



**ALAB**

An Bord Achomhairc Um  
Cheadúnais Dobharshaothraithe  
Aquaculture Licences Appeals Board

# Protected Disclosures Policy

## **Protected Disclosures Policy (also known as the Whistleblowing Policy)**

### **1. What is a Protected Disclosure?**

Making a protected disclosure (or “whistleblowing”) occurs when a worker (also referred to in this Policy as a reporting person) raises a concern about a relevant wrongdoing such as possible fraud, crime, danger or failure to comply with any legal obligation which comes to the worker’s attention in a work-related context in accordance with the Protected Disclosures Act 2014 and the Protected Disclosures (Amendment) Act 2022 (“**the Legislation**”).

This Policy is intended to encourage and enable workers to raise concerns within our workplace rather than overlooking a problem or “blowing the whistle” externally. This Policy aims to:

- encourage a reporting person to feel confident in raising serious concerns; and
- reassure a reporting person that they will be protected from possible reprisals or victimisation for making a protected disclosure.

A worker is entitled to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage. Penalisation includes dismissal and or other action causing detriment to a worker, as set out in detail in the Legislation. The Legislation also provides significant forms of redress for penalisation of a reporting person, a facilitator (i.e., an individual who assists, in a confidential manner, a reporting person in the reporting process in a work-related context), any third person who is connected with a reporting person and who could suffer retaliation in a work-related context or any legal entity that a reporting person owns, works for or is otherwise connected with in a work-related context.

In addition, a person to whom a disclosure is made must take reasonable steps to protect the identity of a reporting person. The Legislation allows a claim for loss suffered as a result of a failure to protect a discloser’s identity.

## Accessibility of the Policy

In accordance with section 6A(4) of the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, ALAB will take reasonable steps to make this Policy accessible, where possible, to suppliers, contractors, and any individuals who may acquire information on a relevant wrongdoing through their work-related activities with ALAB. Consideration will be given to appropriate methods of publication or communication to ensure such individuals are aware of the protections available and the procedures for making a protected disclosure.

### 2. Who does this Policy apply to?

This Policy applies to all workers of the Aquaculture Licences Appeals Board ("**the Board**").

A worker is defined in the Legislation as current and former employees, independent contractors, trainees and agency staff as well as non-paid workers such as interns, work placement students volunteers, staff of service providers, shareholders, administrative personnel, executive and non-executive Board Members, management or supervisory bodies, individuals who acquire information on a relevant wrongdoing during a recruitment process, and individuals who acquire information on a relevant wrongdoing during pre-contractual negotiations.

Please read this document carefully before making a report. It is solely your responsibility to ensure you meet the criteria for protection under the Legislation.

### 3. What types of concerns can be raised?

There are existing procedures in place to enable a worker to lodge a grievance relating to their own employment. The Legislation makes it clear that the following are not protected disclosures:

- grievances about interpersonal conflicts between the reporting person and another worker;

- matters concerning a complaint by a reporting person to, or about, his or her employer which concerns him or her exclusively; or
- failure to comply with any legal obligation arising under the reporting person's contract of employment or other contract whereby the reporting person undertakes to do or perform personally any work or services.

Such matters should be dealt with under the relevant procedures of the organisation, such as the internal grievance, anti-bullying or anti-harassment procedures. This Policy is intended to cover concerns which fall outside the scope of other procedures, for example:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriages of justice;
- health and safety risks including risks to the public as well as other employees;
- damage to the environment; or
- possible fraud and corruption.

Further information as to what constitutes a relevant wrongdoing for the purposes of the Legislation is included at section 9 of this Policy.

#### **4. Safeguards**

The Board is committed to good practice and high standards and wants to be supportive of all workers.

The Board recognises that the decision to report a concern can be a difficult one to make. If what the reporting person is saying is true, they should have nothing to fear because they will be doing their duty to the Board and those to whom the reporting person and the Board are providing a service.

#### **5. Responsibility**

Overall responsibility for this Policy rests with the Board of ALAB and the Secretary of the Board.

Day-to-day responsibility for this Policy is delegated to the Secretary of the Board, who is the “Designated Person” under this Policy. The Designated Person will in turn report directly to the [Board / ARC] on all matters related to the implementation of this Policy.

It is the responsibility of management to be familiar with the types of improprieties or relevant wrongdoings that might occur in their area and be alert for any indication that improper activity, or wrongdoing is, was or is likely to be in existence within their area.

Management is required to support and work with any officials, from within the organisation or from any external agency, appointed as part of an investigation.

Workers at all levels are responsible for exercising due diligence and control to prevent, detect and report acts of alleged fraud, or relevant wrongdoing.

