

## TEAGASC PROTECTED DISCLOSURES POLICY, Version f1.0

Approved by the Audit & Risk Committee on 24/02/17

### 1. Policy Statement and Purpose

Teagasc issued its Good Faith Reporting Policy in 2011. In 2014 the Protected Disclosures Act came into force and Teagasc has, in response to this and in accordance with section 5.9 of the Code of Practice for the Governance of State Bodies 2016, updated its policy and re-issued it as the Protected Disclosures Policy.

Teagasc is committed to the highest standards of openness, probity and accountability and recognises that current and former Authority members, employees and workers (together referred to as '**workers**' in this Policy) have an important role to play in achieving this objective. This Policy aims to give effect to the provisions of the Protected Disclosures Act 2014 (the "**2014 Act**") and is intended to encourage and enable workers to raise concerns which relate to wrongdoing which has come to the worker's attention in connection with their employment. Workers will be aware of the ethical and good business standards expected of them through the Teagasc Code of Conduct, which is available on the Tnet and will be provided to each individual on his/her appointment as appropriate. Workers should also have regard to the Code of Practice for the Governance of State Bodies which sets out principles of corporate governance which State bodies, including Teagasc, are required to adopt. This document is also available on Tnet at [http://tnet.teagasc.net/corporate\\_services/Corporate\\_Governance/index.asp](http://tnet.teagasc.net/corporate_services/Corporate_Governance/index.asp) and on the corporate website at <https://www.teagasc.ie/about/corporate-responsibility>.

Where staff members have issues of concern, Teagasc operates an open door policy and staff members are encouraged to raise normal concerns and grievances directly with their line managers or through the steps set out in the Teagasc Grievance Procedure or the Dignity at Work Policy, which are available on the Tnet and in the Staff Handbook. This policy is not intended to act as a substitute for normal day to day operational reporting or other internal employment procedures.

Teagasc aims to create a workplace culture that encourages the making of protected disclosures through the following measures:

- (a) Facilitating the disclosure of wrongdoing;
- (b) Encouraging workers to make protected disclosures at the earliest opportunity;
- (c) Providing workers with guidance as to how to make protected disclosures;
- (d) Assisting, supporting and protecting workers who make protected disclosures;
- (e) Protecting a worker's identity in a manner consistent with the requirements of the 2014 Act;
- (f) Assessing any disclosure made, conducting an investigation where necessary, and addressing all findings that require attention;

- (g) Providing that workers are not to be penalised for reporting relevant wrongdoings; and
- (h) Taking appropriate action against workers who make disclosures without a reasonable belief in the truth of the disclosure.

Matters to be considered under this policy might relate to allegations about the management of Teagasc or about the activities of Authority members, managers, other staff members and workers, contractors, suppliers or customers, where such activities materially and adversely affect the work of these parties with Teagasc, or where alleged illegal or unethical acts may have been perpetrated or may be planned. Examples of such allegations include questions of financial malpractice, serious breaches of policies, appropriate and agreed procedures, significant departure from the statutory or other requirements for good governance, or other forms of wrongdoing set out in section 3 of this policy.

It is also important to note that this policy does not replace any legal reporting or disclosure requirements. Where statutory requirements and procedures exist, these must be fully complied with.

Overall responsibility for this policy rests with the Audit & Risk Committee of the Authority. Day to day responsibility for this policy is delegated to the Chief Operations Officer.

This policy may be revoked, replaced or amended at any time and workers will be informed of any changes that are implemented.

## **2. Application**

This policy applies to all current and former Authority members and 'workers', as defined in the 2014 Act, which includes current and former employees, consultants, contractors, trainees, part-time, full-time, casual workers and agency workers.

While the 2014 Act does not apply to volunteers, volunteers are encouraged to disclose any wrongdoing that comes to their attention in connection with their placement in Teagasc. Volunteers are assured that any disclosures of wrongdoing will be appropriately assessed and/or investigated.

