



Housing Finance Agency
An Ghníomhaireacht Airgeadais Tithíochta

HFA Corporate Protected Disclosures Policy

APRIL 2017

Contents

1. Introduction.....	3
2. Key principles of the Protected Disclosures Policy	3
3. Who does the Policy apply to?	4
4. Protected Disclosure definition	4
5. When should an employee make a disclosure?.....	4
7. How to report a concern under the Policy (internally)	5
8. Confidentiality	6
9. How to report a concern under the Policy (externally).....	6
10. Redress in the event of penalisation.....	6
11. Annual reporting.....	7
APPENDIX A.....	8
Details that should be included in a disclosure	8
APPENDIX B.....	9
Guidance for managers dealing with disclosures.....	9

1. Introduction

The Housing Finance Agency plc. is committed to the highest standards of openness, probity and accountability. The Board and management are committed to creating a working environment within which employees feel able to raise concerns relating to potential wrongdoing in the workplace and to provide the necessary support procedures for those that raise genuine concerns.

The Protected Disclosures Act 2014 became operational on 15th July 2014. The legislation is intended to provide a robust statutory framework to protect workers who raise concerns regarding potential wrongdoing (whistleblowers) that has come to their attention in the workplace. The Act requires every public body to establish and maintain procedures for dealing with protected disclosures and to provide written information relating to these procedures to workers.

The legislation provides a comprehensive suite of employment and other protections to whistleblowers that are penalised by their employer or suffer a detriment from a third party on account of raising concerns regarding possible wrongdoing in their workplace. Where a whistleblower or, for example, a member of his or her family experiences coercion, intimidation, harassment or discrimination at the hands of a third-party the legislation provides for a right of action against that person.

A wide definition of wrongdoings is included in the Act and a wide definition of 'workers' applies which includes in addition to employees, contractors, agency staff and trainees.

Whistleblowers will benefit from civil immunity from actions for damages and a qualified privilege under defamation law. Making a protected disclosure or reasonably believing a disclosure is protected is a defence to any offence prohibiting or restricting the disclosure of information.

The legislation provides in any proceedings that a disclosure is assumed to be a protected disclosure unless the contrary can be proved. The legislation pays particular attention to seeking as much as possible to protect the identity of a whistleblower –the disclosure rather than the whistleblower should be the focus of attention. The protections remain available if the information disclosed on examination does not reveal wrongdoing. Deliberate false reporting will not meet the reasonable belief test and is not protected.

2. Key principles of the Protected Disclosures Policy

This policy aims to:

- Ensure employees feel comfortable in raising concerns and to question and act upon concerns about particular practices or events
- Provide clear avenues for employees to raise any concerns
- Ensure employees receive a response to their concerns and feedback on any action taken.

- Reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief of wrongdoing and have made a disclosure in good faith.

3. Who does the Policy apply to?

This policy applies to all current and former employees of the Housing Finance Agency plc. whether permanent or temporary, which also includes contractors, consultants, agency staff and interns.

4. Protected Disclosure definition

A protected disclosure means any disclosure of information, made by a worker in the reasonable belief that it tends to show wrongdoing.

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

5. When should an employee make a disclosure?

An employee should make a disclosure if, in their reasonable belief, any of the wrongdoings outlined below has occurred, is occurring or is likely to occur:

- The commission of an offence
- A failure to comply with any legal obligation (excluding the workers terms of employment)
- A miscarriage of justice
- Health and safety matters, including risks to the public/other employees
- Damage or likely damage to the environment
- Unlawful, corrupt or improper use of funds or resources or of public money
- An act or omission that is oppressive, discriminatory, grossly negligent or gross mismanagement
- Deliberate or likely concealment or destruction of evidence relating to the above.

6. What type of disclosure is not covered by the Policy?

A disclosure is not a protected disclosure where the individual knowingly conveys false, misleading, frivolous or vexatious information. Any allegations which are found to be made in bad faith may result in disciplinary or other appropriate action.

Any person who makes a disclosure anonymously is not considered to be making a protected disclosure and if the identity of the person making the disclosure becomes known, that person will not enjoy the protections as provided under the legislation. The HFA encourages any employee who makes a disclosure to provide their name and contact details when doing so.

This policy does not cover personal complaints or grievances. Procedures for dealing with grievance problems are set out, on the HFA's Intranet in the HFA's Personnel Code of Conduct.

7. How to report a concern under the Policy (internally)

An employee should in the first instance raise concerns with line management. Individuals may report in writing to their line manager at HEO level or above, including details as outlined in Appendix A.

All reported disclosures about perceived wrongdoing in the workplace must be treated seriously by the line manager to whom it is reported and the worker making the disclosure will receive appropriate protection. Details of the steps to be taken by the manager to whom the concern is disclosed are set out in the Guidelines in Appendix B.

If an individual feels unable to raise the matter with line management, if he/she doesn't consider it to be appropriate or if the person feels that sufficient action has not been taken by the person to whom the disclosure was first made, then one of the following people should be contacted:

Chief Executive Officer or,

Company Secretary or,

Internal Auditor

In doing so, the employee should clearly set out the circumstances which prevent them reporting the matter to line management in the first instance or why they feel the matter requires further investigation.