## **6. Confidentiality**

The Board is committed to protecting the identity of any worker who raises a concern and ensuring that relevant disclosures are treated in confidence. The focus will be on the wrongdoing rather than the reporting person. However, there are circumstances, as outlined in the Legislation, where confidentiality cannot be maintained. Where it is necessary to disclose the identity of the reporting person or any information from which the identity of the reporting person may be directly or indirectly deduced, the reporting person should be informed of this decision in writing before their identity is disclosed, except in exceptional cases.

The Legislation provides that a disclosure recipient (which in this context includes any person to whom a disclosure is referred in the performance of their duties) must not disclose without the specific consent of the reporting person to another person the identity of the reporting person or any information from which the identity of the reporting person may be directly or indirectly deduced, except where:

- the disclosure recipient shows that he or she took all reasonable steps to avoid so disclosing any such information;
- the person to whom the disclosure was made or transmitted reasonably believed that disclosing the identity of the reporting person or any such information was

necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment;

- where the disclosure is otherwise required by law; or
- where the disclosure is a necessary and proportionate obligation imposed by Union law or the law of the State in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned.

Where it is decided that it is necessary to disclose the identity of the reporting person or other information which the reporting person's identity may be directly or indirectly deduced, in the cases referred to above, the reporting person should be informed of this decision in advance of the disclosure in writing, and the reasons for the disclosure, unless the notification would jeopardise:

- the effective investigation of the relevant wrongdoing;
- the prevention of serious risk to the security of the State, public health, public safety or the environment; or
- the prevention of crime or prosecution of a criminal offence.

The right to request an internal review of this decision is set out below.

Workers who are concerned that their identity is not being protected should notify the Designated Person (or, if it is not appropriate to notify the Designated Person, notify the Chairperson of the Board of ALAB / the Chairperson of the Audit & Risk Committee (ARC). Such notifications will be assessed and/or investigated and appropriate action taken where necessary.

## **7. Anonymous Disclosures**

There is a distinction between an anonymous disclosure (where the identity of the worker is withheld by the reporting person) and confidential disclosures (where the identity of the worker is protected by the recipient).

The Board accepts anonymous disclosures and will act upon such disclosures in line with this Policy, to the extent that this is possible to do so.

While affording appropriate consideration to an anonymous disclosure, important elements of this Policy (e.g. keeping the reporting person informed and protecting a reporting person from penalisation) may be difficult or impossible to apply unless the reporting person discloses their identity.

In addition, a reporting person cannot obtain redress under the Legislation without identifying themselves.

Where the anonymous report contains enough information to allow an initial assessment that there is prima facie evidence that a relevant wrongdoing has occurred, follow-up action will be taken to the extent that is possible from the information provided.

## **8. Motivation and Untrue Allegations**

The motivation of the worker for making a disclosure is irrelevant when determining whether or not it is a disclosure protected by the Legislation - 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.

If the reporting person makes a disclosure in good faith, but which on investigation turns out not to be true/well founded, no action will be taken against them. If, however, a reporting person deliberately makes a false disclosure, disciplinary action may be taken.

## **9. Guidance on Terminology**

A protected disclosure is defined in the Legislation as a disclosure of relevant information which, in the reasonable belief of the worker, tends to show one or more relevant wrongdoings, which came to the attention of the worker in a work-related context and is disclosed in the manner prescribed in the Legislation.

## **9.1 Relevant Wrongdoing**

The Legislation provides protection for workers who disclose information in relation to the following 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 or safety of any individual has been, is being or is likely to be endangered;
- e) That the environment has been, is being, or is likely to be damaged;
- f) That an unlawful or otherwise improper use of funds or 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;
- h) That a breach has occurred, is occurring or is likely to occur (the Legislation includes a definition of “breach” under European Union law); or
- i) That Information tending to show that any matter falling within any of the preceding paragraphs (a) to (h) has been, is being, or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

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 term “wrongdoing” or “wrongdoings” referenced in this Policy is to be taken to refer to one or more of the relevant wrongdoings referenced in the Legislation.

## **9.2 Disclosure of Information**

A disclosure should contain “relevant information” which tends to show a relevant wrongdoing has or has potentially occurred. The ordinary meaning of disclosing “relevant



information” is conveying facts, such as stating that particular events have occurred. This is different to simply making an allegation, for example, that a law is being breached.

Workers should be satisfied that the information disclosed is necessary 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.

### **9.3 Reasonable Belief**

A reporting person must have a reasonable belief that the information disclosed tends to show a relevant wrongdoing. The term “reasonable belief” does not mean that the belief must be correct. A reporting person is entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds.

A reporting person will not be penalised simply for getting it wrong, so long as the reporting person had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing.

### **9.4 In a Work-Related Context**

The information must come to the attention of the worker in a work-related context. A work-related context is defined in the Legislation as “current or past work activities in the public or private sector through which, irrespective of the nature of those activities, persons acquire information concerning a relevant wrongdoing and within which those persons could suffer penalisation if they reported such information”.

