

Protected Disclosure “Whistleblowing” Policy & Procedure

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1.1 DEFINITIONS

For the purposes of this Policy and Procedure the following definitions shall apply:

“Authorised Person” means a designated person(s) within the FAI to whom Workers may make a Protected Disclosure to. The current Authorised Person is the Chair of the Audit, Risk Compliance and Finance Committee (ARCFC) or a person appointed by the Authorised Person to conduct assessments or investigations on their behalf.

“FAI” means the Football Association of Ireland.

“Worker(s)” means any person who has a contract of employment with the FAI, in writing or verbally, any contractor and/or assigns. It includes employees, volunteers, auxiliary staff, Board members, trainees, job applicants & stakeholders for the purpose of this Legislation.

“Investigator” means any person appointed to investigate a Protected Disclosure.

“Legislation” means the Protected Disclosures Act 2014 provides for a framework of statutory protections for whistleblowers in Ireland. The Act has been substantially overhauled by the Protected Disclosures (Amendment) Act 2022, which was signed into law in July. The new legislation came into operation on 1 January 2023.

“Policy” means the document that sets out the expected conduct of the FAI and its workers to comply with the requirements of the Legislation.

“Procedure” means the document that sets out the expected procedures that the FAI and its workers should follow to comply with the requirements of the Legislation.

“Protected Disclosure(s)” & **“Whistleblowing”** means a disclosure of information which, in the reasonable belief of the worker tends to show one or more Relevant Wrongdoing and came to the attention of the worker in connection with their employment or work with the FAI.

“Relevant Wrongdoing” means;

- a) Criminal offences
- b) Failure to comply with a legal obligation (other than a worker’s contract of employment)
- c) Miscarriage of justice
- d) Endangerment of health & safety - i.e., failure to provide manual handling training
- e) Damage to the environment
- f) Unlawful or improper use of funds
- g) Oppressive, discriminatory or negligent behaviour of a public body
- h) Breaches of EU law
- i) Concealing or destroying evidence of wrongdoing

It does not include concerns in relation to your own employment or personal circumstances in the FAI that may be dealt with by way of a grievance procedure.

“Reviewer” means a person appointed by the Chairperson of ARCFC or the Chairperson of the Board to review a Protected Disclosure in accordance with the policy.

“The Form” means The Protected Disclosure Whistleblowing Form or any amended version(s) thereof.

“The Report” means a written document completed as the final part of the investigation process of the Protected Disclosure by the Authorised Person.

“Central oversight / co-ordination of information” is a point of contact for co-ordination of information and case management so that information on protected disclosures can be managed and collected in order, inter alia, to meet the body’s obligations under Section 22 of the 2014 Act.

What is the Protected Disclosures Act?



People who speak up about wrongdoing in the workplace perform a valuable public service.



Many important matters of public concern would never have come to light if workers hadn't reported their concerns.



Reporting persons – or “whistleblowers” – should not be treated unfairly or lose their job because they have spoken up about unlawful or improper behaviour.



There are legal protections against penalisation for reporting persons in Ireland.



The Protected Disclosures Act 2014 sets out how wrongdoing can be reported and how reporting persons are to be protected from penalisation.



The Act was amended in 2022 and there are now new obligations employers must fulfil.



1.2 PURPOSE OF THE PROTECTED DISCLOSURE POLICY

The Football Association of Ireland's Whistleblowing Policy details how workers and other workers including former employees, board members, stakeholders, contractors, job applicants, individuals involved in pre-contract negotiations, trainees, volunteers and third parties such as agency workers and independent contractors should report confidential disclosures of relevant information ("Whistleblowing") and how these disclosures will be dealt with.

The Purpose of the Policy is to;

- Encourage workers to feel confident and safe in raising Protected Disclosures.
- Reassure workers that they will be protected from penalisation when making a Protected Disclosure.
- Set out the Procedure for workers to raise Protected Disclosures so that proper avenues are in place to do so.
- Ensure that workers receive a response where possible to any Protected Disclosure made.
- Provide the Board of Directors with further assurance that there is a process, in addition to management reporting, whereby sensitive issues may be brought to their attention.
- Comply with Legislation.

