

Protected Disclosures Procedure

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1. Executive Summary

This procedure advises workers on how to make an internal Protected Disclosure. It is intended to be read in conjunction with South East Technological University (SETU) Protected Disclosures (Whistleblowing) Policy.

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.

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

2. General introduction

- 2.1 As outlined in the Protected Disclosures (Whistleblowing) Policy (the Policy), the first avenue for disclosure is internal and can be made orally or in writing directly to SETU's [Audit & Risk Committee](#) (ARC) via its Chairperson (the Recipient); to their line manager; or the Vice President (VP) for Corporate Affairs and Finance.¹ Where a disclosure is made to a line manager or to the VP for Corporate Affairs and Finance, the disclosure will be passed to the Chair of the Audit & Risk Committee (ARC), who is formally the 'Recipient'.²
- 2.2 As per the Policy, (section 6.5), a worker is not required to investigate matters themselves to find proof of the wrongdoing and should not endeavour to do so.

¹ In the case of contractors or agency workers, a concern should be raised with their University point of contact.

² The Chair of the ARC may refer reports back to the VP for 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.

3. 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 email³ 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. Disclosures made to a legal advisor and/or to a trade union official in the course of obtaining legal advice are protected under the Protected Disclosures Act 2014 (the Act).
- Click on this link to find contact details for the [Employee Assistance Programme](#). Alternatively, they can be contacted on Freephone Helpline Number **1800 814 243** or WhatsApp & SMS: Text 'Hi' to **0873690010**.

3.2 Any worker making a protected disclosure, or any worker against whom an allegation has been made, must have their constitutional rights 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 worker's choice or a representative of a recognised trade union which holds the negotiating rights for the grade of the worker.

4. How to make a disclosure

4.1 As stated above, the first avenue is internal, and disclosures for SETU can be made orally or in writing directly to SETU's ARC via its Chairperson (the Recipient); to a line manager or to the VP for Corporate Affairs and Finance. The ARC is a committee of the Governing Body.

³ An encrypted email is one where the information and/or data has been converted into a code, which prevents unauthorized access.

- 4.2 Where a disclosure is made to a line manager or VP for Corporate Affairs and Finance, the disclosure will be passed to the Chair of the ARC, who is formally the 'Recipient'.
- 4.3 The Chair of 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.
- 4.4 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. An online version of the Protected Disclosures Notification form is available [here](#).

The Information contained in the disclosure should:

- include the name of the Discloser, position in the Institution, place of work, date of disclosure and preferred contact details, should they wish to reveal them
 - be clear and factual
 - so far as possible, avoid speculation, personal attacks, and emotive language
 - include the details of the alleged wrongdoing and any supporting information that is available to the Discloser including:
 - 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
- 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.

5. Anonymous disclosures

- 5.1 Disclosures may be made anonymously, however, SETU 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 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 SETU's responsibilities to protect their confidentiality.
- 5.2 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, anonymous disclosures may be less capable of being addressed as it may be difficult to investigate and to corroborate facts if the worker chooses to remain anonymous, it may be difficult to protect them from any penalisation that might arise as a result of having made a report. Furthermore, SETU may not be able to keep the worker updated on the progress and/or outcome of any investigation that arises from the disclosure.

6. What happens after a disclosure is made

- 6.1 Within 7 working days of a disclosure being received, the ARC will reply to the worker 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
- 6.2 The ARC or a sub-committee thereof (the 'Review Group') shall carry out an initial assessment of the issue, establish the factual information and decide the course of action to be taken, if any. This initial assessment will determine whether or not the matter 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 where applicable, a determination will be made as to what steps will be taken as part of any further 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.

6.3 Employees of SETU, 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.

6.4 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 assessment is completed:

- Do not proceed to investigate
- Proceed to investigate

6.5 If a Discloser is not satisfied with the outcome of the initial assessment, they will have the option of lodging an appeal - see further details below in 7.2.

6.6 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.

6.7 A flow chart of the protected disclosure process can be found at Appendix 3.

7. Decision not to proceed to investigation

7.1 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 ARC decides 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.