A disclosure of any wrongdoing which it is the worker’s, or the worker’s employer’s, function to detect, investigate or prosecute does not come within the terms, or attract the protections and redress of the Legislation.

## **10. How to Raise a Concern**

### **10.1 Internally**

The Board encourages all workers to make disclosures internally and to use the internal procedures as set out in this Policy. Such disclosures will be taken seriously, and the reporting person will receive appropriate protection.

Reports of possible alleged fraud or any alleged wrongdoing can be received at any level within the organisation and on receipt of such a report, the employee receiving the report should formally communicate the disclosure to the Designated Person. However, where possible, workers should follow the reporting process set out below.

Workers are encouraged to communicate the disclosure to the Designated Person in the first instance if possible.

If the worker's concern involves the Designated Person or their office, the worker should contact their Line Manager, the Chairperson of the Board, or the Chairperson of ARC as appropriate.

The concern may be raised orally by telephone at 057 863 1912, or by requesting a physical meeting with the Designated Person. Concerns may also be submitted in writing by email to [info@alab.ie](mailto:info@alab.ie) or by post to Kilminchy Court, Dublin Road, Portlaoise, Co. Laois, R32 DTW5.

A disclosure made orally should be documented by the recipient. Where practicable, the reporting person should be asked to confirm the information provided to avoid dispute at a later date in relation to the information disclosed. If written, the envelope should be marked 'Personal, Private and Confidential'.

This reporting process is intended to afford everyone an effective way to raise a concern within the Board (and if possible, resolve it internally in line with the process as set out at section 11 below).

## **10.2 Externally**

The aim of this Policy is to provide an avenue within this workplace to deal with concerns or disclosures in regard to wrongdoing. The Board are confident that issues can be dealt with “in house” and we strongly encourage workers to report such concerns internally.

Notwithstanding this, the Legislation also allows a worker to make a disclosure to persons other than their employer depending on the nature and circumstances of the protected disclosure.

Those external persons are as follows:

- a) Other responsible person;
- b) A prescribed person (as detailed in Statutory Instrument 367 of 2020) or to the Office of the Protected Disclosures Commissioner;
- c) A Minister of the Government;
- d) A Legal adviser; or
- e) Alternative external disclosures (in very limited circumstances).

It is important to note that while a reporting person need only have a reasonable belief as to wrongdoing to make a disclosure internally, there are additional requirements for alternative external disclosures to qualify as protected disclosures under the Legislation. If a worker is considering an external disclosure, different and potentially more onerous obligations apply, depending on the person to whom the disclosure is made.

- a) Other responsible person - where a worker reasonably believes that the relevant wrongdoing relates to the conduct of a person other than the worker’s employer, or to something for which that other person has legal responsibility, then a worker can disclose to that other person. The requirements to be met when making a report to another responsible person are the same as those to be met when making a report to an employer – i.e., reasonable belief that a relevant wrongdoing has occurred, is occurring or is likely to occur.
- b) A prescribed person (as detailed in Statutory Instrument 367 of 2020) or to the Office of the Protected Disclosures Commissioner - a disclosure can be made to a prescribed person (as detailed in Statutory Instrument 367 of 2020) if the

reporting person reasonably believes that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed and that the information disclosed, and any allegation contained in it, are substantially true.

A disclosure can be made to the Office of the Protected Disclosures Commissioner if a reporting person cannot determine the correct prescribed person to make a report to, or if there is no relevant prescribed person.

A list of prescribed persons (including contact details) can be found here. Information in relation to making a report to the Office of the Protected Disclosures Commissioner (including contact details) can be found here.

- c) A Minister of the Government – the Legislation provides that if a worker is (or was) employed in a public body, they may make a disclosure to the Minister on whom any function related to the public body is conferred or imposed by or under any enactment, where one or more of the following conditions are met:
- the worker has previously made a report of substantially the same information to an employer, other responsible person, prescribed person or to the Commissioner but no feedback has been provided to the worker in response to the report within the required timeframe, or where feedback has been provided but the worker reasonably believes that there has been no follow-up or that there has been inadequate follow-up;
  - the worker reasonably believes the head of the public body concerned is complicit in the relevant wrongdoing concerned; and or
  - the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage.
- d) A Legal adviser - a disclosure can be made to a legal adviser in the course of a worker obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body.
- e) Alternative external disclosures - it will rarely be appropriate to make alternative external disclosures where the disclosure could be dealt with through one of the other disclosure options above.

The protections will only be available if the following conditions are met:

- the worker must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true; and
- at least one of the following conditions must be met:
  - (i) the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage; and or,
  - (ii) at the time the disclosure was made the worker reasonably believed that they would be penalised if they made the disclosure to the employer, a responsible person, a prescribed person or to the Minister or where there is a low prospect of the relevant wrongdoing being effectively addressed, due to the particular circumstances of the case, such as evidence may be concealed or destroyed or where a prescribed person may be in collusion with the perpetrator of the relevant wrongdoing or involved in the relevant wrongdoing; or
  - (iii) the worker has previously made a report of substantially the same information to the employer, a responsible person, a prescribed person or to the Minister, but no appropriate action was taken in response to the report within the required timeframe.