Concerns that do not count as Whistleblowing

It is important to note that should you have a concern in relation to your own employment or personal circumstances in the workplace it should be dealt with by way of our Grievance Procedure. Similarly, concerns arising in regard to workplace relationships should generally be dealt with through the [Dignity in the Workplace or Grievance] policy as appropriate.

1.3 POLICY STATEMENT AND COMMITMENT OF THE FAI

The FAI is committed to achieving the highest standards and promoting a culture, of transparency, honesty and accountability so workers may report Protected Disclosures in confidence.

The FAI is committed to prioritising Protected Disclosures so that they are managed with the proper degree of seriousness required and within appropriate time frames, such appropriate time frame will depend on the circumstances of each case.

It is very important to note that the Policy does not replace any legal reporting or disclosure requirements where statutory reporting requirements and procedures already exist.

1.4 POLICY

1.4.1 The FAI Protected Disclosure Policy shall be conducted in accordance with the Procedure in a fair and transparent manner supporting the values of the FAI: Togetherness, Passion & Progress.

1.4.2 The FAI feel it is important to assist workers in understanding what the difference is between a personal employment complaint (“Grievance”) and a Protected Disclosure.

A Grievance is dealt with under the FAI Grievance Procedure and would be a matter specific to the worker, for example, but not limited to;

- a) complaint around working hours,
- b) complaint around selection criteria for a post,
- c) complaint around salary.

A Protected Disclosure requires Relevant Wrongdoing, for example, but not limited to;

- j) Criminal offences
- k) Failure to comply with a legal obligation (other than a worker’s contract of employment)
- l) Miscarriage of justice
- m) Endangerment of health & safety - i.e., failure to provide manual handling training

- n) Damage to the environment
- o) Unlawful or improper use of funds
- p) Oppressive, discriminatory or negligent behaviour of a public body
- q) Breaches of EU law
- r) Concealing or destroying evidence of wrongdoing

1.4.3 Should a worker have any doubt in relation to the difference between a Grievance and a Protected Disclosure it is important that the worker seek clarification from the Authorised Person.

1.4.4 The FAI are obliged in Legislation to protect the identity of any worker who makes a Protected Disclosure unless the worker gives clear and unambiguous consent, or the disclosure of the identity of the worker is otherwise required by legal obligations or requirements. If the FAI determines that the disclosure of the identity of the worker is required by legal obligations or requirements, they shall where permitted by law notify the worker in advance.

1.4.5 Workers are assured that Protected Disclosures can be made in connection with Relevant Wrongdoings relating to their employment at the FAI without fear of reprimand and that the full protections referred to in the Legislation shall be afforded to workers by the FAI. However, a disclosure made in the absence of a reasonable belief will not attract the protections of the Act and may result in disciplinary action against the worker making the disclosure. In addition, disclosure of a wrongdoing does not confer any protection or immunity on a workers in relation to any involvement they may have had in that wrongdoing.

1.4.6 Irish Anti-Doping Rules or World Anti-Doping Rules

Legislation requires Protected Disclosures of all matters relating to anti-doping in sport pursuant to Irish and/or World Anti-Doping rules to be made to a prescribed person, in this case to the Chief Executive of Sport Ireland for the time being or a person nominated as a prescribed person by the Chief Executive of Sport Ireland. For the avoidance of doubt the worker may make any Protected Disclosure in respect of anti-doping directly to the Chief Executive of Sport Ireland for the time being or to the Authorised Person within the FAI who will forward the Protected Disclosure directly to the Chief Executive of Sport Ireland.

