



Oifig an Stiúirthóra um
Fhorfheidhmiú Corparáideach
Office of the Director
of Corporate Enforcement

Making a Protected Disclosure to the ODCE

The Protected Disclosures Act 2014 was introduced to give protection to all workers who make a protected disclosure (also known as ‘whistleblowing’). The Act sets out a number of ways in which disclosures can be made to employers as well as to external bodies.

Section 7 of the Protected Disclosures Act 2014 provides that protected disclosures may be made to certain external regulators referred to as “prescribed persons” in the Act.

The Director of Corporate Enforcement is prescribed under s. 7 of the Protected Disclosures Act and Statutory Instrument 367 of 2020 to receive protected disclosures from external workers regarding all matters relating to the functions of the Director of Corporate Enforcement (“the Director”) under s. 949 of the Companies Act 2014. This means that workers may make protected disclosures to the Director regarding, *inter alia*, compliance with, and/or the investigation and/or enforcement of the Companies Act 2014.

However, the Protected Disclosures Act 2014 will only apply to disclosures made to the Office of the Director of Corporate Enforcement in this way if:

- The person making the disclosure reasonably believes that the relevant wrongdoing relates to compliance with, and/or the investigation and/or enforcement of the Companies Act 2014.
- The person making the disclosure reasonably believes that the information disclosed, and any allegation contained in it, are substantially true

The term “worker” and “relevant wrongdoing” are defined in the [Protected Disclosures Act 2014](#).

All disclosures, however made, are taken seriously and all efforts are made to address appropriately the issues raised.

Confidentiality

The ODCE understands the need for maintaining confidentiality and protecting the identity of the worker making a protected disclosure. In general, protected disclosures made to the ODCE will be treated in confidence unless the worker clearly states that they do not object to having their name associated with the disclosure. There are circumstances, as outlined in section 16 of the Protected Disclosures Act 2014, where confidentiality cannot be maintained, for example, if identifying the person is necessary for the effective investigation of matters raised. Accordingly, an absolute assurance of confidentiality cannot be given. Should such a situation arise, the ODCE will make every effort to inform the worker that his/her identity may be disclosed.

It may be that a disclosure merits further enquiry, but the ODCE is not the appropriate body. In some circumstances, the ODCE may suggest to the worker that they might wish to refer their concerns to

another appropriate body. In other circumstances, it may be more appropriate for the ODCE to refer the concerns to that body directly.

Anonymity

A disclosure may be made anonymously, and concerns expressed anonymously will be treated seriously. However on a practical level, it may be difficult to investigate a concern raised on an anonymous basis. Workers are therefore encouraged to put their name to a disclosure.

Legal Advice

Whether or not a matter is a protected disclosure as defined in the Protected Disclosures Act 2014 is a matter of law which, in the case of a dispute, will fall to the courts to decide. The ODCE cannot offer any legal advice. If you are considering making a disclosure, the ODCE recommends that you seek independent legal advice in advance of doing so.

How to make a disclosure:

To make a disclosure to the ODCE please email Protected.Disclosures@odce.ie, or write to ODCE, 16 Parnell Square, Dublin 1

Where possible, a disclosure should contain the following information:

- Name of the individual making the disclosure and contact details;
- A statement that the information is being provided pursuant to the Protected Disclosures Act 2014
- Name of the organisation concerned;
- As many details as possible regarding the concerns.

Please note the Director may designate a person to investigate the disclosure that he has received.

Feedback

Where the discloser's identity and contact details are made known to the ODCE, we will acknowledge the disclosure within 10 working days.

If the ODCE is the appropriate organisation to receive the information the Director will decide whether any further action should be taken and if so, what action.

Where possible, the ODCE will ensure that those making a disclosure are kept informed of steps being taken by this Office in response to a disclosure.

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