

Protected Disclosures Policy

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1. INTRODUCTION

- 1.1 The Dublin Port Company (DPC) is committed to the highest possible standards of openness, probity and accountability. The Company has put in place a wide range of rules, regulations, procedures and codes of practice to deliver on its commitments and to deter malpractice, abuse and/or wrongdoing.
- 1.2 Malpractice, abuse or wrongdoing will not be tolerated within the Company or in any activities related to the Company. DPC encourages members of the Company community who have bona fide concerns about certain wrongdoings known as “relevant wrongdoings” (outlined below) to come forward and voice those concerns, without fear of penalisation.
- 1.3 This Policy has been introduced by the Company to enable individuals to raise bona fide concerns about relevant wrongdoings at an early stage and in the appropriate manner, without fear of victimisation, subsequent discrimination or disadvantage. The Policy is intended to enable individuals to raise genuine concerns about relevant wrongdoings through the appropriate channels.
- 1.4 This Policy does not address all possible situations that may arise but is intended to provide guidance on the procedure in raising a disclosure about a relevant wrongdoing.
- 1.5 This Policy has been introduced in line with legislation under the Protected Disclosures Act 2014 (the “legislation”).

2. SCOPE

- 2.1 This Disclosure Policy applies to workers of the Company and the Board of Directors (the “Board”), all of whom are expected to use this Policy as appropriate.

This Policy is designed to allow the persons noted in 2.1 above to disclose a relevant wrongdoing through an appropriate channel, which the person making the disclosure reasonably believes shows evidence of a relevant wrongdoing and which came to the attention of the worker in connection with his or her employment (a “protected disclosure”).

3. RELEVANT WRONGDOING

3.1 Relevant wrongdoings which fall within the scope of this policy are defined by the legislation as one or more of the following wrongdoings which has been committed or is likely to be committed:

- a) 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 person has been, is or is likely to be endangered
- e) that the environment has, 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, is 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 outlined above has, or is likely to be concealed or destroyed.

3.2 This Policy does not cover personal grievances or matters that relate to a worker's terms and conditions of employment. Nor does it cover a disclosure where the worker knowingly conveys false, misleading, frivolous or vexatious information as these disclosures do not fall within the Act. If it transpires that a worker makes a disclosure, which they know to be false or do not believe to be true, Dublin Port Company reserves the right to take disciplinary or other appropriate action.

3.3 Legal Advisors are excluded from the protections of the Act in situations where information comes to their attention while providing legal advice. Where a claim to legal professional privilege could be maintained in respect of such information, the legal advisor will not be able to gain the protections of the 2014 Act.

3.4 A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker or the worker's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

4. DISCLOSURE PROCESS

4.1 How to make a disclosure

- 4.1.1 As a first step, disclosures should be raised with your immediate manager or their superior. However should you not wish to use this route, for example given the seriousness and sensitivity of the issues involved, you can either approach one of the designated Internal Confidential Recipients (contact details to be found at the end of this document) or utilise the services of an Independent Confidential Recipient which we have engaged for this purpose.
- 4.1.2 The External Independent Confidential Recipients for Dublin Port Company will provide assistance to employees in understanding their options in bringing their disclosures forward. Details of how to contact the External Independent Confidential Recipient service are noted at the end of this document.
- 4.1.3 Disclosures can be made orally or in writing directly to the any of the parties noted above. To avoid conflict with the DPC email policy, DPC email accounts should not be used to make a protected disclosure. Protected disclosures made should set out the individual background and history of the concern (giving relevant dates where possible) and the reasons why the individual making the disclosure is particularly concerned about the situation. As may be appreciated, a written disclosure is preferred to a verbal disclosure as there is less scope for misunderstandings arising.
- 4.1.4 The recipient of a disclosure under this guidance and any other person to whom the disclosure is referred in the performance of that person's duties, will take all reasonable steps to avoid disclosing to the another person any information that might identify the person who made the disclosure.
- 4.1.5 Upon receiving a disclosure internally, or through the external independent confidential recipient service, the internal recipient of a disclosure will undertake an initial evaluation following which he will advise the discloser as to whether in his view the concern raised qualifies as a protected disclosure

4.2 Appeal regarding initial evaluations

- 4.2.1 Should the discloser not accept the decision of the internal confidential recipient regarding the classification of the disclosure made they may appeal this decision to an alternate confidential recipient as listed in Appendix 2. An investigation will take place and a final decision will be communicated to the discloser. The rules of natural justice will apply to all such appeals.
- 4.2.2 Appeals against the decision of the recipient of the disclosure must be lodged in writing within two weeks of the date on which the original decision was communicated.