- 7.2 If the Discloser is dissatisfied with a decision of the Recipient not to pursue the matter further, they may lodge an appeal of the decision with the Recipient within 10 working days of having received the decision.
- 7.3 The Recipient will appoint an Appeal Group (not previously involved in the 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.
- 7.4 On completion of the review, the Discloser will be advised 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 ARC to organise an investigation.
- 7.5 A decision of the Appeal Group not to pursue the matter will represent a final internal decision on the matter.

8. Decision to proceed to investigation

- 8.1 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.
- 8.2 If the ARC deems it appropriate, they may call on external expertise at their discretion in order to assist them.
- 8.3 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 soon as possible.

- 8.4 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.
- 8.5 It should be noted that if a further disclosure is made during an investigation or disciplinary process, it does not affect those distinct processes.
- 8.6 As per section 8.2.12 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 appropriate action to the Discloser.
- 8.7 In the event that the Discloser is dissatisfied with the outcome of an investigation, it is open to the Discloser to request an appeal. 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.
- 8.8 The Recipient 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. The Appeal Group will notify the Recipient of the outcome of the appeal. Corporate Governance will provide secretarial assistance as required to the Appeal Group.
- 8.9 On completion of the review, the Discloser will be advised by the Recipient of the outcome of the appeal, which will be either (a) or (b) below.
- a) That the investigation outcome was appropriate;
 - b) That the investigation outcome was not appropriate, referring the matter back to the ARC to take further action.

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

- 8.10 As it is not possible to know at the time whether a disclosure will subsequently be deemed protected under the Protected Disclosures Act 2014, the Recipient should keep a written record of their actions, including timelines. All disclosures will be treated as

protected until such time as they are deemed to be more appropriately investigated under another policy, and the Discloser will be advised accordingly.

- 8.11 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 the matter may need to be reported to and investigated by An Garda Síochána. If this is the case the Discloser will be informed accordingly.

9. Addressing report of penalisation

- 9.1 As per Section 6 of the Protected Disclosures (Whistleblowing) Policy, SETU 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.
- 9.2 Any worker who believes they are being/have been penalised for making a protected disclosure should contact the Chair of the ARC or the Head of HR as soon as possible. Such notifications will be addressed promptly.
- 9.3 SETU 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.
- 9.4 SETU will treat any acts of penalisation, or attempted penalisation, as a serious matter which may be dealt with under Disciplinary Procedure.
- 9.5 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.

10. Procedure updates

- 10.1 This procedure and associated policy will be updated in line with legislative changes.

- 10.2 At all times legislation will take precedence where relevant over the provisions made in this procedure and the associated policy.

Appendix I Other Policies for Complaints or Grievances

Policy/Procedure	Purpose
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. The policy outlines the obligations of SETU as an equal opportunities' employer and as a provider of vocational services. It also deals with Bullying & Harassment procedures and remedies.
Grievance Policy	This policy generally deals with matters specific to a worker, such as that worker's employment, their duties, their working procedures or working conditions
Disciplinary Procedure	The purpose of the disciplinary procedure is to ensure that SETU acts reasonably and fairly towards workers in investigating and dealing with alleged instances of unacceptable conduct or performance.
Health and Safety Policy	It is the policy of SETU to promote high standards of health and safety within SETU 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.
Conflict of interest Policy	This policy sets out the procedures to be followed by SETU in respect to actual, perceived, or potential conflicts of interest

Appendix II Protected Disclosure Notification Form

Before you complete this form, you should read the **Protected Disclosures (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 email⁴ 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 814 243** or WhatsApp & SMS: Text 'Hi' to **0873690010**.

Please note that when making a protected disclosure to an employer the worker is required to have a 'reasonable belief' that the matter they are reporting tends to show a 'relevant wrongdoing' as listed in Section 4.1 of the **Protected Disclosure (Whistleblowing) Policy**.

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

⁴ An encrypted email is one where the information and/or data has been converted into a code, which prevents unauthorised access.

