



Bord Altranais agus  
Cnámhseachais na hÉireann  
Nursing and Midwifery Board  
of Ireland

# Nursing and Midwifery Board of Ireland

*Protected Disclosure  
(Whistleblowing) Policy*

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## 1. Introduction

The Protected Disclosures Act 2014, as amended by the Protected Disclosures Act 2022 (the "Protected Disclosures Acts" or the "Acts"), enables workers to raise a concern regarding potential wrongdoing in the workplace by ensuring that safeguards exist should reprisals be taken against them.

The purpose of this policy is to set out the Nursing and Midwifery Board of Ireland's (NMBI) procedure for dealing with protected disclosures received by the CEO of NMBI, as a prescribed person listed in the Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) Order 2020. This statutory instrument prescribes the CEO as a recipient of protected disclosures on all matters relating to the regulation of the professions of nurses and midwives in the Republic of Ireland. This includes NMBI's responsibility for supervising compliance with the Nurses and Midwives Act 2011, as amended.

A disclosure made to the CEO, as a prescribed person, is a protected disclosure if the following conditions are met:

- a) You reasonably believe that the relevant wrongdoing is within the remit of the CEO as they have regulatory functions within the area which are the subject of the allegations.
- b) The information you disclose and any allegation in it came to your attention in connection with your employment, which is outside the NMBI and the allegations are substantially true (this is a higher standard than is required for disclosure directly to your employer).

## 2. External guidance and support

Additional resources and guidance can be found at:

**SPEAK UP HELPLINE** [www.speakup.ie](http://www.speakup.ie)

They offer a variety of ways to contact them: phone, email, secure webform and post. For more detail click on the link, [Contact Speak Up | Transparency International Ireland](#) .

**INTEGRITY AT WORK**

[www.integrityatwork.ie](http://www.integrityatwork.ie)

[support@transparency.ie](mailto:support@transparency.ie)

## 3. 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 their attention through work. A protected disclosure is defined as:

*"a disclosure of information which, in the reasonable belief of the worker, tends to show one or more*

*relevant wrongdoings; came to the attention of the worker in a work-related context; and is disclosed in the manner prescribed under the Act” (Protected Disclosures Act 2014, as amended).*

Relevant wrongdoings are broadly defined in the Protected Disclosures Acts, and include the following:

- The commission of an offence
- The failure to comply with a legal obligation other than one arising under the worker’s contract
- A miscarriage of justice
- Endangering the health and safety of any individual
- Damage to the environment
- Unlawful or improper use of the funds or resources of a public body or other public monies
- Any act or omission by or on behalf of a public body that is oppressive, discriminatory grossly negligent or constitutes gross mismanagement
- Any information that would tend to show that any of the above matters has been or may be concealed or destroyed, and
- That a breach of law, defined as acts or omissions that are either unlawful or that defeat the object, or the purpose of the rules is occurring or likely to occur.

A work-related context means current or past work activities through which the worker acquires information concerning a relevant wrongdoing, and within which the worker could suffer penalisation for reporting the information.

## 4. Who does the policy apply to?

This policy applies to all workers (external to NMBI) including employees at all levels, for example, agency workers, independent contractors, trainees, student interns working on placements, volunteers, unpaid trainees, or an individual who acquires information on a relevant wrongdoing during a recruitment process or other pre-contractual process as a nurse/midwife.

## 5. Our commitment

NMBI is committed to maintaining an open culture with the highest standards of honesty and accountability where workers can report any concerns in confidence. All workers are encouraged to raise genuine concerns about possible wrongdoing at the earliest opportunity and in an appropriate way through their employer’s internal channel and procedure first.

The objective of this policy is to enable workers to raise concerns about possible wrongdoing in the workplace, external to NMBI, so that these concerns can be addressed in a manner appropriate to the circumstances of the case. NMBI is committed to ensuring that all workers who contact the prescribed person are listened to and relevant actions are taken to address their concerns, as appropriate. NMBI will also ensure that the information is referred, in line with the legislation, to another prescribed person and/or the Office of the Protected Disclosures Commissioner.

