



# **Darndale Belcamp Village Centre CLG**

## **Protected Disclosure Policy**







## **Darndale Belcamp Village Centre (DBVC)**

### **Protected Disclosure Policy**

#### **1. Introduction**

- 1.1 DBVC is committed to the highest possible standards of compliance with our legal requirements.
- 1.2 Darndale Belcamp Village Centre is a member of the Integrity at Work programme, a Transparency International Ireland initiative. As part of its commitment to protecting workers who raise concerns of wrongdoing, Darndale Belcamp Village Centre has signed and complies with the Integrity at Work Pledge to ensure that workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised. A copy of the Pledge is in Appendix.
- 1.3 Our Protected Disclosure Policy is intended to encourage and enable staff to raise concerns rather than overlooking them. Under this policy, a staff member can make a disclosure without fear of penalisation or threat of less favourable treatment, subsequent discrimination or disadvantage.
- 1.4 This policy aims to give effect to the obligations and provisions of the Protected Disclosure 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.
- 1.5 This policy does not replace the organisation's grievance procedures. In particular, where the issue relates to an individual staff members contract of employment, this matter should be referred under the organisation's grievance procedure. For further information: The Protected Disclosures Act (PDA) is intended to deal with disclosures of wrongdoing 'in the public interest and for connected purposes'. A list of the relevant wrongdoings is included in (insert relevant clause/section reference). The PDA also allows for the disclosure of cases where there is a failure to comply with any legal obligation. However, this does not include cases where the legal obligation arises under the worker's contract of employment or other contract. Such cases would normally be dealt with under the organisation's grievance procedure.
- 1.6 Staff members may seek the assistance of their union or other advice service in making disclosures and can be represented by them at any stage.
- 1.7 Our policy has been discussed and agreed with our Board and employees, and has their full support.

#### **2. Aims & Scope of This Policy**

- 2.1 This policy aims to:
  - Encourage staff members to feel confident about raising concerns about relevant wrongdoings;
  - Provide avenues for staff members to make disclosures about relevant wrongdoings and receive feedback on any action taken;
  - Ensure that suppliers and members are aware of their responsibilities;
  - Reassure staff members 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 DBVC activities.

Grievances can arise where there is a dispute over your contract and/or working conditions; and instances where you believe you have been unfairly treated or spoken to by a colleague or manager in a disrespectful way. These types of complaints should generally be dealt with under the Grievance Procedure. A protected disclosure may arise where you have a reasonable belief that one or more of the types of wrongdoing outlined in paragraph 3.1 of this policy has taken place, is taking place or is likely to take place. If you are unsure whether your concern is a grievance or a protected disclosure, seek advice from the Human Resource Department.

### **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 staff members;
  
- 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 any matter falling into category above may be destroyed.

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

- That is happening now;
- Took place in the past;
- 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 staff members 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 staff members and at the recruitment stage.

## **6. Representation by Other Agencies EG. (Trade Unions)**

6.1 Workers are encouraged to seek advice from other sources about the operation of this Act and are protected when they do so as a 'protected disclosure'. Every staff member can contact, discuss and be represented by other agencies e.g. unions during any meetings or interviews under this policy.

## **7. Channels for Making a Disclosure**

7.1 This policy provides guidance to staff members 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'.

## **8. Raising a Concern Under the Internal Disclosure Procedure**

- 8.1 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.
- 8.2 Disclosures made under the internal procedures may be made verbally or in writing to the 'Protected Disclosure Manager' nominated by DBVC.

8.3 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.

#### **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 the investigation 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.**

8.4 Although staff members 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.

#### **9. Confidentiality**

- 9.1 All concerns will be treated in confidence unless the staff member clearly states that they do not object to having their name associated with the disclosure.
- 9.2 Disclosures will be kept secure and in a form 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.
- 9.3 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.

#### **10. Anonymous Allegations**

- 10.1 Staff members are encouraged to put their name to the disclosure. Concerns expressed anonymously will be treated seriously and considered in accordance with this policy.

#### **11. The Role of the 'Protected Disclosure Manager'**

- 11.1 DBVC is ultimately responsible for the management of this policy.
- 11.2 DBVC has appointed a senior person as the '**Protected Disclosure Manager**' for the maintenance and day-to-day operation of this policy.
- 11.3 The '**Protected Disclosure Manager**', who is a Director within DBVC and is empowered to act within DBVC in response to a disclosure;

Or it may be:

- 11.4 The '**Protected Disclosure Managers**' are Rob Gillanders and Vanessa Carey who are a third party person/organisation agreed with the union and authorised by the company to operate as the internal disclosure channel in accordance with section 6.2 of the Protected Disclosure Act 2014.