## **11. How the Board will respond after a concern is raised**

When a disclosure of alleged wrongdoing is made, the reporting person will receive an acknowledgement in writing not more than 7 days after it has been made to the Board. The Designated Person will maintain communication with the reporting person. The Designated Person will ensure the disclosure is formally recorded and the status and processing of each disclosure will be maintained.

An initial assessment will be carried out by the Designated Person, including seeking further information from the reporting person if required, as to whether there is prima facie evidence that a relevant wrongdoing may have occurred.

If, having carried out an initial assessment, the Designated Person decides that there is no prima facie evidence that a relevant wrongdoing may have occurred, the Designated Person will close the matter or refer it to another appropriate process within the Board and will notify the reporting person of the decision to do so and the reasons for same.

If, having carried out an initial assessment, the Designated Person decides that there is prima facie evidence that a relevant wrongdoing may have occurred, appropriate action will be taken to address the matter, having regard to the nature and seriousness of the matter concerned.

If an investigation is required, the Board will consider the nature and extent of the investigation. This could consist of an informal approach for less serious wrongdoings, a detailed and extensive investigation in relation to serious wrongdoings, or an external investigation by another body (for example, the matter may need to be reported to, and investigated by, An Garda Síochána or another body with the statutory power and function of investigation of particular matters).

If an investigation is required, the Board will appoint an independent investigator either from within the Board or externally, as appropriate. Investigations will be conducted in line with fair procedures.

It is possible that in the course of an investigation a reporting person may be asked to clarify certain matters. To maximise confidentiality such a meeting can take place off site and the worker can choose whether or not to be accompanied by a colleague or trade union representative.

If, after an appropriate investigation has been undertaken, it is determined that wrongdoing has occurred then the matter will be addressed, and appropriate action will be taken where necessary.

A reporting person will be provided with periodic and appropriate confidential feedback in relation to the matters disclosed and will within a reasonable timeframe which will not exceed 3 months from the date the acknowledgement of receipt of the report was sent to the worker.

Where requested, further feedback will be provided to the reporting person at 3-month intervals. When providing feedback, no information will be communicated that could prejudice the outcome of the investigation or any action that ensues (e.g., disciplinary, or other legal action, including prosecution).

## **12. The Information that should be provided in a Protected Disclosure**

It is recommended that, at a minimum, disclosures should include the following details:-

- a) That the report is a protected disclosure and is being made under this Policy;
- b) The discloser's name, position in the organisation, place of work and confidential contact details;
- c) The date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified;
- d) whether or not the alleged wrongdoing is still ongoing;
- e) whether the alleged wrongdoing has already been disclosed and if so, to whom, when, and what action was taken;
- f) information in respect of the alleged wrongdoing (what is occurring/has occurred and how) and any supporting information/evidence;
- g) the name of the person(s) allegedly involved in the alleged wrongdoing, i.e., a 'person concerned', (if any name is known and the worker considers that naming an individual is necessary to expose the wrongdoing disclosed) - if an allegation is made against a person concerned, the principles of natural justice and fair procedures will be complied with, as appropriate; and
- h) any other relevant information.

## **13. Reviews**

A review may be sought:

- By the reporting person into a decision, following assessment, to close the procedure or refer the matter to another process;
- By any affected party in respect of the conduct or outcome of any follow-up actions (including any investigation) taken on foot of the receipt of a report;

- By any affected party in respect of the conduct or outcome of any investigation into a complaint of penalisation; and
- Except in exceptional cases, by any party affected by any decision to disclose the identity of the reporting person to persons other than those authorised under these procedures to handle reports.

A request for a review should be made to the Chairperson of the Board or the Chairperson of ARC, and the person conducting the review will be appointed by the Board. The request should set out the reasons the review is being sought. The reporting person should advise in writing within three working days of notification that their identity will be disclosed, if they wish to seek a review. In other cases, the person seeking a review should do so within ten working days of notification of completion of the protected disclosure process.

Any review will 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 reporting person, where at all possible, the reporting person will be offered a review before their identity is disclosed.

Where a review finds significant shortcomings or failings in the process, the Board shall then consider what further action(s) may or may not need to be taken in response to the investigation.

There is no entitlement to two reviews in respect of the same issue. The review shall not re-investigate the matter but shall seek to address the specific issues the applicant feels have received insufficient consideration.

#### **14. Review of this Policy**

This Policy will be reviewed and updated on a yearly basis by the Secretary or sooner if there is a change in the Legislation.



## 15. Document Control

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