8. Confidentiality

The HFA recognises the sensitivity of raising such issues and will take all reasonable steps to treat disclosures made through this policy in a confidential and sensitive manner. An employee's identity will not be disclosed without their consent, unless it is required by law or necessary for the effective investigation of the relevant wrongdoing.

As outlined in section six, the HFA encourages any employee who makes a disclosure to provide their name and contact details as they may need to be contacted to clarify information disclosed. If the allegation is made anonymously, it may not be possible to undertake a full investigation. It is also possible that during the course of an investigation the identity of the person may be revealed. If an allegation is reported anonymously it may not be protected under the legislation as it is not considered to be a protected disclosure.

9. How to report a concern under the Policy (externally)

If having made a disclosure internally, the Housing Finance Agency plc. fails to act on the information disclosed, or the employee believes that they will be victimised or that relevant evidence will be concealed or destroyed, they may seek to make their disclosure externally through any of the following channels:

- A prescribed person where the employee reasonably believes that the relevant wrongdoing falls within that person's remit. A "prescribed person" includes a list of persons in 72 public bodies to whom protected disclosures can be made relating to specific issues. The list is available in S.I. 339 of 2014 <http://www.irishstatutebook.ie/eli/2014/si/339/made/en/print>
- A legal advisor in the course of obtaining legal advice (a "legal advisor" includes a barrister, solicitor, trade union official, or official of an excepted body);
- A Minister of the Government on whom any function relating to the public body is conferred or imposed by or under any enactment;
- Disclosure may be made to another person where certain conditions (set out in Section 10 of the Protected Disclosures Act 2014) are met.

10. Redress in the event of penalisation

If a worker believes they have been penalised for making a disclosure of wrongdoing in accordance with this Policy they should inform the Personnel Officer in order to seek redress.

11. Annual reporting

The HFA shall prepare and publish not later than 30 June in each year a report in relation to the immediate preceding year in a form which does not enable the identification of the persons involved containing information relating to the matters specified below:

- the number of protected disclosures made to the HFA
- the action (if any) taken in response to those protected disclosures, and
- such other information relating to those protected disclosures and the action taken as may be requested by the Minister from time to time.

Details that should be included in a disclosure

Workers should be able to make disclosures in accessible formats e.g. verbally, electronically or in writing. When a disclosure which appears to be a protected disclosure is made verbally it should be documented by the recipient. Where practicable, the discloser should be asked to confirm the information provided to avoid dispute at a later date in relation to the information disclosed. Details that should be included in the disclosure are:

- that the disclosure is being made under the procedures
the discloser's name, position in the organisation, place of work and confidential contact details
- The date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified
- Whether or not the alleged wrongdoing is still ongoing;
- Whether the alleged wrongdoing has already been disclosed and if so, to whom, when, and what action was taken.

Information in respect to the alleged wrongdoing (what is occurring / has occurred and how) and any supporting information

- The name of any person(s) allegedly involved in the alleged wrongdoing (if any name is known and the worker considers that naming an individual is necessary to expose the wrongdoing disclosed); and

Any other information

Guidance for managers dealing with disclosures

All reported disclosures about perceived wrongdoing in the workplace must be treated seriously. The disclosure recipient to whom the alleged wrongdoing is disclosed should:

- Record the disclosure and the steps taken to deal with it. The details that should be included in the disclosure are detailed in Appendix A above.
- Clarify the basis of the concerns raised with the employee and establish what evidence is available to support the concern.
- Consider any personal interest the employee might have in the issue concerned.
- Gauge the risk associated with the issue and take immediate action if the alleged wrongdoing involves a serious loss or danger to others.
- An initial examination involving a screening assessment should be undertaken. Carry out all relevant enquiries promptly, sensitively and discretely, ensuring to protect the identity of the maker of the disclosure (if it is necessary to reveal the employee's identity to undertake an effective enquiry, consult with the relevant person in the first instance).
- Any investigation arising should, as with all other investigations, be carried out in a manner which is fully consistent with existing investigation procedures and embody the principles of natural justice. It is important to note that some matters may be of such seriousness that the investigation will more appropriately be carried out externally or by professional experts in a particular area.
- Obtain evidence from any relevant witnesses.
- Assess whether the disclosure report is based on a reasonable belief but ungrounded, based on reasonable belief and grounded or a deliberately false report.
- Take appropriate action if the disclosure is grounded.
If the disclosure is deliberately false, consider action under the Civil Service Disciplinary Code in consultation with Personnel
- A review should be undertaken by a person who has not been involved in the initial assessment, investigation or decision.
- Provide appropriate advice and support, such as access to Employee Assistance Programmes.
- Provide periodic written feedback to the employee. The HFA intends to provide appropriate feedback within 20 days, including any proposed action.
- Written information relating to these procedures must be provided to all workers.
- The HFA is not permitted to have clauses in agreements that prohibit or restrict the making of protected disclosures.