## 6. Aims of the policy

This policy aims to:

- encourage you to feel confident and safe in raising concerns and disclosing information in relation to suspected wrongdoing
- provide guidance as to how to raise such concerns
- reassure reporters that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken
- give effect to the obligations and provisions of the Protected Disclosure legislation.

## 7. What types of concerns or disclosures can be made?

A concern or disclosure should contain information which shows wrongdoing such as fraud, crime, danger or failure to comply with any legal obligation which is in the remit of NMBI, has come to your attention in connection with your employment and about which you have a reasonable belief that the information is substantially true. Relevant wrongdoings are broadly defined in the Protected Disclosures Acts, and include the following:

- The commission of an offence
- The failure to comply with a legal obligation other than one arising under the worker's contract
- A miscarriage of justice
- Endangering the health and safety of any individual
- Damage to the environment
- Unlawful or improper use of funds or resources of a public body or other public monies;
- Any act or omission by or on behalf of a public body that is oppressive, discriminatory grossly negligent or constitutes gross mismanagement
- Any information that would tend to show that any of the above matters has been or may be concealed or destroyed
- That a breach of law, defined as acts or omissions that are either unlawful or that defeat the object, or the purpose of the rules is occurring or likely to occur.

Disclosures of wrongdoing may also be made by workers in respect of other relevant employment- specific or profession-specific obligations which may not be covered by the definition of wrongdoing in the Protected Disclosures Acts and may be covered by other statutory protection for disclosures.

Information received that does not fall within the NMBI's remit will be transferred to another prescribed person and/or to the Protected Disclosures Commissioner.

A protected disclosure should contain information which tends to show wrongdoing. The information should contain specific factual information that shows a relevant wrongdoing to allow an appropriate assessment and investigation. Workers are not required or entitled to investigate matters themselves. This

responsibility lies with the prescribed person. As it is not possible to know at the time of disclosure whether it will be deemed to be protected under the Acts, all disclosures from workers will initially be treated as if they meet the criteria in the Protected Disclosures Acts.

Once a protected disclosure has been made in accordance with the legislation, it is not possible for you to withdraw the disclosure and reporting persons are required to co-operate with a prescribed person.

The Guide for Making a Protected Disclosure to a Prescribed Person is included in [Appendix A](#).

## 8. Safeguards and penalisation

A worker who makes a disclosure and has a reasonable belief of wrongdoing should not be penalised, even if the concerns or disclosure turn out to be unfounded. The term 'reasonable belief' does not mean that the belief must be correct. Workers are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds. 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. The Protected Disclosures Acts prohibit any employer from penalising an employee for having reported a relevant wrongdoing or for making a disclosure. They make acts of penalisation a criminal matter.

The Protected Disclosures Acts do not cover knowingly false allegations. In addition, disclosure of a wrongdoing does not necessarily grant a worker any protection or immunity from any involvement they may have had in that wrongdoing.

Motivation is irrelevant when determining whether it is a disclosure protected by the Acts. All protected disclosures should be dealt with regardless of the worker's motivation for making the disclosure. A worker should also be protected so long as they reasonably believe that the information disclosed shows a wrongdoing and that the information is substantially true.

Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) including:

- Suspension/dismissal
- Coercion
- Withholding of training
- Negative performance assessment
- Intimidation or harassment
- Disciplinary action
- Demotion
- Loss of opportunity for promotion or withholding of promotion
- Transfer of duties
- Reduction in wages or working hours
- Discrimination
- Threats
- Injury damage or loss

- Threat of reprisal
- Harm, including to the persons reputation, or
- Other unfavourable treatment arising from raising a concern or making a disclosure based on reasonable belief for doing so.

If a worker believes that they have been penalised for making a disclosure, they should utilise their employers' internal procedures for dealing with workplace complaints. They can also refer a complaint to the Workplace Relations Commission within six months. They can also seek interim relief from the Circuit Court under the Protected Disclosures Acts.

## 9. Confidentiality

NMBI is committed to protecting the identity of the worker raising a concern and will ensure that relevant disclosures are treated in confidence. The focus will be on the wrongdoing rather than the person making the disclosure. A person to whom a protected disclosure is made, and any person to whom a protected disclosure is referred in the performance of that person's duties, shall not disclose to another person (beyond such persons authorised to receive or follow up on the disclosure concerned) any information that might identify the person by whom the protected disclosure was made. However, there are circumstances, as outlined in the Acts, where confidentiality cannot be maintained, particularly in a situation where the worker is participating in an investigation into the matter being disclosed, or where it is required by law.

