



Monkstown Educate Together  
National School

# **Protected Disclosures (Whistle-blower) Policy**

## **Monkstown Educate Together NS**

### **December 2019**



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## 1. The Protected Disclosures (PDA) Act

The Protected Disclosures (PDA) Act, 2014 places a requirement on every public body (encompasses schools) to establish and maintain procedures for the making of protected disclosures by workers who are, or were employed, by the public body and for dealing with such disclosures.

## 2. What is a Protected Disclosure?

A protected disclosure, sometimes referred to using the term ‘Whistleblowing’, is a disclosure of information which, in the reasonable belief of the worker, tends to show one or more relevant wrongdoings such as possible fraud, crime, danger or failure to comply with any legal obligation which came to the worker’s attention in connection with the worker’s employment. This is different to simply making an allegation on the basis of a suspicion that is not founded on anything tangible.

Relevant wrong doings are broadly defined in the PDA and may have already taken place, be happening or be likely to happen.

## 3. What is a Relevant Wrongdoing?

Relevant wrong doings include the following:

- Commission of an offence — has happened, is happening, or is likely to happen;
- Failure to comply with any legal obligation (other than one arising under the worker’s contract of employment);
- Miscarriage of justice;
- Danger to the health and safety of any individual;
- The unlawful or improper use of public funds or resources;
- Gross mismanagement by public body;
- Damage to the environment;
- An act or omission of a public body which is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement;
- The destruction or concealment of information evidencing any of the above matters or the likelihood of any of the above matters occurring.

## 4. What is Not a Relevant Wrongdoing?

- A failure to comply with obligations arising under the worker’s contract of employment, e.g., a failure to pay an employee overtime where provided for in the employee’s contract of employment;
- Grievances concerning the worker’s contract of employment and/or duties in employment or concerning work relations with another individual or that fall within the scope of a grievance procedure applicable to the worker;



- Matters falling within the scope of the school's complaints, disciplinary procedures, and/or other internal employment policies and procedures.

## 5. Who is a Worker?

- All current and former employees (including permanent, temporary, fixed-term, casual and substitute);
- Contractors and consultants engaged to carry out work or services for the school;
- Agency workers;
- Individuals on work experience pursuant to a training course and trainees of/with the school

## 6. Our Commitment

Monkstown Educate Together National School, 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.

## 7. To Whom does the Policy Apply?

This policy applies to all staff members. 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 (ie INTO grievance procedure for teachers; IMPACT 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 Adult Bullying, Harassment and Sexual Harassment 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.

## 8. Reasonable Belief

A worker must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. The term 'reasonable belief' does not mean that the belief has to be correct. Workers are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds.



## 9. Protection and Safeguards

No worker will be penalised simply for getting it wrong, so long as the worker had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

Penalisation includes suspension/dismissal, disciplinary action, coercion, intimidation or harassment, demotion, discrimination, threats or other unfavourable treatment 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.

The protection from penalisation applies even if the disclosure is not subsequently confirmed or upheld as well-founded.

If an employee of the school experiences penalisation he/she should notify school management and the matter will be assessed/investigated and appropriate action taken where necessary.

## 10. Confidentiality

The school is committed to protecting the identity of the worker making a protected disclosure and ensuring that protected disclosures are treated in confidence.

However, there are circumstances, as outlined in the 2014 Act, where confidentiality cannot be maintained, for example, where the Discloser makes it clear that he/she has no objection to his or her identity being disclosed and/or the identity of the Discloser is critical to an investigation of the matter raised.

If it is decided that confidentiality cannot be maintained in the context of an investigation, the school will inform the Discloser in advance that his/her identity will be disclosed. Should such a situation arise, the school will make every effort to inform the staff member that his/her identity may be disclosed.

## 11. Anonymous Disclosures

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.

The school will act upon the disclosure to the extent that this is possible, but may be restricted in their ability to investigate the matter in the absence of the knowledge of the identity of the discloser.



Important elements of the Policy & Procedures will be difficult or impossible to apply unless the worker's anonymity lifts. e.g. keeping the discloser informed and protecting a discloser from penalisation.

## 12. Procedure to Make a Protected Disclosure

### ***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 or where the disclosure involves the Principal, the Discloser should make the disclosure in writing to the Chairperson of the Board of Management. A person to whom a disclosure is made must take reasonable steps to protect the identity of the Discloser.

### ***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 Adult Bullying procedures. The staff member can choose whether or not he/she wants to be accompanied by a colleague or a trade union representative or other appropriate representative at this meeting. 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 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, but in any event, commit to dealing with the matter as quickly as practicable.

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 2014-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.

### **13. 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 in Monkstown Educate Together National School, it will be reviewed approximately every three years, unless there is a compelling reason to review it earlier.

**This policy was approved by the Board of Management of Monkstown Educate Together in December 2019.**