

1. Introduction

The Protected Disclosures Act 2014 (the “**Act**”) came into effect on 15 July 2014, as amended by the Protected Disclosures (Amendment) Act 2022. The Gallery has put in place this policy in order to meet its requirements under the Act. This policy applies to ‘workers’, which under the Act includes employees or former employees, independent contractors, agency staff, persons on work experience, and suppliers. In line with the (Amendment) Act 2022, this policy is updated to reflect the significant expansion of its personal scope to include protection for volunteers, shareholders, board members and job applicants (where information on a relevant wrongdoing is acquired during the recruitment process or during pre-contractual negotiations).

This policy focuses on addressing issues of relevant wrongdoing (as defined in the Act) . Relevant wrongdoings for the purpose of the Protected Disclosures Act include:

- Criminal Offences
- Failure to comply with a legal obligation (other than a worker’s contract of employment)
- Miscarriage of justice
- Endangerment of health and safety
- Damage to the environment
- Unlawful or improper use of public funds
- Oppressive, discriminatory, or negligent behaviour by a public body
- Breaches of EU law
- Concealing or destroying evidence of wrongdoing

There is an important distinction to be made between raising a concern regarding relevant wrongdoings as defined in the Act, covered by this policy and other issues that may be raised relating to the normal business of the Gallery or workers’ personal circumstances, which do not fall under this policy.

Concerns in relation to day to day operational matters should, in the normal course of events, be brought to the attention of the relevant supervisor and dealt with accordingly, or through agreed structures already established by the Gallery. Similar considerations apply to grievances or allegations relating to matters such as harassment/bullying which are not covered by this policy, and which will remain to be dealt with under the Bullying and Harassment policy and/or Grievance and Disciplinary procedures. If a worker is uncertain whether something is within the scope of this policy, they should seek advice from the Designated Officer(s) as set out in section 6 of this document.

It should be noted that this policy does not form part of any contract of employment, thus the Gallery may amend it from time to time.

This policy is part of the Gallery's cohesive set of policies and procedures which this document should be reviewed in conjunction with where relevant.

2. Purpose of the Policy

The purpose of this policy is:

- To outline procedures and provide guidance for workers to report any concerns they may have regarding a relevant wrongdoing in the workplace.

- To highlight that it is always appropriate to raise concerns a worker may have about a relevant wrongdoing when they are based on a reasonable belief irrespective of whether any relevant wrongdoing is in fact subsequently identified; and
- To reassure workers that they can report relevant wrongdoings without fear of suffering any detriment as a result.

3. Definitions

Protected Disclosure

A Protected Disclosure is defined in the Act 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 connection with the worker's employment and is disclosed in the manner prescribed in the Act.

For the purpose of the Act a **"worker"** means an individual working in the private or public sector who acquired information on relevant wrongdoings in a work related context and includes Employees or former employees, contractors, consultants, agency workers, civil servants, interns, and trainees.

The definition of **"worker"** also includes any individual who is, or was, a shareholder, member of the company's administration or management, including non-executive member, a volunteer or unpaid trainee or a job candidate.

Type of Disclosure Covered by this Policy

A disclosure of information is covered by this Policy if the worker has a reasonable belief that a relevant wrongdoing is occurring or is likely to occur. Relevant wrongdoings for the purpose of the Protected Disclosures Act include:

- (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, or
- (h) that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed.

A 'protected disclosure' under this policy may be about a relevant wrongdoing:

- (a) that is occurring now;
- (b) happened in the past; and/or
- (c) may happen in the future.

4. Reasonable Belief

The 2014 Act provides that the motivation for making the disclosure is irrelevant, as long as a worker has a reasonable belief that the disclosure they are making is true and falls into one of the categories of relevant wrongdoings listed above.

5. Disclosure Recipients

The Protected Disclosures Act provides for a number of avenues of disclosure:

- To an employer or other responsible person;
- To a prescribed person;
- To a Minister;
- To a legal adviser;
- To the Protected Disclosure Commissioner; or
- To a third party in other cases.

This Policy deals primarily with the first of these avenues, that is, making a disclosure to an employer or other responsible person.

6. Procedure for Making a Disclosure

Any worker who has a reasonable belief in relation to one or more of the relevant wrongdoings set out above should make the disclosure, in the first instance, to the Designated Officer(s).

Where a disclosure is made to a line manager other than the Designated Officer that person shall be known as the "Initial Recipient". While an "Initial Recipient" is required to bring a report to the attention of the Gallery's Designated Recipient, they may not be involved in the investigation phase.

CAG has appointed the following persons to receive protected disclosures raised in accordance with this policy. The contact details for the Designated Officer(s) are as follows:

Designated Officer	Telephone Number	Email Address
Norma Cuddihy	021 4805042	normcuddihy@crawfordartgallery.ie

Where the discloser is the Director or where the concern relates to the Director, he/she should make the disclosure to the Chair of the Audit & Risk or Finance & Legal Committee, addressed to the Chair of said Committee c/o Crawford Art Gallery.