The following are examples of specific cases in which the identity of the discloser may not be protected:

- The disclosure recipient shows that they took all reasonable steps to avoid such disclosure.
- The disclosure recipient has a reasonable belief that the discloser did not object to their identity being disclosed.
- Where the disclosure is otherwise necessary in the public interest or is required by law, and
- The disclosure recipient had a reasonable belief that it was necessary for:
  - (i) the investigation of the wrongdoing concerned
  - (ii) to prevent serious risk to the security of the State, public health, public safety or the environment, or
  - (iii) the prevention of crime or prosecution of a criminal offence.

In the instances outlined above, the reporting person will be informed, where possible before their identity is disclosed unless such information would jeopardise the related investigations or judicial proceedings.

The protections that apply under the Acts also apply to any other named person in a protected disclosure.

## 10. Making a concern anonymously

There is a difference between an anonymous disclosure (where identity is withheld by the discloser) and a confidential disclosure (where identity is protected by the recipient). A concern may be raised anonymously under the Acts.

However, on a practical level it may be difficult to investigate such a concern. The Acts do not oblige NMBI to accept and follow up on anonymous disclosures. We would encourage workers to put their names to allegations, with our assurance of confidentiality where possible, to facilitate appropriate follow-up. This will make it easier for us to assess the disclosure and take appropriate action including an investigation if necessary. A worker who has made a disclosure of a wrongdoing cannot pursue a legal case for redress under the Acts, without identifying themselves.

## 11. Records

Records of concerns raised, including the outcome, will be maintained in line with NMBI's Record Retention Policy and [Data Protection Statement](#). These records will be maintained in a confidential and secure environment. A summary report outlining the number of protected disclosures received by NMBI is included in the Annual Report and published on the website.

## 12. Review

If a reporting person is not satisfied with the outcome of the initial assessment, they can request a review of that decision in writing within three weeks of the original decision. It will be reviewed, where possible, by a person designated by the CEO who has not been involved in the initial assessment, investigation or decision. Reviews can be made in relation to the following:

- Any decision made to disclose the identity of the discloser (except in exceptional cases)
- The outcome of any assessment or investigation undertaken during the protected disclosure.

If a decision is taken to disclose the identity of the discloser, where at all possible, the discloser will be offered a review before their identity is disclosed. The review process will ensure that there is no entitlement to two reviews in respect of the same issue.

## 13. Independent support and advice

There are a number of agencies that can provide confidential support and advice to workers considering making a protected disclosure. Information about what wrongdoings can be reported as protected disclosures, how to make a protected disclosure and how to obtain protection from penalisation for having made a protected disclosure can be found on the [Department of Public Expenditure and Reform website](#) and on the [Citizens Information website](#). The [Transparency International Ireland Legal Advice Centre](#)

provides free legal advice to anyone who wishes to disclose wrongdoing, particularly under the Acts. Workers can access this via the Speak Up helpline on 1800 844 866.

A worker can also seek advice from their trade union or solicitor at their own cost about the Acts prior to making a disclosure. When the worker seeks advice from a trade union, barrister or solicitor about the Acts, this discussion is also a 'protected disclosure, (the discussion is sufficient to be protected as the purpose of the discussion is to provide the worker with advice about the operation of the legislation). Advice on the operation of the Acts is available at any stage including prior to a protected disclosure being made and during the subsequent process, both internally and externally.

This policy is intended to provide information and should not be regarded or be used as a substitute for legal advice.

Information on workers' rights and entitlements under employment legislation can be found on [Workplace Relations Commission](#).

## 14. Contact Details

<b>Protected Disclosure Officer (Internal Channel)</b>	<a href="mailto:protecteddisclosures@nmbi.ie">protecteddisclosures@nmbi.ie</a>
<b>Protected Disclosure Officer (External Channel)</b>	<a href="mailto:protecteddisclosures@nmbi.ie">protecteddisclosures@nmbi.ie</a>
<b>CEO (Prescribed Person)</b>	Carolyn Donohoe <a href="mailto:CDonohoe@nmbi.ie">CDonohoe@nmbi.ie</a>

## 15. Review and Approval of the External Protected Disclosure (Whistleblowing) Policy

This policy will be communicated as appropriate and the procedures under it will be subject to periodic review, at least every three years.