11.5 In a case where one protected disclosure manager feels that there is a conflict of interest, the person making the disclosure may be referred to the second protected disclosure manager.

11.6 The contact details for the Protected Disclosure Managers are:

**Rob Gillanders**

Phone: 086 160 5245 Email: rgillanders@gmail.com

Post: Darndale Belcamp Village Centre, The Link Road, Darndale, Dublin 17

**Linda Creamer**

Phone: 087 226 7995 Email: lcreamer55@gmail.com

Post: Darndale Belcamp Village Centre, The Link Road, Darndale, Dublin 17

## 12. How the Company Will Respond

- 12.1 **The Protected Disclosure Manager** will respond to all concerns raised under the internal disclosure procedure<sup>1</sup>.
- 12.2 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.
- 12.3 In order to protect any individuals accused of a 'relevant wrongdoing' 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 Siochana;
  - Be referred to external enforcement agency or regulator;
  - Form the subject of an independent (third party) inquiry;
  - Be dealt with under in accordance with the company's grievance and disciplinary procedures.
- 12.4 Generally within ten working days (and no later than 21 working days) of a concern being raised, the **Protected Disclosure Manager** will write to the staff members who made the report (where this is known):
- Acknowledging that the concern has been received;
  - Indicating in summary form how the organisation proposes to deal with the matter.
  - Giving an estimate of how long it will take to provide the next response; or
  - Providing an approximate date by which the person making the disclosure will receive the final communication; or
  - Setting out why no investigation will take place<sup>2</sup>.

<sup>1</sup> *DBVC is not required by the legislation to take any action on foot of a receipt of a disclosure however in action, or the belief of in-action is part of the justification when escalating the disclosure to external persons.*

<sup>2</sup> *The legislation does not require DBVC to communicate with the worker who made the protected disclosure. The recommendation is aimed at assisting DBVC to communicate that action is being undertaken so that the staff members can determine if it is appropriate for them to make an external disclosure.*

- 12.5 The communication will include information on staff members support mechanisms including the right to be represented by the trade union.
- 12.6 The amount of contact between the **Protected Disclosure Manager** (or the person working on their behalf) and the worker making the disclosure during the investigations will depend on the nature of the matters raised, the potential matters involved and the clarity of the information provided in the report.
- 12.7 The **Protected Disclosure Manager** 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 wrong doing.
- 12.8 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 Manager will, in the final statement, take the opportunity to explain that the concerns are unfounded.
- 12.9 The **Protected Disclosure Manager** 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 worker's employment records in the case of inaccurate disclosures.**
- 12.10 The **Protected Disclosure Manager** will report as necessary to DBVC providing a record of the number and type of disclosures received, the actions taken, any breaches of confidentiality or of penalisation and the actions taken to remedy these and a statement on awareness and training on the policy.

### **13. Raising a Concern Externally**

13.1 Staff members are encouraged to raise their concerns under the company'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 Disclosure Act 2014 provides for external reporting to 'Prescribed Persons' and to 'Others'.

### **14. Making a Disclosure to a Prescribed Person**

14.1 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

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

14.2 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 Disclosure Act 2014 such as the Health and Safety Authority and the labour inspectorate in the Work Place Relations Service.

14.3 DBVC aims to maintain and make generally available to staff members an up- to-date list and contact details of the various 'Prescribed Persons' and the matters that may be reported to them. A copy of the relevant Statutory Instrument is attached.

14.4 The '**Prescribed Person**' may have their own procedures for making a disclosure and workers are encouraged to seek information from e.g. union in advance of making a disclosure to a '**Prescribed Person**'.

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

#### **Format For Making a Disclosure to a Prescribed Person**

- ***State that you are making the disclosure under Section 9 of the Protected Disclosures Act 2014<sup>3</sup>;***
- ***Give a description of the 'relevant wrongdoing' and why it falls within the Prescribed Person's area of responsibility;***
- ***Provide any copies of information that tend to show the wrongdoing so as to assist the investigation of the matters raised in the disclosure;***
- ***Include any information relating to your raising (or not raising) the concern under the internal procedure;***
- ***Date the disclosure;***
- ***Give your preferred contact details;***
- ***Make it clear (i) that you expect confidentiality or (ii) that you want your name associated with the disclosure<sup>4</sup>.***

14.6 Although staff members 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.

<sup>3</sup> 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.

