



ActionAid Ireland

Whistleblowing and Protected Disclosures Policy

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Chief Executive
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Integrity at Work

ActionAid Ireland is a member of the Integrity at Work (IAW) programme, a Transparency International Ireland initiative. As part of its commitment to protecting workers who make protected disclosures, ActionAid has signed and works to comply with the Integrity at Work Pledge.

Integrity at Work Pledge

ActionAid Ireland recognises the importance of developing an ethical workplace and the valuable contribution of those who raise concerns about wrongdoing. We commit to not penalising, or permitting penalisation against, a worker who reports risks or incidents of wrongdoing and to responding to or acting upon those concerns.

In committing ourselves to this pledge we will work towards implementing a 'whistleblowing'/protected disclosures policy and accompanying procedures which:

- a. Promote the reporting of wrongdoing or the risk of harm to the responsible person inside the organisation or external bodies as appropriate.
- b. Provide comprehensive information about the types of disclosures that can be made, to whom, by whom and in respect of what.
- c. Encourage our workers to seek professional advice both prior and subsequent to making a report.
- d. Assure our workers that any report will be dealt with in the strictest confidence and that their identity or identifying information will not be disclosed to third parties unless required by law or necessary for the purposes of conducting the investigation.
- e. Provide our workers with sufficient notice and a timely explanation in the event that his or her identity is to be disclosed to a third party.
- f. Confirm that reports will be acted upon within a reasonable time frame and take whatever remedial action is deemed necessary by the organisation to address any wrongdoing or the rise of wrongdoing that might have been identified in response to the report.
- g. Commit to keeping any worker who makes reports informed of the progress of investigations.
- h. Provide for appropriate disciplinary action to be taken against anyone found to have penalised a worker for:
 - I. Having reported wrongdoing, or;
 - II. Refusing to engage in wrongdoing.
- i. Additionally, the organisation commits to record anonymised data each year on:
 - I. The number of reports made to the organisation;
 - II. The nature of each report;
 - III. The number of complaints of retaliation against workers who have made disclosures and;
 - IV. The action taken in response to each report.
- j. Share this data (as set out in paragraph I) with its Board of Directors (or other relevant Governance Body) where appropriate.
- k. Ensure that our managers and responsible persons are aware of our commitments under this Pledge and related policies and procedures and are adequately trained in handling a report.
- l. Publicise our commitment to the Integrity at Work initiative with our workers and other relevant stakeholders.

1. Introduction

- 1.1 ActionAid Ireland is committed to the highest possible standards of compliance with our legal requirements.
- 1.2 Our Whistleblowing and Protected Disclosures Policy is intended to encourage and enable workers to raise concerns rather than overlooking them. Under this policy a worker can make a disclosure without fear of penalisation or threat of less favourable treatment, subsequent discrimination or disadvantage.
- 1.3 This policy aims to give effect to the obligations and provisions of the Protected Disclosures Act 2014 and does not replace any legal reporting or disclosure requirements arising under other legislation. Where statutory reporting requirements or procedures exist these must be fully complied with.
- 1.4 This policy does not replace the organisation's Grievance and Disciplinary Procedures, in particular where the issues relates to an individual worker's contract of employment, this matters should be referred under the ActionAid Ireland Grievance and Disciplinary Procedures.
- 1.5 Our policy has been discussed and agreed with our employees and has their full support.

2. Aims & Scope of this Policy

- 2.1 This policy aims to:
 - Encourage workers to feel confident about raising concerns about relevant wrongdoings;
 - Provide avenues for workers to make disclosures about relevant wrongdoings and receive feedback on any action taken;
 - Ensure that suppliers are aware of their responsibilities;
 - Reassure workers that they will be protected from reprisals for making a disclosure in accordance with this policy.
- 2.2 This policy is intended to cover all aspects of ActionAid Ireland's activity in Ireland.

3. Protected Disclosure

- 3.1 This policy deals with disclosures that relate to 'relevant wrongdoings'. These correspond to the relevant wrongdoings in the Protected Disclosures Act 2014 (Section 5, Subsections 3(a) to (h)) and in summary these are:
 - a. Offences that are or are likely to be committed;
 - b. Failing to comply with legal obligations;
 - c. Miscarriage of justice;
 - d. Health and Safety risks, including risks to the public as well as other workers;

- e. Damage to the environment;
 - f. The unauthorised use of public funds or resources;
 - g. Oppressive, discriminatory or grossly negligent action or inaction by a public body;
 - h. Information showing that any matter falling into any of categories above has been, is being, or is likely to be concealed or destroyed.
- 3.2 A 'protected disclosure' under this policy may be about a relevant wrongdoing:
- That is happening now;
 - That took place in the past;
 - That is about to happen.