Revision	Date	Description	Status
1	Jan 2024	Guide to Making a Protected Disclosure	Reviewed by internal PD team
2	March 2024	Review by external legal.	Reviewed by external legal

3	March 2024	Review of guidance from legal.	Reviewed by internal PD team
4	March 2024	Review by the BSF	Reviewed by BSF committee
5	March 2024	Review by the Board	Approved

## Appendix A Guide to Making a Protected Disclosure to a Prescribed Person

### 1. Making a disclosure to a prescribed person

A worker must make a disclosure in the manner set out in the Protected Disclosures Acts to gain the protections of the Acts. As a first step, appropriate concerns should be raised with the individual's employer. Higher standards apply when a protected disclosure is made externally. There must be a reasonable belief that the information is substantially true and that the concern falls within the remit of the prescribed person. Concerns should be raised with NMBI's Protected Disclosures Officer who handles external cases, following the steps outlined below. The contact details for the Protected Disclosure Officer can be found at the end of this policy. If the Protected Disclosure Officer is conflicted, the concern should be raised directly with the CEO, who will designate a person to manage the protected disclosure. Any processing of personal data carried out under the Acts, will be done out in accordance with Data Protection legislation.

You must have a reasonable belief of wrongdoing, it is a criminal offence to report information that you know to be false, and you may be subject to a civil claim by any person who suffers damage resulting from disclosure, where the reporting person knowingly provided false information. You must have a reasonable belief that the information you give shows one or more wrongdoings.

### 2 How to raise a concern?

The earlier a concern is raised, the easier it will be to deal with the matter quickly. Concerns may be raised verbally or in writing to the designated person within NMBI. Contact details for the designated people are provided at the end of this document. Should you raise a concern verbally, we will keep a written record of the conversation and provide you with a copy after the meeting. Should you raise a concern in writing we would ask you to:

1. indicate that you are making a protected disclosure
2. provide your name, place of work, position in the organisation and confidential contact details
3. provide the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or will commence or was identified
4. provide details as to whether the alleged wrongdoing is still ongoing
5. provide details as to whether the alleged wrongdoing has already been disclosed and if so to whom, when and what action was taken
6. provide information in respect of the alleged wrongdoing and any supporting documentation
7. provide the name of any person (s) allegedly involved in the alleged wrongdoing (if you believe this is necessary to expose the wrongdoing), and
8. provide any other information that you think may be relevant.

If a disclosure is made to an individual in NMBI who is not a designated person, then the individual receiving the disclosure should advise the reporting person to report the matter to the appropriate as set out in this policy. If the reporting person indicates that they are unwilling to do this, then the recipient should get

consent from the discloser for them to receive the disclosure and refer it to the designated person in NMBI either by email, post or phone, details below. All NMBI staff should be trained in relation to understanding the requirements of the Protected Disclosures Acts and how to identify a protected disclosure to enable them to refer it to the designated person. Any information that might identify the reporting person shall not be disclosed by such member of NMBI Staff.

## Contact details:

You can send your protected disclosure by email, post or by phone:

- Email: [protecteddisclosures@nmbi.ie](mailto:protecteddisclosures@nmbi.ie)
- Post: CEO, Nursing and Midwifery Board of Ireland, 18/20 Carysfort Avenue, Newtown Blackrock, County Dublin, marked private and confidential.
- Phone: 085 8620549.