<sup>4</sup> The legislation requires that the Prescribed Person treat the disclosure as confidential, including this in the disclosure is for the avoidance of confusion.

## 15. Raising Concerns Externally Other Than to a Prescribed Person

15.1 The Protected Disclosure Act 2014 provides for external reporting to other persons. There is no definitive list of who can be 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 relevant wrongdoing is continuing or is likely to occur in the future;

(iv) any action which the employer of the staff member 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.

15.2 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) 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 staff member to make the disclosure;

(iv) and **any one** of the following applies:

- That at the time of the disclosure the staff member reasonably believed they would be subjected to penalisation by the employer if they made the disclosure under the internal process or to a 'Prescribed Person'.

- That in the case where there is no 'Prescribed Person' in relation to the relevant wrongdoing the staff member 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 staff member 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.

15.3 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. Staff members 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 third party.

## 16. Workers Outside DBVC Reporting Concerns Using the Internal Procedure

16.1 Workers from outside the DBVC working for our Service Providers 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.

16.2 Workers from outside DBVC making such disclosures are encouraged to use the same format as our staff members and give an indication of whether they are willing to participate in any investigation that may take place in response to the disclosure.

## **17. Untrue Allegations**

17.1 If a staff member 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.

17.2 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.

## **18. A Staff Member Who is the Subject of a Disclosure**

18.1 A staff member who is the subject of a disclosure is entitled to fair treatment.

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. In some circumstances, where the fact of the investigation is widely known, the conclusion of the investigation may involve a statement of exoneration.

## **19. Protection from Penalisation**

19.1 DBVC is committed to good practice and high standards and we want to support and protect staff members who make disclosures under this policy. Direct or indirect pressure on staff members not to make a disclosure or to make a disclosure contrary to this policy will not be tolerated.

19.2 DBVC recognises that penalisation can take many forms; it can be direct and indirect and may be perpetrated by fellow staff members, management or those who supply us with goods and services and our customers and clients.

19.3 Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) that result in the staff member suffering any unfavourable change in his/her conditions of employment including (but not limited to)

- (i) Suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Act), 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 or 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.
- (xvi) A family member of the person making a protected disclosure who may suffer.
- (xvii) An agency who may suffer as a result of an agency worker making a protected disclosure.

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

19.5 DBVC 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.

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

19.7 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.

19.8 Penalisation or threats of penalisation of our staff members 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 exclusion from DBVC premises or the imposition of other sanctions.

## **20. Complaints Procedure**

20.1 A complaint of penalisation or for a breach of confidentiality under this policy can be made under DBVC Grievance Policy.

20.2 A copy of the complaint of penalisation should be brought to the attention of the **Protected Disclosure Manager**.

20.3 Staff members can make a complaint of penalisation, under the Protected Disclosure Act 2014 to the Rights Commissioner (Adjudication Officer under the Workplace Relations Reform) in accordance with Schedule 2 of the Act.

## **21. Communication, Monitoring and Review**

21.1 This policy will be communicated to all staff members and members and others we do business with.

21.2 This policy will be monitored for its effectiveness and will in any event, be reviewed annually.

21.3 Under The Protected Disclosures Act 2014, volunteers are not covered currently. If changes to the act are implemented, this policy will be amended to reflect those changes.

## **22. Contact and Advice Points**

Darndale Belcamp Village Centre is a member of the Integrity at Work programme, a Transparency International (TI) Ireland initiative. Independent and confidential advice for anyone considering reporting a concern or making a protected disclosure is available via TI Ireland's Speak Up Helpline at 1800 844 866, Monday to Friday 10am to 6pm or you can make an enquiry via secure online form at [www.speakup.ie](http://www.speakup.ie). 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>)

A guide to making a Protected Disclosure is also available at [https://transparency.ie/sites/default/files/14.12.02\\_speak\\_up\\_safely\\_final.pdf](https://transparency.ie/sites/default/files/14.12.02_speak_up_safely_final.pdf)

The Protected Disclosures Act 2014  
<http://www.oireachtas.ie/documents/bills28/acts/2014/a1414.pdf>

List of Prescribed Persons ( **S.I. No. 339 of 2014**)  
<http://www.per.gov.ie/protected-disclosures-i-e-whistleblowing/>

Copy of the Code of Practice: Grievance and Disciplinary Procedures S.I. NO. 146  
OF 2000 <http://www.lrc.ie/viewdoc.asp?DocID=88>

Workplace Relations Service  
<http://www.workplacerelations.ie/en/>

Transparency International  
<http://transparency.ie/>

# **APPENDIX**