4. Reasonable Belief

- 4.1 A worker does not need to be certain about the facts in their disclosure, it is sufficient that in the reasonable belief of the worker the information tends to show one or more relevant wrongdoings and the information came to the attention of the worker in connection with their employment.

5. Who is Covered by this Policy?

- 5.1 This policy applies to all 'workers' i.e. our employees at all levels, agency workers, trainees, apprentices and interns, self-employed persons acting on our behalf, and in certain circumstances the workers of companies that supply us with goods and services.
- 5.2 This policy applies to current and past employees and at the recruitment stage.

6. Channels for Making a Disclosure

- 6.1 This policy provides guidance to workers on making:
- An internal disclosure within the employment or to an agreed third party authorised by the employer;
 - An external disclosure to a 'Prescribed Person', and;
 - An external disclosure to 'Others'.

7. Raising a Concern under the Internal Disclosure Procedure

- 7.1 As a first step, a disclosure about a 'relevant wrongdoing' should normally be raised using the internal disclosure procedures, however this depends on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing.
- 7.2 Disclosures made under the internal procedures may be made verbally or in writing to the 'Protected Disclosure Manager' nominated by ActionAid Ireland.
- 7.3 Workers who wish to make a written disclosure are invited to use the following format and to keep a copy of the disclosure and any information provided. It is not necessary to follow this format, it is just a suggestion.

Suggested Format for Making an Internal Disclosure:

1. Give a description of the 'relevant wrongdoing';
2. Provide any information that tends to show the relevant wrongdoing so as to assist in the assessment of the matters raised in the disclosure;
3. Date the disclosure;
4. Give your preferred contact details;
5. State that the disclosure is made under the Protected Disclosures Act and state if you do/do not expect confidentiality.

- 7.4 Although workers are not expected to prove the truth of the facts in the disclosure they must have a 'reasonable belief' that there are grounds for their concern when making a disclosure using the internal procedure.

8. Confidentiality

- 8.1 All concerns will be treated in confidence. Unless the worker clearly states that they do not object to having their name associated with the disclosure.
- 8.2 Disclosures will be kept secure and in a format that does not endanger confidentiality of the person making the disclosure. The focus will at all times be on the information in the disclosure rather than the identity of the worker making the disclosure.
- 8.3 At the appropriate time however, the identity of the person making the disclosure may need to be revealed if it is necessary for the investigation and in accordance with the principles of natural justice and fair procedures. If this should arise, the person concerned will be informed as soon as possible.

9. Anonymous Allegations

- 9.1 Workers are encouraged to put their name to the disclosure. Concerns expressed anonymously will be treated seriously and considered in accordance with this policy. Where a worker uses an anonymous email address or phone number these will be used to provide updates.

10. The Role of the 'Protected Disclosure Lead'

- 10.1 ActionAid Ireland is ultimately responsible for the management of this policy.
- 10.2 ActionAid Ireland is appointing two identified senior executives as the '**Protected Disclosure Leads**' for the maintenance and day-to-day operation of this policy. Workers are also encouraged to feel free to make a disclosure to any member of the senior management team.

10.3 The 'Protected Disclosure Leads' are Siobhán McGee, CEO ActionAid Ireland and the Head of International Internal Audit for ActionAid International in response to a disclosure.

10.4 The contact details for the Protected Disclosure Leads are:

Siobhán McGee (CEO, ActionAid Ireland)

Email: siobhan.mcgee@actionaid.org

Direct Line: 01 814 7059

Rayelene Govender (Interim Head International Internal Audit)

Email: rayelene.govender@actionaid.org

Direct Line: +27 11 731 4500

11. How the Enterprise will Respond

11.1 The Protected Disclosure Leads will respond to all concerns raised under the internal disclosure procedure.

11.2 Disclosures may, in light of the seriousness of the allegations be referred immediately to the appropriate authorities. Likewise if urgent action is required (for example to remove a health and safety hazard) this will be taken before any other investigation is conducted.