It is preferable that a disclosure made under this policy should be made in writing and the worker will need to be able to demonstrate and support the reasons for his/her concerns and provide evidence of his/her concerns where such evidence is available. Any written disclosure should be factual (to the best of the individual's knowledge) and should

address the following key points to the extent that such information is known to the individual in relation to a wrongdoing that has occurred, is occurring or is likely to occur:

- The discloser's name, title/position, place of work and contact details, which will be treated confidentially;
- Specific details about the wrongdoing (what, how and when) and any supporting information;
- Dates (if known) of when the wrongdoing commenced or was identified;
- Information about the current status of the wrongdoing and if it is still ongoing;
- If it has been previously disclosed and to whom and any associated action taken;
- The name of the individuals involved in the wrongdoing, particularly if it is necessary to support the details of the disclosure; or
- Any other relevant information

While it is generally recommended that a disclosure be made in writing to ensure clarity, it should be noted that a disclosure may also be made verbally if necessary.

Written Disclosure

If the disclosure is being made in writing, all information that clearly identifies relevant wrongdoings, should be set out in the initial submission.

Verbal Disclosure

In the case of a verbal disclosure, the recipient should capture the relevant information in a record and consult with the reporting person on the particulars being captured and provide him/her with an opportunity to suggest amendments to the written record until a final version is agreed.

A worker intending to raise a concern should not carry out an investigation outside of the normal scope of his/her duties with a view to seeking to confirm relevant wrongdoing.

6. Procedure for Receiving a Disclosure

The recipient of a disclosure under this policy and any other individual to whom the disclosure is referred in the performance of that employee/person's duties, must take all reasonable steps to avoid disclosing to another person any information that might identify the person by whom the disclosure was made.

The recipient of a disclosure should undertake an initial evaluation following which he/she will advise the discloser as to whether the matter requires an investigation in accordance with the Act. In the event that the recipient is of the view that any further investigation is not required, the recipient should advise the discloser of his/her assessment and the basis for this assessment, insofar as it possible. If it is clear that the concern falls more appropriately within a different policy /procedure of the Gallery, the worker will be informed that it should progress in accordance with that policy.

All persons who are in receipt of disclosures under this policy must advise the Director or the Chair of the Audit & Risk or Finance & Legal Committee in the Gallery of the receipt of the disclosure, the nature of the information contained in the disclosure and the decision transmitted to the discloser

7. Investigation of a Disclosure

Where the recipient of a disclosure forms the view that a full investigation is required he/she should appoint such person or persons internally (which may include the recipient if appropriate) who are most appropriately based to carry out the investigation or arrange for the appointment of an external investigator to carry out the investigation. The fact of such an investigation taking place will be reported to the Director and the Chair of the Audit & Risk or Finance & Legal Committee both of whom will also be advised of the outcome and any recommendations arising and provided with the copy of any report prepared by the investigator(s).

The initial assessment is to be completed within 14 days and a determination must be made as to whether the matter meets the criteria of a Protected Disclosure.

1. Where the assessment concludes that the matter does not meet the criteria of a Protected Disclosure, the designated person will advise the reporting person of the conclusion and offer advice on the appropriate steps to take. This may involve the Gallery's Grievance procedure or the Gallery's Anti Bully & Harassment Policy.
2. If the assessment determines that the matter disclosed meets the criteria of a Protected Disclosure under the provisions of the Act, the designated person will advise the reporting person whether the alleged wrongdoing is a protected disclosure and whether an investigation is required.

The discloser will be advised of the progress and outcome of the investigation, as appropriate, having regard to the nature of the matters investigated. The worker should treat any information about the investigation as strictly confidential. Any breach of this confidentiality may result in disciplinary action.

As it is not possible to know at the time whether the disclosure will subsequently be deemed protected under the Act, written records, including timelines, in relation to any disclosure and investigation undertaken, under this policy should be maintained.

8. Taking Matters Further

Having already made the disclosure to the Designated Officer, if a worker is dissatisfied with the response provided by the Gallery, he/she can *then* refer the matter to the Chair of the Audit & Risk or Finance & Legal Committee directly.

9. Confidentiality

The Gallery does not encourage workers to make disclosures anonymously as proper investigation may be more difficult or impossible if the Gallery cannot obtain further information from him/her. It is also more difficult to establish whether allegations are credible and impossible to afford a worker the protections under the Act if his or her identity is not known.

If a worker asks the Gallery to protect his/her identity by keeping his/her identity confidential, the Gallery will endeavour to do so. However, the Gallery cannot guarantee full anonymity and the identity of a worker may need to be disclosed in certain circumstances for example, for or where:

- the effective investigation of the relevant wrongdoing concerned;
- 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; or
- the disclosure is otherwise necessary in the public interest or is required by law.