4.3 Actions following a Disclosure

- 4.3.1 Having received a disclosure which has been classified as a protected disclosure, the company will assess the disclosure to decide what next steps to take.
- 4.3.2 As there is no specific provision for investigations/and or actions to be undertaken under the Protected Disclosures legislation, where investigations/and or actions are warranted they will be conducted under the appropriate existing policy or procedure where such exists. All other investigations/and or actions will be conducted under the heading of a management investigation.
- 4.3.3 In cases where the individual makes a formal complaint, the appropriate policy for this complaint will apply. Where the individual does not make a formal complaint the senior management of Dublin Port Company will decide how an investigation/and or action should be conducted.
- 4.3.4 The individual will be allowed to comment on the senior managements' decision. However, the individual cannot prevent the senior management from proceeding with any such investigations/and or actions deemed appropriate.
- 4.3.5 In all cases where an investigation/and or action has taken place on foot of a Protected Disclosure, the individual will be informed, in an appropriate way, as to the outcome, taking into account the need for confidentiality and data protection.
- 4.3.6 The Company will take all reasonable steps to treat protected disclosures made through the Disclosure Policy in a confidential and sensitive manner. The identity of the individual making the disclosure (i.e. the discloser) will be protected save for exceptional circumstances e.g. where it necessary in the public interest or required by law. It is recognised that in some circumstances, the investigation process undertaken may at some stage have to reveal the source of the information and the individual making the disclosure may be requested to make a statement as part of the evidence required.

4.4 Appeals of investigations

Appeals, against the findings or decision of an investigation, will be allowed where they are provided for within the terms of the specific policy and procedure under which the case was heard or the investigation took place.

4.5 ANONYMOUS CONCERNS RAISED BY A DISCLOSER

4.5.1 Anonymous disclosures will be considered by the Company. In considering anonymous disclosures, the Company will take into account factors such as:

- The seriousness of the issues raised
- The credibility of the disclosure
- The likelihood of being able to investigate and confirm the allegation (using alternative sources if possible) and
- The requirements of fairness with reference to any individual named in the disclosure.

4.5.1.1 However, anonymous disclosures are much less powerful and far less capable of being addressed as it is difficult to investigate a matter and to corroborate facts. This Policy encourages an individual to put their name to disclosures made where possible.

4.5.1.2 Workers should note, however, that important elements of these Procedures (e.g. keeping the discloser informed and protecting a discloser from penalisation) may be difficult or impossible to apply unless the worker is prepared to identify themselves. Also, a worker cannot obtain redress for penalisation under the 2014 Act without identifying themselves.

4.6 External Disclosures

4.6.1 The aim of this Policy is to provide an avenue within this workplace to deal with concerns or disclosures in regard to wrongdoing. We are confident that issues can be dealt with “in house” and we strongly encourage workers to report such concerns internally, be that to us directly or through the Independent Confidential Recipient service.

4.6.2 We acknowledge that there may be circumstances where an employee wants to make a disclosure externally. The Protected Disclosures Act 2014 provides for a number of avenues in this regard.

4.6.3 It is important to note however that while you need only have a reasonable belief as to wrong doing to make a disclosure internally, if you are considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made.

4.6.4 While protected disclosures may relate to the conduct of workers of the Company, they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law may protect an individual if they raise the matter with the third party directly. However, the Company encourages workers to report such concerns internally first under this Policy.

5. PROTECTION FROM PENALISATION

5.1 Individuals who make a disclosure which is classified as a protected disclosure under this Policy will not be at risk of losing their job/position or suffer any form of penalisation (including but not limited to those listed in 6.2 below) as a result. Individuals will be protected even if the matter is found to be mistaken, provided they believe on reasonable grounds that the information disclosed is accurate.