## **3. What is a protected disclosure?**

A protected disclosure is defined in the 2014 Act as a disclosure of information which, (i) in the reasonable belief of the worker tends to show one or more 'relevant wrongdoings', (ii) came to the attention of the worker in connection with the worker's employment, and (iii) is disclosed in the manner prescribed in the 2014 Act.

While individuals should exercise due care to ensure the accuracy of the information they disclose, a person who makes a report does not have to prove that a wrongdoing has occurred. The term "reasonable belief" does not mean that the belief has to be correct. A worker is entitled to be mistaken in their belief, provided that their belief was based on reasonable grounds.

The following matters are “relevant wrongdoings”:

- (a) That an offence has been, is being or is likely to be committed;
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker’s contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services;
- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) That the health and safety of any individual has been, is being or is likely to be endangered (normally, this should indicate a greater danger than is associated with the normal business of Teagasc, or a danger that is not usually associated with it);
- (e) That the environment has been, is being or is likely to be damaged;
- (f) That an unlawful or otherwise improper use of funds of resources of a public body, or of other public money, has occurred, is occurring or is likely to occur;
- (g) That an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or
- (h) Information tending to show any matter falling within any of the preceding paragraphs (a) to (g) has been, is being, or is likely to be concealed or destroyed.

It is immaterial whether a relevant wrongdoing occurred, occurs or would occur in Ireland or elsewhere and whether the law applying to it is that of Ireland or that of any other country or territory.

The information must come to the attention of the worker in connection with their employment, but a disclosure of any wrongdoing which is the worker’s or the worker’s employer’s function to detect, investigate, or prosecute does not come within the scope of the 2014 Act.

If the person has a personal interest in the matter being reported, he/she should advise of any interest at the outset.

Workers are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so. All workers need to do, and should do, is disclose the information that they have, using the reporting procedure set out in section 5 of this policy, based on a reasonable belief that it discloses a wrongdoing. Workers should also be satisfied that it is necessary to disclose all the information being provided in order to disclose that wrongdoing and should not access, process, disclose or seek to disclose, information about individuals that is not necessary for the purpose of disclosing the wrongdoing.

#### **4. Protection for workers**

This Policy is intended to encourage and enable staff members and others to raise serious concerns within Teagasc. A worker who makes a disclosure and has a “reasonable belief” of

wrongdoing will not be penalised by Teagasc, even if the disclosure turns out to be unfounded. The motivation of the worker for making a disclosure is irrelevant when determining whether or not it is a disclosure protected by the 2014 Act. All disclosures will be dealt with regardless of the worker's motivation for making the disclosure, and the worker will be protected so long as the worker reasonably believes that the information disclosed tended to show a wrongdoing.

Penalisation includes suspension, lay-off, dismissal, demotion or loss of opportunity for promotion, transfer of duties, change in location of work, reduction in wages or changes in working hours, the imposition or administering of any discipline, reprimand or other penalty (including financial penalty), coercion, intimidation or harassment, discrimination, disadvantage or unfair treatment, injury, damage or loss, and threats of reprisal. Any worker who considers that he/she is being subjected to penalisation as a result of making a protected disclosure under this policy should use the reporting procedure set out in section 5 of this Policy.

Workers should ensure that they do not cause detriment to another person because the other person or a third party has made a protected disclosure. Detriment includes coercion, intimidation, harassment, discrimination, adverse treatment in relation to employment or prospective employment, injury, damage, loss, and threats of reprisal.

Workers who penalise or cause detriment to persons who have raised concerns under this policy may be subject to disciplinary action. Workers should note that in some circumstances, where a detriment is suffered, the person who suffered the detriment could have a right to sue the worker personally for damages.

If a worker who has made a protected disclosure believes that he/she has suffered any such treatment, he/she should immediately inform one of the individuals referred to in section 5 of this Policy. If the matter is not remedied, the worker should raise it formally using Teagasc's Grievance Procedure.

