

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 1 of 10                                |

## 1.0 Introduction

The Rotunda hospital is committed to maintaining the highest possible standards of care for patients/clients and providing employees with a safe system of work to enable them to deliver a high quality service. The -Rotunda hospital is also committed to promoting a culture of openness and accountability so that employees can report any concerns they may have in relation to their workplace.

In the normal course of events, employees should report concerns to their line manager or, if appropriate, to another manager within the workplace. However, in exceptional cases, employees who may wish to report concerns may be reluctant to do so for fear of retaliation or victimisation. Such employees may now enjoy legal protection from any form of penalisation provided they make their disclosure in accordance with the procedure set out in this document. This document outlines what constitutes a protected disclosure and the process for making such a disclosure.

## 2.0 Protected Disclosures of Information

This procedure was devised to give effect to the legislation on Protected Disclosures of Information as provided for in the Health Act 2004 (as amended by the Health Act 2007). Its purpose is to facilitate employees to make protected disclosures in good faith where they have reasonable grounds for believing that the health or welfare of patients/clients or the public may be put at risk, or where there is waste of public funds or legal obligations are not being met, so that the matter can be investigated. The legislation also provides statutory protection for Rotunda employees from penalisation as a result of making a protected disclosure in good faith in accordance with this procedure.

Recently, the overarching piece of legislation concerning the protection of employees who raise concerns, The Protected Disclosures Act 2014 (“the Act”), was amended by the Protected Disclosures (Amendment) Act 2022. The amended Act commenced on 01 January 2023. The amended Act makes a number of key changes including widening the



|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 2 of 10                                |

persons that can make a protected disclosure and the protections afforded to a reporting person and others.

### **3.0 Scope**

This procedure applies to all employees\* of the Rotunda Hospital Group

- \* (a) an employee;
- (b) an independent contractor to the The Rotunda, whether or not the work/services were provided personally by the individual to the Rotunda, or, otherwise;
- (c) an agency worker;
- (d) provided with work experience under a training course or programme or with training for employment (or with both) otherwise than under an employment contract;
- (e) A shareholder of an undertaking;<sup>1</sup>
- (f) a member of the administrative, management or supervisory body of the Rotunda including non-executive members; or
- (g) a volunteer.
- (h) A worker also includes an individual who acquired information on a relevant wrongdoing during a recruitment process
- (i) An individual who acquired information on a relevant wrongdoing during pre-contractual negotiations (other than a recruitment process).

### **4.0 Subject matter of Protected Disclosures**

Employees may report in good faith any matter which they have reasonable grounds for believing will show one or more of the following are relevant wrongdoings for the purposes of this Procedure:

- (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 employee's contract of employment or other contract whereby the employees undertakes to do or perform personally any work or services;

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 3 of 10                                |

(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;

(h) that a breach of specified EU legislation (as set out in the Act) has occurred, is occurring or is likely to occur; or

(i) that information tending to show any matter falling within any of paragraphs (a) to

(h) above has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

Reports may also be made by employees of wrongdoing in respect of other relevant employment-specific or profession-specific obligations, may be covered by other statutory protection for reports.

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 4 of 10                                |

## **5.0 Procedure for making a Protected Disclosure of Information to the Designated Person. The Designated Person is the General Secretary, Rotunda Hospital.**

- a) The Act creates the role of the Designated Person(s). The role of the Designated Person is to manage the internal reporting channels in a secure manner and ensure the confidentiality of reporting persons. The Designated Person is responsible for carrying out the initial assessment of any report received and ensuring appropriate follow up. The Designated Person must also provide feedback to the reporting person. The reporting person is known as the Authorised Person.
- b) The employee should set out the details of the subject matter of the disclosure in writing on the Protected Disclosures of Information Form (see Appendix 1) and submit to the Designated Person.
- c) Following receipt of the disclosure, the Designated Person will make initial enquiries to determine whether or not the subject matter of the disclosure comes within the scope of the Act and, if so, what form the investigation should take. If the subject matter of the disclosure falls within the scope of specific policies or procedures, an investigation will be carried out in accordance with the appropriate policy/procedure e.g.
  - i. Trust in Care Policy
  - ii. Disciplinary Procedure
  - iii. Child Protection and Welfare Policy
  - iv. Complaints Policy and Procedures

**Note:** *This list is not exhaustive*

If the matter does not come within the scope of the Procedures on Protected Disclosures of Information but may come within the scope of the Dignity at Work

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 5 of 10                                |

Policy, grievance procedure or other policy/procedures, the Designated Person will advise the employee accordingly.

- d) The **Authorised Person** may refer the matter or any part of it to an appropriate. The Authorised Person is the Master, Rotunda Hospital

**Scheduled body:**

- the Adoption Board,
- the Chief Inspector of Social Services
- the Comptroller and Auditor General
- the Health Information and Quality Authority
- the Inspector of Mental Health Services
- the Irish Medicines Board
- the Mental Health **Commission**

or a **professional regulatory body:**

- an Bord Altranais,
- the Dental Council
- the Health and Social Care Professionals Council
- the Medical Council • the Pharmaceutical Society of Ireland

or, where the Authorised Person believes that a criminal offence has been committed, to the **Garda Siochana**.

Where appropriate, the Authorised Person should liaise with the relevant Head of Department before proceeding with a disclosure to a professional regulatory body.

Notwithstanding a referral to any of the above, the Authorised Person may investigate the matter if s/he or the person in charge of the body<sup>1</sup> to which the disclosure relates considers it appropriate to do so.