5.2 A worker cannot be penalised for making a protected disclosure. Examples of possible penalisation includes:

- a) Suspension, lay-off or dismissal
- b) Demotion or loss of opportunity for promotion
- c) Transfer of duties, change of work location, reduction in wages or changes in working hours
- d) Any discipline, reprimand, or other penalty
- e) Unfair treatment
- f) Coercion, intimidation or harassment
- g) Discrimination, disadvantage or unfair treatment
- h) Injury, damage or loss
- i) Threat of penalisation.

5.3 While the Company welcomes the submission of all genuine disclosures, it will nevertheless view very seriously any false, malicious, frivolous or vexatious allegations that are made under this Policy. The Company will regard such allegations by any member as a serious offence which could result in disciplinary action.

5.4 The Company will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect individuals who make disclosures which are classified as protected disclosures under this Policy.

5.5 Any individual who believes they have been the subject of penalisation as a consequence of raising a Protected Disclosure should make a complaint, in writing, to the Head of Corporate Affairs in the first instance. The complaint should make reference to the Protected Disclosure previously raised, the form the alleged penalisation has taken and the reasons for their belief that there is a link between the two events.

5.6 The Head of Corporate Affairs will arrange for an investigation to take place adhering to the rules of natural justice and the findings of the investigation will be communicated in writing to the individual concerned.

5.7 Appeals regarding investigations into claims of penalisation

- 5.7.1 If the worker is not satisfied with any aspect of the investigation or findings they may appeal to an appropriate person, listed in Appendix 2, but not involved in the original case.
- 5.7.2 This should be done in writing within 10 working days of receipt of the findings, clearly stating the reasons for the appeal.

6. RECORDS

- 6.1 Records associated with protected disclosures, including the outcome, shall be retained, in accordance with the Company's Records Retention Policy. All such records shall be maintained in a confidential and secure environment within Corporate Services.

7. ANNUAL REPORT

- 7.1 The Audit Committee will include relevant details of, and updates on, protected disclosures in their reports to the Board.
- 7.2 The Board will make an annual report to the Minister for Public Expenditure and Reform as requested in legislation. This report will not enable the identification of persons involved to be revealed. It will however include the number of protected disclosures made, the action (if any taken) in response and other such information and action taken as may be requested by the Minister.

8. TRAINING

- 8.1 The Company will communicate to all persons within the scope of this Policy regarding the avenues open to them under this Policy. New workers will be made aware of this Policy through induction training or otherwise as appropriate.
- 8.2 This Policy will be available on the Company's website. The Company will ensure that the Internal Confidential Recipients receive appropriate training to deal with the Disclosure Policy, procedures and issues that might arise as a result thereof.

9. POLICY UPDATES

- 9.1 This Policy can be updated by the Company at any time in its sole discretion. At all times legislation will take precedence, where relevant, over the provisions made in this policy.

APPENDIX 1- ADVICE FOR WORKERS MAKING A DISCLOSURE

The Company acknowledges the difficult choice a worker may have to make to make a disclosure. As the issues that prompt disclosures are likely to be complex, how the worker proceeds will vary from situation to situation. The following advice is recommended if a worker wishes to make a disclosure:

- Make any disclosures promptly, as timely disclosure can be verified or investigated with less difficulty;
- Focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- Be accurate in his/her observations and claims and keep formal records documenting relevant events.

Workers may also wish to seek independent legal advice through their trade union or legal advisor. Workers should note that the Protected Disclosures Act 2014 provides that all these disclosures are protected.

APPENDIX 2- CONTACT DETAILS FOR THE CONFIDENTIAL RECIPIENTS

The contact details for the Internal Confidential Recipients for Dublin Port are:

Ursula Sherlock, Head of HR:

Tel: +353 (0) 1 8876004

Email: usherlock@dublinport.ie

Mr Michael Sheary - CFO/Company Secretary:

Tel: +353 (0) 1 8873003

Email: msheary@dublinport.ie

The contact details for the External Confidential Recipients:

The External and Independent Confidential Recipient for Dublin Port Company can be contacted 24 hours per day, 7 days per week:

Email: DublinPortConfidentialRecipient@protecteddisclosure.ie

Phone: 01-2964146

Post: Dublin Port Independent Confidential Recipient, Melco House, Goatstown Cross, Goatstown, Dublin 14

File Online: User Name – DublinPort, password – DublinPort2017