A disclosure made in the absence of a reasonable belief will not attract the protection of the 2014 Act and may result in disciplinary action against the discloser. Further, disclosure of a wrongdoing does not confer any protection or immunity on a worker in relation to any involvement they may have had in the wrongdoing.

## **5. Reporting Procedure**

If you discover information which you believe shows a relevant wrongdoing as provided for under this policy, you should make a disclosure to the Staff Representative on the Authority in the first instance. The name and contact details of this person will be published on Tnet and the Teagasc Website. The Staff Representative will bring the issue to the attention of the Chief Operations Officer (or in exceptional cases to the attention of the Director if in the opinion of the Staff Representative the Chief Operations Officer may in any way be implicated in the issue which is the subject of the disclosure). In the normal course of events the Chief Operations Officer is responsible for overseeing the investigation and resolution of all reported disclosures and allegations and, at his discretion, shall advise the Director, Chairman of the Audit & Risk Committee or Chairman of the Authority, as considered appropriate. The Chief Operations Officer has direct access to the Chairman of the Board and the Audit & Risk Committee, if required. If the Staff Representative brings the issue to the attention of the Director because the Staff Representative feels that the Chief Operations

Officer may in any way be implicated in the issue then the Director will act in place of the Chief Operations Officer for the purpose of processing the specific issue under this policy.

Alternatively, if you consider it is more appropriate, you may bring the issue directly to the attention of the Chief Operations Officer, Director, Chairman of the Audit & Risk Committee or Chairman of the Authority. These officers will then bring the issue to the attention of the Staff Representative and it will then be processed as described above. If the Staff Representative is unavailable they will bring the issue to the attention of the Director or Chief Operations Office directly and the issue will be processed as described above.

In all cases, where a material allegation has been made, the Chief Operations Officer, Director, Chairman of the Audit & Risk Committee or Chairman of the Authority, as appropriate, will make a record of their receipt of the allegation and of the subsequent action taken.

While the 2014 Act recognises that employees of Teagasc may also report their concerns to the Minister for Agriculture, Food and the Marine, Teagasc requests that protected disclosures be reported to the individuals referred to above so that Teagasc can deal with the issues raised and, if necessary, investigate the matter.

When a disclosure of alleged wrongdoing is made to the Chief Operations Officer, an initial screening process involving a risk assessment will be undertaken by an ad-hoc committee comprising the Chief Operations Office, the Head of Internal Audit and Risk Management, the Head of Finance and the Head of HR (or in their absence their deputies). The screening process will involve an assessment of the disclosure to seek to determine whether or not it should be treated as a protected disclosure. This assessment will be based exclusively on the information provided by the discloser. It is not intended that an investigation will be carried out in order to make this decision. If it is unclear whether information qualifies as a protected disclosure, Teagasc will generally err on the side of caution and treat the information as a protected disclosure (and protect the identity of the discloser) until satisfied that the information is not a protected disclosure.

It may also be necessary, as part of the screening process, to differentiate between protected disclosures and personal complaints and determine the appropriate procedure to be used. Personal complaints should generally be dealt with under Teagasc's Grievance Procedure, Disciplinary Policy, or Dignity at Work Policy.

The ad-hoc committee undertaking the screening process should consider whether the possible wrongdoing is serious or minor, whether it is something that can be investigated or not, and, if it can be investigated, what steps should be taken as part of such an investigation.

If an investigation is required, the Chief Operations Officer in consultation with the Director and Chairman of the Audit & Risk Committee or Chairman of the Authority (as appropriate) may direct that the matter be investigated under the Teagasc Policy for Fraud Investigation or by the Internal Auditor or by other appropriate professionals either internally or externally.

It is not possible to prescribe precise timescales or steps required for investigations, as this will depend on the nature of the issue. However, Teagasc will ensure that any investigation be conducted in a timely manner.

The Audit & Risk Committee of the Authority shall oversee the management of all reported concerns or complaints regarding accounting practices, internal controls and financial

practices or auditing. The Chief Operations Officer shall immediately notify the Audit & Risk Committee of any such complaint and work with the Committee until the matter is resolved.