11.3 In order to protect any individuals accused of a 'relevant wrongdoing' an initial inquiry will be made to decide whether an informal or formal investigation is appropriate, and if so, what form it should take. Where appropriate, the matters raised in the disclosure may:

- Be investigated by management, internal audit, be referred to the external auditor;
- Be referred to An Garda Síochána;
- Be referred to external enforcement agency or regulator;
- Form the subject of an independent (third party) inquiry;
- Be dealt with in accordance with ActionAid Ireland's Grievance and Disciplinary Procedures.

11.4 Generally within ten working days (and no later than 21 working days) of a concern being raised, the Protected Disclosure Lead will write to the worker who made the report (where this is known) to:

- Acknowledge that the concern has been received;
- Indicate in summary form how ActionAid Ireland proposes to deal with the matter;
- Give an estimate of how long it will take to provide the next response;

or

- Provide an approximate date by which the person making the disclosure will receive the final communication; or

- Setting out why no investigation will take place.¹
- 11.5 The communication will include information on staff support mechanisms including the right to be represented by a trade union.
- 11.6 The amount of contact between the **Protected Disclosure Leads** (or the person working on their behalf) and the worker making the disclosure during the investigations will depend on the nature of the matter raised, the potential matters involved and the clarity of the information provided in the report.
- 11.7 The **Protected Disclosure Leads** will ensure that the person who made the disclosure is aware that the matter is under active consideration and will provide them with a final statement summarising how the concerns raised in the disclosure were dealt with and what action was taken to rectify the wrongdoing.
- 11.8 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 **Protected Disclosure Leads** will in the final statement take the opportunity to explain that the concerns were unfounded.
- 11.9 The **Protected Disclosures Leads** will maintain a record of all concerns raised and reports received along with notes of the investigation and the outcome, in a secure manner which does not endanger workers' confidentiality or damage reputations or workers' employment records in the case of inaccurate disclosures.
- 11.10 The **Protected Disclosure Leads** will report as necessary to the Board of ActionAid Ireland providing a record of the number and type of disclosures received, the actions taken, any breaches of confidentiality or of penalisation of the actions taken to remedy these and a statement on awareness and training on the policy.

12. Raising a Concern Externally

- 12.1 Workers are encouraged to raise their concerns under ActionAid Ireland's internal disclosure procedure in the first instance. However, it is recognised that this may not always be appropriate therefore this policy, in line with the Protected Disclosures Act 2014 provides for external reporting to 'Prescribed Persons' and to 'Others'.

13. Making a Disclosure to a Prescribed Person

- 13.1 The Protected Disclosure Act 2014 provides for external reporting of wrong-doing to appropriate authorities in circumstances where:
- (i) The worker reasonably believes that the information disclosed and any **allegations contained are substantially true** and;

¹ The legislation does not require the organisation to communicate with the worker who made the protected disclosure. The recommendation is aimed at assisting organisations to communicate that action is being undertaken by the enterprise so that the worker can determine if it is appropriate for them to make an external disclosure.

(ii) The wrongdoing falls within matters in respect of which there is a 'Prescribed Person'.

13.2 A 'Prescribed Person' is the external authority as prescribed by Ministerial Order (under Section 7 of the Protected Disclosures Act 2014). Prescribed Persons are normally the Regulating or Supervising Authority or Inspectorate with responsibility for dealing with any 'relevant wrongdoing' falling within the scope of the Protected Disclosures Act 2014 such as the Data Protection Commissioner, Health and Safety Authority and the labour inspectorate in the Workplace Relations Commission.

13.3 ActionAid Ireland aims to maintain and make generally available an up-to-date list and contact details of the various 'Prescribed Persons' and the matters that may be reported to them. A link to the relevant Statutory Instrument is included on page 11.

13.4 The 'Prescribed Person' may have their own procedures for making a disclosure and staff are encouraged to contact their trade union in advance of making a disclosure to a 'Prescribed Person'.

13.5 Staff are encouraged to seek external advice where needed. In particular, Transparency International Ireland provide a Speak up Helpline which staff can avail of by calling **Freephone 1800 844 866**. The Helpline provides independent and confidential advice for anyone considering reporting a concern or making a protected disclosure. It is open Monday to Friday 10am to 6pm. The email address is helpline@transparency.ie or visit www.speakup.ie to use our secure online form. Where appropriate, the helpline can refer callers to access free legal advice from the Transparency Legal Advice Centre (see <https://www.transparency.ie/helpline/TLAC>).