The form is available at this link

<https://www.cognitofrms.com/SETU10/ProtectedDisclosureNotificationForm>

1. I, _____(name of worker) wish to make a disclosure under the Protected Disclosures Act 2014

2. Position in the Organisation:

3. Place of work:

4. Category of Wrongdoing [more than one box can be selected]

- A criminal offence
- A failure to comply with a legal obligation
- A miscarriage of justice
- The endangering of any individual's health or safety
- Damage to the environment
- Unlawful or otherwise improper use of funds or resources of a public body, or of other public money
- That an act or omission is oppressive, discriminatory, or grossly negligent or constitutes gross mismanagement
- Concealment or destruction of evidence relating to any of the above.

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

6. Description of the wrongdoing:

7. Is the alleged wrongdoing still ongoing?

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

9. Any other relevant information:

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

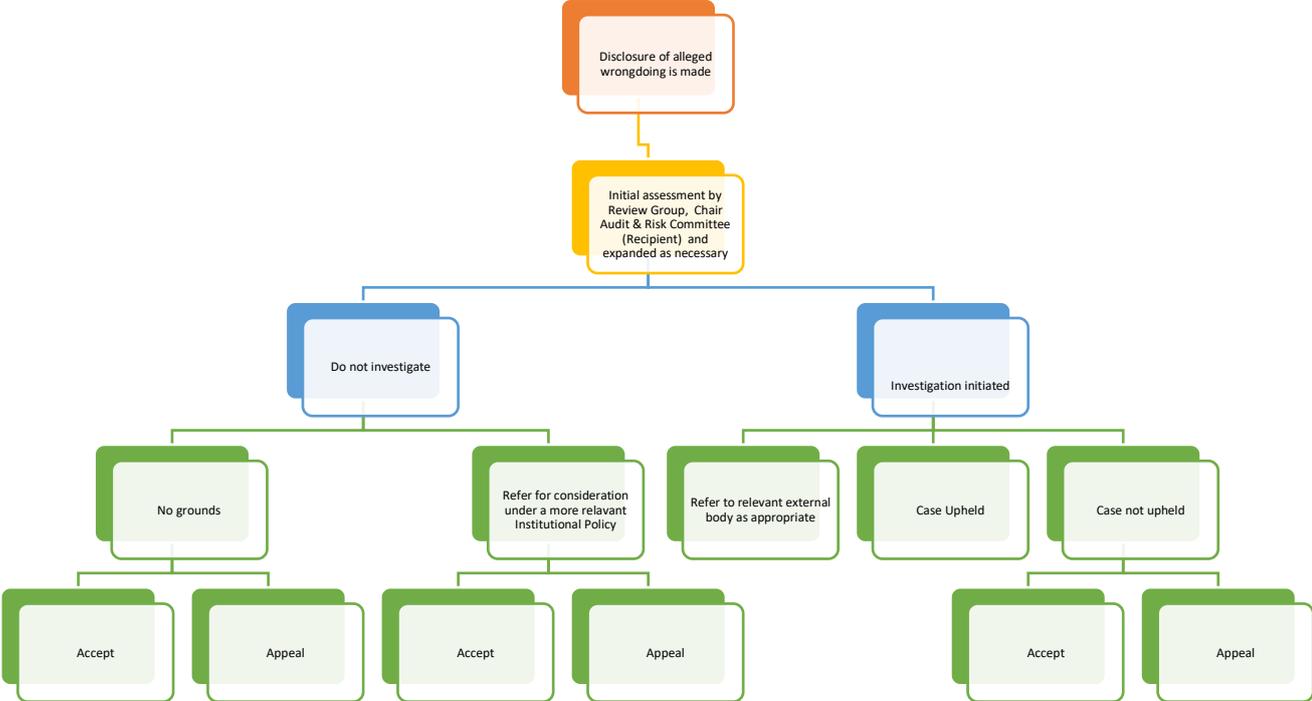
Tel no:

Email:

Address:

Date:

Appendix III Flow Chart of Protected Disclosure Process



Appendix IV Contact Details for Disclosure Recipients

Email enquiries can be made to:

protecteddisclosures@setu.ie

Written enquiries to:

Chair of Audit & Risk Committee

c/o the Office of the Vice President for Corporate Affairs

Executive Management Team details can be found [here](#)

Audit & Risk Committee members details can be found [here](#).