1.5 PROCEDURE

Making a Protected Disclosure

- 1.5.1 The FAI Protected Disclosure Procedure shall be conducted in a fair and transparent manner supporting the values of the FAI: Togetherness, Passion & Progress.
- 1.5.2 A worker may make a Protected Disclosure by filling out and signing the Form annexed to this Policy and forwarding the completed Form to the Authorised Person by emailing it to: protected.disclosures@fai.ie.
- 1.5.3 A worker may alternatively contact the Authorised Person at the above email address to arrange a confidential meeting to make a Protected Disclosure. In this instance the Authorised Person shall complete the Form in as much detail as possible and invite the worker to sign the Form. It is the workers right to make an anonymous Protected Disclosure, but the workers are encouraged to sign the Form to assist with the proper investigation of the Protected Disclosure and so that the Authorised Person can where circumstances allow report back to the worker with updates. In certain circumstances anonymous Protected Disclosures may be impossible to investigate but the FAI will use best endeavors to investigate all Protected Disclosures.
- 1.5.4 Any disclosures should be factual (to the best of their knowledge and should address the following key points to the extent that such information is known to the individual in relation to an alleged relevant wrongdoing that has occurred, is occurring or is likely to occur:
- a) What has occurred (or is thought to have occurred)?
 - b) When it occurred?
 - c) Where is occurred?
 - d) Who was involved?
 - e) Has the FAI been put at risk or suffered a loss as a result?
 - f) Has it happened before?
 - g) Has it been raised with anyone else either within the FAI or externally? If so, details of when/whom?
 - h) Are there any other witnesses?

- i) Is there any supporting information or documentation?
- j) How did the matter become known?
- k) Each disclosure shall be considered individually.

1.5.5 The Authorised Person will treat Protected Disclosures in a confidential and sensitive manner, in so far as possible and in so far as this does not adversely affect the investigation of an important Protected Disclosure.

1.5.6 Workers may make disclosures on an anonymous basis. However, the FAI may not be in a position to pursue any investigation of anonymous disclosures to the fullest extent.

1.5.7. If the Worker does not want to report to their employer or reporting to their employer has not worked, they can report to a regulator, known as a “prescribed person.” They can also report to the Protected Disclosures Commissioner who will refer the report usually to the suitable regulator, for acknowledgement, follow-up and feedback. A list of prescribed persons can be found at www.gov.ie/prescribed-persons.

Assessment

1.5.7 Once a disclosure has been made, the Authorised Person should conduct an assessment of the disclosure to determine whether or not it should be treated as a Protected Disclosure, having regard to the provisions of the Legislation. The Authorised Person may consult with the legal department of the FAI when conducting their assessment. If it is unclear whether the disclosure qualifies as a Protected Disclosure, the Authorised Person should treat the disclosure as a Protected Disclosure (and protect the identity of the Worker in accordance with the Procedure) until satisfied that the information is not a Protected Disclosure.

1.5.8 It may be necessary, as part of the screening process, to differentiate between Protected Disclosures and a Grievance. In some cases, the information provided may involve both a Grievance and a Protected Disclosure. The disclosure should be assessed to determine the nature of the information disclosed and the procedure or procedures that is/are most appropriate to be used to investigate the matter.

1.5.9 It may be necessary to separate the different elements of the complaint/disclosure and determine whether any specific disclosure of information relating to a Relevant Wrongdoing has taken place. If, having assessed the disclosure, it is deemed to relate solely to a Grievance, then the Worker should be encouraged to utilise other processes

(for example, the grievance or dignity at work policy) so that that the complaint can be dealt with in an appropriate manner. If, having assessed the disclosure, there is a mix of different issues (some involving a Protected Disclosure, some involving a Grievance) then an appropriate process / processes should be applied to deal with the issues. The process to be applied may differ from case to case.

- 1.5.10 The assessment should consider whether the alleged wrongdoing is something that can or should be investigated or not, and, if so, what steps should be taken as part of such an investigation. If an investigation is required, the Authorised Person should consider the nature and extent of the investigation. This could consist of an informal approach for less serious wrongdoings, a detailed and extensive investigation of serious wrongdoings, or an external investigation by another body.

Review of an Assessment

- 1.5.11 Where an Authorised Person has made an assessment that further action or investigation is not warranted, the worker has the right to ask the Authorised Person that that assessment be reviewed. In such an event, the Authorised Person shall communicate to the Chairperson of the Board that a review has been asked for. The Chairperson of the Board shall appoint a reviewer to evaluate the assessment. The Authorised Person will send the disclosure file to the person assigned by the Chairperson of the Board to carry out the review. Once the Reviewer has completed their review, they shall inform the Chairperson of the Board as to whether or not they feel an investigation is warranted.