---

<sup>1</sup> In the case of the Rotunda hospital, the Master

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 6 of 10                                |

- d) The Authorised Person may inform the person in charge of the body to whom the disclosure relates of the subject matter of the disclosure who may, with the consent of the Authorised Person, appoint another person to investigate the subject matter.
- e) If, at any time during an investigation, the Authorised Person believes the disclosure is false, misleading, frivolous or vexatious, he may cease the investigation.
- f) An employee who makes a protected disclosure in good faith is protected from any form of penalisation regardless of the outcome of the investigation.
- g) Employees who make a protected disclosure in good faith are also protected from civil liability. This protection does not apply however to an employee who makes a disclosure knowing it to be or reckless as to whether it is false, misleading, frivolous or vexatious or who furnishes information in connection with a disclosure which they know to be false or misleading.
- h) The employee who makes the disclosure will be as far as possible and subject to any legal constraint informed of the outcome of the investigation.
- i) An employee may make a disclosure direct to a Scheduled Body if that course of action is justified by reason of the urgency of the matter.
- j) An employee may also make a protected disclosure to a Scheduled body if after making it to the Authorised Person no investigation takes place **or** if an investigation takes place but there is no action or recommended action in the matter.

## **6.0 Protected disclosure of information in relation to regulated health professions**

An employee may make a disclosure to an appropriate professional regulatory body (as listed under (c) above), in accordance with the relevant legislation, which s/he has

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 7 of 10                                |

reasonable grounds for believing will show that the actions of a person, the exercise of whose profession requires him or her to be registered with a professional regulatory body, *has posed, is posing or is likely to pose a risk to the health or welfare of the public*. The subject matter of the disclosure must relate to a health professional.

Such a disclosure shall be a protected disclosure under the Act provided it is made in good faith.

### **7.0 Protected disclosure of information to a scheduled body**

Notwithstanding the procedures set out at (c) above, an employee may make in good faith a disclosure on a matter which s/he has reasonable grounds for believing *will show a risk to the health or welfare of the public* to one of the following bodies:

- To an authorised person appointed by the Health Information and Quality Authority under the Health Act 2007 to monitor compliance with standards under section 8(1)(c) or undertake an investigation under section 9 of the Act, or
- To the Inspector of Mental Services who is in the course of an inspection carried out in accordance with section 51 of the Mental Health Act 2001
- To the Chief Inspector of Social Services who is in the course of an inspection carried out in accordance with section 41 of the Health Act 2007

The employee making the disclosure must have reasonable grounds for believing that there is a risk to the health or welfare of the public.

### **8.0 Confidentiality**

Confidentiality will be maintained in relation to the investigation of the subject matter of the disclosure insofar as is reasonably practicable. It is important to note that it may be necessary to disclose the identity of the employee who made the disclosure in order to ensure that the investigation is carried out in accordance with the rules of natural justice.

### **9.0 Representation**

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 8 of 10                                |

The employee may be represented by his/her union or work colleague at any meetings held in connection with the concerns raised.

## 10.0 Protection from Penalisation

The Act provides specific remedies for workers who are penalised for making a protected disclosure. Penalisation means any direct or indirect act or omission which occurs in a work-related context, is prompted by the making of a disclosure and causes or may cause unjustified detriment to an employee and includes:

- a) suspension, lay-off, or dismissal
- b) demotion, loss of opportunity for promotion or withholding promotion
- c) transfer of duties, change of location of place of work, reduction in wages or change in working hours
- d) the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty)
- e) coercion, intimidation, harassment or ostracism
- f) discrimination, disadvantage or unfair treatment
- g) Injury, damage or loss
- h) threat of reprisal
- i) withholding of training
- j) a negative performance assessment or employment reference
- k) failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment
- l) failure to renew or early termination of a temporary employment contract
- m) harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income
- n) blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry
- o) early termination or cancellation of a contract for goods or services ♣  
cancellation of a licence or permit, and

|  |                |   |
|--|----------------|---|
| Title: <b>Procedure on Protected Disclosures of Information in the Workplace</b> |                | Doc No: HR-GEN-040                          |
| Authorised By: (Head of Human Resources and Employee Development)                | Revision No. 5 | Date of Issue:<br>1 <sup>st</sup> July 2024 |
| Review Date: 1 <sup>st</sup> July 2026   |                | Page 9 of 10                                |

- p) psychiatric or medical referrals This list is not exhaustive, and any form of penalisation is prohibited, even if not listed above.

10.1 Penalisation of employees who make a disclosure will not be tolerated. All reasonable steps will be taken to protect employees from penalisation. Employees who consider that they have experienced any act of penalisation should notify their line manager or, where this is not appropriate or possible, another senior manager and the notification will be investigated and appropriate action taken where necessary (which may include disciplinary action against individuals).

10.2 Employees also have recourse to the Workplace Relations Commission if they believe that they have been penalised as a direct result of having made a protected disclosure. Such a claim must be made to the Workplace Relations Commission within 6 months of the penalisation occurring. Employees may also apply to the Circuit Court for interim relief in cases of penalisation, which must be made within 21 days of the last instance of penalisation. Extensions to timescales may be sought in specific circumstances.

10.3 An employee is also entitled to bring legal action against a person who causes detriment to that employee because that employee, or a third party, has made a protected disclosure. A detriment in this context includes any of the examples of the acts or omissions referred to above in relation to penalisation

**Appendix 1**

**Form for Protected Disclosures of Information – email this form to: [hr@rotunda.ie](mailto:hr@rotunda.ie)**

1. Name of employee making the disclosure .....

2. Job Title .....

Department .....

Name and Address of Organisation .....

.....

.....

.....

3. Details of the disclosure (care should be taken to only include the name(s) of individual(s) directly relevant to the report) .....

.....

.....

.....

.....

.....

Please provide contact details at which the Designated Person may contact you:

Address .....

.....

.....

.....

Tel no. ....

Employee's signature .....

Date .....