10. Data Protection

The Personal Data of third parties should only be included/processed by a worker making a protected disclosure where the use of such Personal Data is absolutely necessary to make the protected disclosure; in other words, it would not otherwise be possible for the worker to make the protected disclosure without processing the Personal Data.

Where a worker makes a protected disclosure which necessitates that the Personal Data of a third party be processed (such as a third party's Personal Data being included or identified as part of the disclosure) either before or during the making of the protected disclosure, then that worker and the recipient of the disclosure should be mindful of the general principles of data protection as set out in the Gallery's Data Protection Policy. In particular, the worker and the recipient of a disclosure should respect the data protection obligations to limit the processing of the Personal Data to the absolute minimum necessary (to make and investigate the protected disclosure) and to safeguard the security of the Personal Data in question.

"Personal Data" means any information identifying a Data Subject or information relating to a Data Subject that we can identify (directly or indirectly) from that data alone or in combination with other identifiers we possess or can reasonably access. Personal Data includes Sensitive Personal Data and pseudonymised Personal Data but excludes anonymous data or data that has had the identity of an individual permanently removed. Personal Data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

"Data Subject" means a living, identified or identifiable individual about whom we hold Personal Data.

"Sensitive Personal Data" means any information revealing racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data, and Personal Data relating to criminal offences and convictions.

11. False Allegations

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 unless proven to be made maliciously. The worker will be fully protected from any less favourable treatment, penalisation or victimisation.

The motive of the person making the disclosure is not relevant but if an allegation known to be false is made maliciously, then disciplinary action may be taken.

If, following the investigation into the matter, no wrongdoing is found to have occurred and the disclosed is assessed not to have had a reasonable belief in making the allegation of wrongdoing he/she will be referred to Head of Operations who has responsibility for HR matters, with a view to considering whether disciplinary proceedings ought to be

pursued against the person concerned.

12. A Worker who is the Subject of a Disclosure

A worker who is the subject of a disclosure is entitled to fair treatment and should be made aware of and given the opportunity to respond to allegations against them. Such individual should treat any information about the investigation as strictly confidential. Any breach of this confidentiality may result in disciplinary action. While an investigation is on-going, 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.

13. Protection from dismissal/penalisation

A worker, who has a reasonable belief in the occurrence of a serious wrongdoing in connection with his/her employment and makes a protected disclosure is protected from penalisation (or threatened penalisation), such as suspension, lay-off or dismissal, demotion, reduction in wages, harassment, threat of reprisal, loss or other unfair treatment.

A worker, will be protected against penalisation even if the worker's concern is ultimately found to be misguided or mistaken.

This undertaking extends to any other worker who is required to provide information in relation to matters raised as a consequence of the disclosure.

Where concerns are raised, the following principles will be applied by the Gallery:

- The concern will be treated seriously and investigated where that is considered appropriate;
- Where an investigation takes place, the identity of the person raising the concern will be safeguarded insofar as this is practically possible;
- The person raising the concern will be advised on how the issue has been addresses, including the outcome of any investigation;
- The person raising the concern will not be disadvantaged in any way for having made the disclosure, even if no wrongdoing is identified provided the concern was based on a reasonable belief.

The Gallery will not tolerate or permit any form of detrimental treatment as a result of a disclosure of a reasonably held concern of a relevant wrongdoing and shall take all appropriate action to support any worker who raises such concern. Accordingly appropriate disciplinary action shall be taken in accordance with the Gallery's policies and procedures against any employee who is found to have subjected a worker to detrimental treatment for having made a disclosure in accordance with this policy. If a worker believes that he/she has suffered any such treatment, he/she should inform the Designated Officer immediately. If the matter is not remedied, the worker should raise it formally using the Gallery's Grievance Policy.

14. External Disclosures

The purpose of this Policy is to provide an internal mechanism for making disclosures, reporting concerns, and investigating and remedying wrongdoing. In most cases, a

worker should not find it necessary to contact anyone externally. However, there may be circumstances in when a worker can and must properly report issues externally to outside bodies to include regulators and/or An Garda Síochána.

Before a worker makes a disclosure or report a concern to any external, person or body the Gallery strongly encourages him/her to seek advice from the Designated Officer. If a worker has a concern about wrongdoing relating to the conduct or actions of a third party, to include a customer, supplier or service provider, the Gallery encourages him/her to first report such concerns internally within the Gallery under this policy.

15. Recording and Tracking

The recipient of a protected disclosure under this policy shall provide details and the outcome (including any report) of all disclosures brought to his/her attention to the Audit & Risk and Finance & Legal Committee.

The Audit & Risk and Finance & Legal Committee will review all outcomes related to this policy and report to the Chair of the Board of the Gallery.

16. Monitoring of the Policy and External Reporting Obligations

Crawford Art Gallery shall prepare and publish a report detailing the number of protected disclosures made to Crawford Art Gallery in the immediately preceding year, any action taken to those protected disclosures and such other information relating to the protected disclosures and the action taken as may be requested by the Minister from time to time.

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