## 3. How will we respond to disclosures raised?

Having raised your concern:

1. An acknowledgement of receipt of the disclosure will be made within 7 working days, unless the designated person reasonably believes acknowledgement of the receipt would jeopardise the protection of the identity of the reporting person.
2. An initial assessment will be carried out by the designated person responsible for managing the disclosure e.g., Protected Disclosure Officer or person(s) designated by the CEO, which may include seeking additional information from you. The designated person will aim to complete the initial assessment within 30 days, with due consideration to the nature of the disclosure and the issues arising.
  - a. If, having carried out such an initial assessment, the designated persons decides that the information is not within the remit of NMBI the information will be transferred to another prescribed person or the Protected Disclosures Commissioner for assessment and the discloser will be notified in writing.
  - b. If, having carried out such an initial assessment, the Protected Disclosure Officer decides that there is not sufficient evidence that a relevant wrongdoing may have occurred they will notify you in writing as soon as practicable of that decision and the reasons for it and the procedure will be closed.
  - c. If during the initial assessment it appears that the disclosure or issues related to the disclosure have already been investigated by the NMBI the Protected Disclosure Officer may need to review these findings before determining if further steps need to be taken under this policy.
  - d. If, having carried out such an initial assessment, the Protected Disclosure Officer decides that there is prima facie evidence that a relevant wrongdoing may have occurred, but the relevant wrongdoing is clearly minor they will notify you in writing as soon as practicable

of that decision and the reasons for it and the procedure will be closed.

- e. If, having carried out such an initial assessment, it is decided that there is sufficient evidence that a relevant wrongdoing may have occurred, the Protected Disclosure Officer may need to investigate further and will in any event take appropriate action to address the relevant wrongdoing, having regard to the nature and seriousness of the matter concerned and the available information.
3. The Protected Disclosure Officer or designated person may, as necessary, arrange a further meeting or meetings with you to discuss your concerns or to request further information you in relation to the protected disclosure.
  4. Your confidentiality as the reporting person will be maintained at all times. Written consent will be obtained from you if it is required for the purpose of the investigation to disclose your identity.
  5. Where there is sufficient evidence that a relevant wrongdoing may have occurred, the information received will be brought to the attention of the relevant inspection/investigation team for effective follow up, in line with NMBI's regulatory remit. In some cases, we may appoint an independent investigator with relevant experience of investigations or specialist knowledge of the subject matter.
  6. Once all information is gathered, the Protected Disclosure Officer or designated person will compile a written report which states the facts discovered by the investigation. This report will be presented to the CEO who will decide as to the next steps to be taken on foot of the facts outlined in the report.
  7. The Protected Disclosure Officer or designated person will provide feedback to you within a reasonable period and no longer than 3 months from the date of acknowledgement of your disclosure. Further feedback will, as necessary, be provided at intervals of 3 months until the procedure is closed. If the investigation into your disclosure is very complex, then the timeframe to complete the investigation can be extended by a further three months and this will be communicated to you as soon as reasonably practicable.
  8. The Protected Disclosure Officer or designated person will provide you with information on the final outcome of the investigation which was initiated by your report.

Disclosures may, in light of the seriousness of the allegations, be referred to the appropriate authorities or such prescribed person under legislation as may be appropriate. Where a report of a disclosure concerns a breach of EU law, as provided for in the Act, the prescribed person must send the information to the relevant EU body as soon as is practicable, where this is provided for under EU or Irish law.

In circumstances where an investigation does not conclude that any relevant wrongdoing has taken place or where the person making the disclosure is mistaken or unaware of all the facts surrounding the issues raised, the designated person will explain that the concerns are unfounded.

Sometimes the need for confidentiality may prevent us from giving you specific details of the investigation, and/or any outcome or disciplinary action taken as a result. You should treat any information about the investigation as confidential.

If you make a report in accordance with this policy, but the information or allegation is subsequently not confirmed by the investigation, no action will be taken against you. You will be fully protected from any less favourable treatment, penalisation, or victimisation under the Protected Disclosures Acts.

Furthermore, any worker who makes a protected disclosure will have civil immunity from action for damages and a qualified privilege under defamation law, as provided under the Acts.

## 4. Contact Details

<b>Protected Disclosure Officer (Internal Channel)</b>	<a href="mailto:Protecteddisclosures@nmbi.ie">Protecteddisclosures@nmbi.ie</a>
<b>Protected Disclosure Officer (External Channel)</b>	<a href="mailto:Protecteddisclosures@nmbi.ie">Protecteddisclosures@nmbi.ie</a>
<b>CEO (Prescribed Person)</b>	Carolyn Donohoe <a href="mailto:CDonohoe@nmbi.ie">CDonohoe@nmbi.ie</a>