13.6 Where the 'Prescribed Person' does not have a format for making a disclosure, workers are invited to use the following format and to keep a copy of the disclosure and any information provided:

Suggested Format for Making a Disclosure to a Prescribed Person

1. State that you are making the disclosure under Section 7 of the Protected Disclosures Act 2014²;
2. Give a description of the 'relevant wrongdoing' and why it falls within the Prescribed Person's area of responsibility;
3. Provide any copies of information that tends to show the wrongdoing so as to assist the investigation of the matters raised in the disclosure;
4. Include any information relating to your raising (or not raising) the concern under the internal procedure;
5. Date the disclosure;
6. Give your preferred contact details;
7. Make it clear (i) that you expect confidentiality or (ii) that you want your name associated with the disclosure.³

² It is not a legal requirement to state this, but it may assist the person to whom you are making the disclosure to know that is your intention.

³ The legislation requires that the Prescribed Person treat the disclosure as confidential, including this in the disclosure is for the avoidance of confusion.

- 13.7 Although workers are not expected to prove the truth of the facts in the disclosure, they must have a 'reasonable belief' that the information and any allegations are substantially true, this is a somewhat higher standard than when making the internal disclosure.

14. Raising Concerns Externally other than to a Prescribed Person

- 14.1 The Protected Disclosure Act 2014 provides for external reporting to other persons. There is no definitive list of who can or who cannot be an 'Other Person', instead the legislation requires the disclosure to the 'Other Person' to be 'reasonable' bearing in mind:

- (i) The identity of the person to whom the disclosure is made;
- (ii) The seriousness of the relevant wrongdoing;
- (iii) Whether the wrongdoing is continuing or is likely to occur in the future;
- (iv) Any action which the employer of the worker or the person to whom the previous disclosure was made has taken or might reasonably be expected to have taken as a result of the previous disclosure.

- 14.2 There are other criteria that must also be met such as the relevant wrongdoing must be sufficiently serious, and the worker reasonably believes:

- (i) That the information disclosed and any allegation is substantially true;
- (ii) That the disclosure is not made for personal gain (excluding any rewards payable under any enactment);
- (iii) In all circumstances of the case it is reasonable for the worker to make the disclosure;
- (iv) And any one of the following applies:
 - That at the time of the disclosure the worker reasonably believed they would be subjected to penalisation by the employer if they made the disclosure under the internal process or to the 'Prescribed Person';
 - That in the case where there is no 'Prescribed Person' in relation to the relevant wrongdoing the worker reasonably believed that it is likely that the evidence would be concealed or destroyed if the worker made a disclosure under the internal procedures;
 - That the worker previously made a disclosure of substantially the same information under the internal process or to a Prescribed Person;
 - That the relevant wrongdoing is of an exceptionally serious nature.

- 14.3 It is difficult to recommend a format for making a protected disclosure to an 'Other Person' as the nature of the criteria depends on the specifics of the situation and the nature of the relevant wrongdoing. Workers considering making a protected disclosure to an 'Other Person' in accordance with Section 10 of the Protected Disclosures Act 2014 are therefore encouraged to discuss and get assistance from a trade union in the first instance and consider contacting the Speak Up Helpline for advice.

15. Workers Outside of ActionAid Ireland Reporting Concerns Using the Internal Procedure

- 15.1 Workers from outside ActionAid Ireland working for other members of ActionAid, contractors or suppliers who become aware of a relevant wrongdoing as part of their work with or for us may make a report to the 'Protected Disclosure Manager' in respect of a relevant wrongdoing.
- 15.2 Workers from outside ActionAid Ireland making such disclosures are encouraged to use the same format as our workers and give an indication of whether they are willing to participate in any investigation that may take place in response to the disclosure.

16. Untrue Allegations

- 16.1 If a worker makes 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 the person making the disclosure. They will be fully protected from any less favourable treatment, penalisation or victimisation.
- 16.2 The motive of the person making the disclosure is not relevant but if an allegation, known to be false is made, then disciplinary action may be taken.

17. A Worker Who is the Subject of a Disclosure

- 17.1 A worker who is the subject of a disclosure is entitled to fair treatment. While an investigation is ongoing, all reasonable steps will be taken to protect the confidentiality of those who are the subject of allegations in a protected disclosure pending the outcome of the investigation. In some circumstances, where the fact of the investigation is widely known, the conclusion of the investigation may involve a statement of exoneration.