## **6. Confidentiality**

Teagasc is committed to protecting the identity of the worker raising a concern and ensuring that relevant disclosures are treated in confidence. The 2014 Act provides that 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 any information that might identify the person by whom the protected disclosure was made, except where:

- (a) The person to whom the protected disclosure was made, or referred, shows that he or she took all reasonable steps to avoid disclosing any such information;
  - (b) The person to whom the protected disclosure was made or referred reasonably believes that the person by whom the protected disclosure was made does not object to the disclosure of any such information;
  - (c) The person to whom the protected disclosure was made or referred reasonably believes that disclosing any such information is necessary for –
    - (i) The effective investigation of the relevant wrongdoing concerned,
    - (ii) The prevention of 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.
- or
- (d) The disclosure is otherwise necessary in the public interest or is required by law.

Workers who are concerned that their identity is not being protected should notify one of the persons specified in section 5 of this policy as soon as possible.

All reasonable steps will be taken to protect the identity of the discloser. Where it is decided that it is necessary to disclose information that may or will disclose the identity of the discloser, the discloser should be informed of this decision, except in exceptional cases. The discloser may request a review of this decision and a review should be carried out, where practicable.

Teagasc does not encourage workers to make disclosures anonymously. Proper investigation may be more difficult or impossible if Teagasc cannot obtain further information from the person by whom the protected disclosure was made. It is also more difficult to establish whether any allegations are credible. However, anonymous disclosures made by workers (although if anonymous, it may be difficult to establish if the disclosure is made by a worker) are not excluded from the protection of the 2014 Act and we will act upon such disclosures to the extent that this is appropriate and possible.

## **7. Communications with workers**

The points below summarise the communications that a worker can expect to receive following a disclosure.

- (a) Worker reports the disclosure to the Staff Representative or other person (Chief Operations Officer, Director, Chairman of Audit & Risk Committee or Chairman of the Authority);
- (b) The Chief Operations Officer will issue a formal acknowledgement to the person making the disclosure; and
- (c) The Chief Operations Officer will inform the person making the disclosure of the action to be taken following (1) the initial screening process and (2) the investigation.

It should be noted that it may not be possible to inform the worker reporting the suspected wrongdoing of the precise action to be taken, where this would infringe a duty of confidence owed to someone else. The process will be as open as possible subject to these constraints.

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

## **8. Review**

If a worker is not satisfied with the way in which his/her concern has been handled, he/she can raise it with the Director, Chairperson of the Audit & Risk Committee or Chairperson of the Authority.

## **9. Support**

If any worker is finding any processes under this policy stressful, they can contact Teagasc's employee assistance programme, which is run by the VHI. More information on the services and how to avail of them can be found at [http://tnet.teagasc.net/employee\\_wellbeing/emp\\_assist\\_programme.asp](http://tnet.teagasc.net/employee_wellbeing/emp_assist_programme.asp) which is accessible directly while in the office. The phone number is 1800 995 955 or email [eap@vhics.ie](mailto:eap@vhics.ie) 24 hours a day, any day of the year. The service is strictly confidential.

## **10. Annual Report**

The 2014 Act provides that every public body, including Teagasc, shall prepare and publish not later than 30 June in each year a report in relation to the immediately preceding year in a form which does not enable the identification of the persons involved. The report should contain information relating to the following matters:

- (a) the number of protected disclosures made to the public body;
- (b) the action (if any) taken in response to those protected disclosures; and
- (c) such other information relating to those protected disclosures and the action taken as may be requested by the Minister for Public Expenditure and Reform from time to time.

## **11. Communication and Review**

This policy will be communicated to workers and workers are bound by the terms of this policy but Teagasc reserves the right to review and amend this policy when Teagasc determines this appropriate and workers will be informed of any such amendments.

If any worker wishes to receive clarification on this policy and/or suggest improvements, they should contact the Chief Operations Officer.