The review process should ensure that there is no entitlement to two reviews in respect of the same issue.

Investigation

- 1.5.12 Where an Authorised Person, or a subsequent Reviewer reports that an investigation is warranted in respect of a Protected Disclosure, the Chairperson of the Board and the Authorised Person will arrange as soon as is practicable, that an investigation is
- 1.5.13 commenced. The Investigation will be conducted by a person appointed by the Chairperson of the Board and the Authorised Person. For the avoidance of doubt the Authorised Person may be the Investigator.
- 1.5.14 Investigations in case of an alleged serious wrong doing will be carried out, as

appropriate depending on the nature and scale of the alleged wrongdoing.

- 1.5.15 In some cases, the matter may need to be reported to, and investigated by, An Garda Síochaná, Tusla if it relates to a Child Welfare and Safeguarding matter, Sport Ireland if it relates to an anti-doping matter or another body with the statutory power and function of investigation of particular matters;
- 1.5.16 If an investigation is warranted the appointed Investigator will set out a terms of reference document for completion of the investigation of the Protected Disclosure including a risk assessment which will be reviewed and agreed by the Chairperson of the Board and the Authorised Person before the investigation commences.
- 1.5.17 The worker will receive where possible, an estimated time frame for completion of the investigation.
- 1.5.18 If, at any time during an investigation, the Authorised Person believes the disclosure is false or misleading, s/he may cease the investigation.

Feedback to the Worker

- 1.5.19 The overriding requirement when providing feedback is that no information is communicated that could prejudice the outcome of the investigation or any action that ensues (e.g. disciplinary, or other legal action, including prosecution) for example, by undermining the right to fair procedures enjoyed by the person against whom a report or allegation is made.
- 1.5.20 Subject to the previous paragraph, workers making protected disclosures should be provided with periodic feedback in relation to the matters disclosed and be advised when consideration of the disclosure is complete, except in exceptional cases. This does not require the FAI to give a complete account of what the situation is at a particular point in time in terms of progress, but the FAI should generally give reassurance and affirmation that the matter is receiving attention.
- 1.5.21 Any information and feedback should be provided in confidence. There is no obligation to inform the worker of the progress, or outcome, of any disciplinary process involving another worker which may arise on foot of an investigation occasioned by a Protected Disclosure. In general, such information is confidential between the employer and the

worker who is the subject of a disciplinary process. A worker should be informed that appropriate action has been taken but is not generally entitled to know what that action was.

1.5.22 The principles of natural justice will apply in respect of any worker of the FAI who is the subject (the respondent) of any investigation. The People & Culture Division will arrange that appropriate supports and protections are available as and when appropriate.

1.5.23 Acknowledgement of all reports received should be made within 7 days. This should allow for the provision of feedback to the reporting person on actions taken or envisaged to be taken in follow-up within 3 months. There should be provision for further feedback too the reporting person at 3 month intervals, on request.

Review of investigations carried out under these procedures

1.5.24 A worker may seek a review of the outcome of an investigation. The Chairperson of the Board will arrange for a review of the outcome of the investigation by a person who has not been involved in the initial assessment and/or review of the initial assessment and/or the investigation.

1.5.25 If a worker;

- a) considers that he or she has been penalised as a result of having made a protected disclosure, or
- b) wishes to appeal the decision of the initial assessment or investigation, to disclose his or her identity,

the worker should inform the CEO or the Chairperson of the Board. The Chairperson of the Board will arrange for the matter to be considered, remediated where appropriate, investigated as necessary and assess if and what appropriate disciplinary proceedings are necessary.

Any investigation should be undertaken by a person who has not been involved in the initial assessment, investigation or decision. Where a decision is taken to disclose the identity of the discloser, where at all possible, the discloser should be offered a review before his / her identity is disclosed. The review process included in the Procedures, should ensure that there is no entitlement to two reviews in respect of the same issue.

Reporting

- 1.5.26 The Authorised Person shall issue an anonymised report to the Board of the FAI twice per annum the first by 30th June each year and the second by 31st December each year outlining Protected Disclosures made including those made to a member of the ARCFC and the outcomes of Investigations for the preceding six months.
- 1.5.27 These reports shall be published on the FAI's website and in the annual report.