18. Protection from Penalisation

- 18.1 ActionAid Ireland is committed to good practice and high standards and we want to support and protect workers who make disclosures under this policy. Direct or indirect pressure on workers not to make a disclosure or to make a disclosure contrary to this policy will not be tolerated, and will be addressed in line with policies set out in the Employee Handbook.
- 18.2 ActionAid Ireland recognises that penalisation can take many forms; it can be direct and indirect and may be perpetrated by fellow workers, management or those who supply us with goods and services, and our affiliates.
- 18.3 Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) that result in the employee suffering any unfavourable change in his/her conditions of employment including (but not limited to):

- (i) Suspension, lay-off or dismissal (including dismissal within the meaning of the Unfair Dismissals Acts), or the threat of suspension, lay-off or dismissal;
- (ii) Demotion or loss of opportunity for promotion;
- (iii) Transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- (iv) Imposition of any discipline, reprimand or other penalty (including a financial penalty);
- (v) Unequal treatment under sick leave or disciplinary policies, unfair selection for tasks or attendance at events;
- (vi) Coercion, intimidation;
- (vii) Discrimination, disadvantage or unfair treatment;
- (viii) Injury damage or loss;
- (ix) Threats of reprisal;
- (x) Verbal harassment – jokes, comments, ridicule or songs;
- (xi) Written harassment – including faxes, text messages, emails, comments or postings on social media;
- (xii) Physical harassment – jostling, shoving or any form of assault;
- (xiii) Intimidatory harassment – gestures, posturing or threatening poses;
- (xiv) Isolation or exclusion from social activities;
- (xv) Bullying.

18.4 ActionAid Ireland will not penalise or threaten to penalise the worker for making a protected disclosure. ActionAid Ireland will not allow any other person to penalise or threaten penalisation (including informal pressure) for having made a disclosure in accordance with this policy.

18.5 ActionAid Ireland will take appropriate action to prevent and remedy any penalisation or breach of confidentiality of workers when they report a relevant wrongdoing or:

- (i) are suspected of making a report about a relevant wrongdoing, or
- (ii) provide information or act as a witness as part of an investigation under this policy;
- (iii) Seek redress under the provisions of the Protected Disclosures Act 2014;
- (iv) Or are otherwise involved in actions under this policy.

18.6 These protections extend beyond the workplace, for example to conferences and training that occurs outside the workplace and to work-related social events.

18.7 Penalisation or threats of penalisation by members of staff will not be tolerated. Such behaviour may constitute misconduct and may lead to disciplinary action up to and including dismissal.

18.8 Penalisation or threats of penalisation of our workers by suppliers, clients and others we do business with will not be tolerated and may lead to termination of contracts or suspension of services, or the imposition of other sanctions.

19. Complaints Procedures

- 19.1 A complaint of penalisation or for a breach of confidentiality under this policy can be made under ActionAid Ireland's Grievance and Disciplinary Procedures.
- 19.2 A copy of the complaint of penalisation should be brought to the attention of the Protected Disclosures Lead.
- 19.3 Employees can make a complaint of penalisation, under the Protected Disclosure Act 2014 to the Rights Commissioner (Adjudication Officer under the Workplace Relations Reform) in according with Schedule 2 of the Act.

20. Right of Appeal

- 20.1 A worker is entitled to appeal at any stage in this process and following any decision arising from the assessment stage or investigation stage of the process. Notice of appeal shall be in writing and must be submitted within 15 working days of the decision to the Protected Disclosures Manager.
- 20.2 The appeal will be heard by an appropriate sub-committee of the Board of ActionAid Ireland. No member of this sub-committee will have been involved at any stage of the assessment or investigation stages of the process.

21. Communication, Monitoring and Review

- 21.1 This policy will be communicated to all workers and others we do business with.
- 21.2 This policy will be monitored and reviewed for its effectiveness.

22. Contact and Advice Points

The Protected Disclosures Act 2014

<http://www.oireachtas.ie/documents/bills28/acts/2014/a1414.pdf>

List of Prescribed Persons (SI No 339 of 2014)

<http://www.irishstatutebook.ie/eli/2014/si/339/made/en/print>

Workplace Relations Commission

<http://www.workplacerelations.ie/en/>

Transparency International

<http://transparency.ie/>

Transparency International - Speak Up Helpline

<https://transparency.ie/helpline> Freephone 1800844 866