such information. It can include wrongdoing which occurred outside of Ireland.

There are different conditions if you are reporting information *internally, externally* or *wider* (see below) or are reporting matters of national security or other sensitive information.

Disclosures can still be protected even where the information is later proven to be incorrect provided you have a reasonable belief in the information.

Connected third parties such as family members or facilitators of the disclosure can also seek compensation for any loss caused by making a protected disclosure.

Where and How to Report

Reporting Internally

PDA mandates all public bodies and private employers with over 50 employees to establish internal reporting channels and obligates follow up and feedback. You can be made to your employer or a person you believe to be responsible for the wrongdoing – check for any relevant policy or procedures indicating designated persons or hotlines to contact. Typically, when seeking to report wrongdoing internally, this will be to a designated impartial person in your employer (or nominated third party), or a person you consider responsible for the area or department in which the wrongdoing has/is occurring.

Reporting Externally

EU Whistleblowing Monitor

There are also over 100 '[Prescribed Persons](#)' to receive external reports based on their remit, as well as a new [Office for the Protected Disclosures Commissioner](#) where that is not clear. You may be able to report to Government Ministers and EU bodies or to the media in certain circumstances.

Reports wider than these channels - such as to journalists or members of the Oireachtas can be protected but there must meet more restrictive conditions, such as a **serious risk**.

In response to making an internal or external report, there are now minimum standards for the recipient to follow up on your report (usually an initial assessment and potentially an investigation) and provide feedback to you.

Measures to Protect Whistleblowers

There are strict rules to protect a reporting persons' identity if reporting confidentially. Those who make an anonymous disclosures will receive protection if later identified, however not all channels accept anonymous reports.

PDA protects whistleblowers from dismissal, wide list of retaliation or other penalisation, by their employers or any other party for having made a protected disclosure, and any losses to others connected to a protected disclosure. **Interim relief can be sought**.

Key considerations

There is a distinction between an anonymous disclosure (where identity is withheld by the discloser) and confidential disclosures (where identity is protected by the recipient). Employer obligations differ regards anonymous disclosures, and there may be practical challenges for investigation and protection. may not have the same obligations for follow-up, and can only be acted upon to the extent that it is possible. For instance, a recipient may need to clarify details with a discloser when following up their report, and in other cases they may be restricted in their ability to fully investigate when the reporting person's identity is withheld.

In court, there is a presumption that a disclosure is protected until proven otherwise, and in claims for penalisation – an act or omission that causes detriment to a reporting person is presumed to have been a result of their protected disclosure unless it can be proven that it was justified on other grounds. However, this is a little-tested provision at present. Whistleblowers should maintain meticulous and contemporaneous notes of events in case they are needed later.

Other key legislation

There are several other pieces of legislation which provide protections to whistleblowers. The Charities Act 2009 (S59, S61 & S62) – Auditors, trustees, investment business firms, or a person involved in preparing an annual report may make a report to the Charities Regulator if they suspect theft or fraud. The Standards in Public Office Act, 2001 (S.5) states that no action can be taken against a person who makes a complaint against an individual in public office who has done or failed to do something which is inconsistent with the proper performance of the functions of their office or position. Consumer Protection Act 2007 S87 protects a person from damages awarded against them for making a disclosure to the agency in good faith regarding offences committed by a relevant person.

While the PDA does not oblige a worker to make a protected disclosure, it also does not absolve any worker from mandatory 'obligations to report' contained in other legislation. There are other pieces of legislation which contain mandatory reporting provisions (e.g Children First Act 2015, Health and Welfare at Work Act 2005, Codes of Conduct and Ethics) and these should be dealt with, where necessary and appropriate, in separate and distinct policies and procedures by employers.

Cautions for whistleblowers

Always seek legal advice on PDA before making a disclosure. to ensure their disclosure meets the necessary criteria to be covered under the Act.

This is to ensure they are not opening themselves to civil litigation (SLAPP suits) where there is a possibility of uncapped damages being award against them.

A whistleblower should also be aware that they may face disbelief or inaction from their employer after making a disclosure. They may be subjected to poor treatment from their colleagues, ostracised or treated differently. This can have a detrimental effect on your mental health and effect your ability to cope. While Transparency International Ireland can provide limited support to assist whistleblowers who require psychological support, consideration should be given to the possible mental burden blowing the whistle can have on not only the whistleblower, but also their family and friends.

Where to Seek Information, Support & Advice

- [TI Ireland Speak up Helpline](#) (who can refer to the [Transparency Legal Advice Centre and a Psychological Support Service](#)).
- [Office of the Protected Disclosure Commissioner](#)
- Your Trade Union or a Lawyer – see [find a solicitor](#)

Further Reading & Helpful Resources

- [TI Ireland Speak Up Safely Guide](#)
- [A Tech Workers Guide to Whistleblowing](#)
- [Protected Disclosures Act Workers Key Messages](#)
- EU Whistleblowing Monitor and Glossary of Whistleblowing