Central oversight / coordination of information

- 1.5.28 Legal Division is appointed as the point of contact in the FAI for co-ordination of information and case management so that information on protected disclosures can be managed and collected in order, inter alia, to meet the body's obligations under Section 22 of the 2014 Act to report annually and to maintain oversight of how protected disclosures are dealt with. The point (or points) of contact should be at an appropriate level.
- 1.5.29 The FAI have an appropriate system in place to record and track protected disclosures. The system should ensure that there is effective monitoring of how many protected disclosures are being made; what investigation or other action is being taken; any penalisation of disclosers and any steps taken to mitigate against penalisation; and whether the Procedures are effective at encouraging disclosers to come forward.

1.6 COMMUNICATION AND ONGOING REVIEW

This Policy and Procedure shall be communicated to all workers.

The Protected Disclosure "Whistleblowing" Policy and Procedure will be reviewed every two years by the Audit, Risk, Compliance & Finance Committee and approved by the Board.

PROTECTED DISCLOSURE WHISTLEBLOWING WORKER NOTIFICATION FORM:

NAME: _____

ROLE: _____

JOB TITLE & DEPARTMENT: _____

(While anonymous Protected Disclosures are permitted by Legislation, the FAI encourage you to sign your name to the Form to assist with the proper investigation of the Protected Disclosure)

Please provide contact details (email address, phone number and/or address) at which The Authorised Person may contact you when investigating the Protected Disclosure.

Signature: _____

Date: _____

**Please add additional pages if necessary*

Completed forms should be returned to:

FAI, Office of the Authorised Person, National Sports Campus, Abbottstown, Dublin 15

For further information please contact The Office of the Authorised Person

E-mail: protected.disclosures@fai.ie

**Office hours are 9am to 1pm and 2pm to 5pm Monday to Friday*

Protected Disclosures FAQ's

1. *What is the Protected Disclosure Act?*
 - a. The Protected Disclosures Act 2014 provides for a framework of statutory protections for whistleblowers in Ireland. The Act has been substantially overhauled by the Protected Disclosures (Amendment) Act 2022, which was signed into law in July. The new legislation came into operation on 1 January 2023.
2. *What is a Protected Disclosure?*
 - a. Whistleblowing is more formally known as making a 'protected disclosure'. The law protects you if you raise concerns about possible wrongdoing in a workplace you currently or previously worked in.
3. *Who is covered in the Protected Disclosures Act 2014?*
 - a. The scope of the Act has been widened to include employees, volunteers, auxiliary staff, Board members, trainees, job applicants & stakeholders.
4. *What are my Employers obligations to the Act?*
 - a. Any organisation with 250 or more workers must establish internal channels for their workers to report wrongdoing.
5. *Can I be penalised if I make a Protected Disclosure?*
 - a. Penalisation of a reporting person is now a criminal offence.
6. *What wrongdoings can be reported?*
 - a. The following wrongdoings can be reported as a protected disclosure;
 - i. Criminal offences
 - ii. Failure to comply with a legal obligation
 - iii. Miscarriage of justice
 - iv. Endangerment of health & safety
 - v. Damage to the environment
 - vi. Unlawful or improper use of public funds
 - vii. Oppressive, discriminatory or negligent behaviour by a public body
 - viii. Breaches of EU law
 - ix. Concealing or destroying evidence of wrongdoing
7. *How to make a protected disclosure?*
 - a. A protected disclosure can either be made to their employer, to a regulator or through the public disclosure process. To view a list of the prescribed persons, www.gov.ie/prescribed-persons.
8. *Where to contact to make a Protected Disclosure?*
 - a. Email: protected.disclosures@fai.ie.
9. *Who is the Authorised Person within the FAI to make a Protected Disclosure too?*
 - a. The current Authorised Person is the Chair of the Audit, Risk Compliance and Finance Committee (ARCFC)
10. *How quickly should I hear back once a report has been made to the Authorised Person?*
 - a. Acknowledgement of all reports received should be made within 7 days.