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# Augustinian Province of Ireland

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## *WHISTLE BLOWING POLICY*

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APPROVED BY THE TRUSTEES IN JULY 2022

FOR REVIEW 2025



The purpose of this document is to set out Augustinian Province of Ireland's policy and procedures on Whistleblowing in the workplace under the Protected Disclosures Act, 2014. The Whistleblowing Policy is intended to encourage and enable Workers to raise serious wrongdoing within the workplace rather than overlooking a problem or reporting externally. The vast majority of concerns that staff might experience in their day-to-day working environment should be addressed through normal workplace reporting. This particular policy refers to specific wrongdoings as identified within the legislation. Such concerns not reported may allow the alleged wrongdoing to continue, to the detriment of the Augustinians.

The Protected Disclosures Act 2014 provides a statutory framework within which Workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace. Under this policy, personnel are entitled to report serious wrongdoings, disclose information without fear of penalisation or threat of less favourable treatment, discrimination, or disadvantage. A Worker who makes a protected disclosure is protected from penalisation (or threatened penalisation), which includes suspension, lay-off or dismissal, demotion, and unfair treatment.

The Augustinians encourage employees and others to raise genuine concerns about possible malpractice or improprieties whenever they arise and in an appropriate way.

## SCOPE

The term 'Workers' in this policy, covers all employees (fixed-term, specified purpose etc.), Consultants, Contractors, Graduates/ Interns, Work Placements, Job-bridge Workers (where relevant), Agency Workers, Volunteers and also Board members. The term 'person' may be used in lieu of the term 'Workers' throughout this policy.

This policy is not appropriate for dealing with issues of harassment, sexual harassment, bullying or individual grievances that may relate to dissatisfaction with workplace relationships, the work environment or a term or condition of employment. Such matters should be addressed through the appropriate procedures as set out by the Organisation.

Nor does it cover a disclosure where the Worker knowingly conveys false, misleading or frivolous information i.e. there is an absence of reasonable belief, these disclosures will not attract the protection of the 2014 Act and this may result in disciplinary action against the discloser.

## PROTECTED DISCLOSURES

### WHAT IS A “PROTECTED DISCLOSURE”?

A Protected Disclosure is defined in the Protected Disclosures Act 2014 as a disclosure of relevant information related to wrongdoing made by a Worker in the manner specified under the Act. For the purposes of the Act, information is “relevant” if:

- In the reasonable belief of the Worker it tends to show one or more ‘relevant wrongdoings’; and
- It came to the attention of the Worker in connection with the Worker’s employment.

Any Worker who has a ‘reasonable belief’ that the information contained in his or her disclosure shows or tends to show a wrongdoing will be protected against penalisation even if the Worker’s concern is ultimately misguided or mistaken.

### WHAT IS MEANT BY A REASONABLE BELIEF?

Although a Worker is not expected to prove the truth of the facts in a disclosure, they must have a ‘reasonable belief’ that there are grounds for their concern when making a disclosure using the internal procedure. A reasonable belief means that the belief is based on reasonable grounds. This does not mean the belief has to be correct. The Worker should also not have unlawful and / or unethical objectives in reporting a concern.

If a Worker is uncertain as to whether a concern is a Protected Disclosure within the scope of this policy he / she should seek guidance from their Line Manager.

## WHAT IS MEANT BY A 'RELEVANT WRONGDOING'?

The 2014 Act is intended to deal with disclosures in the public interest. This normally involves wrongdoings that are likely to cause harm to the Augustinian Charity itself or to the public at large, as opposed to personal complaints.

These procedures are not intended to act as a substitute for normal day to day operational reporting or other internal employment procedures. A Protected Disclosure involves the disclosure of information which, in the reasonable belief of the Worker making the disclosure, shows that one or more of the following relevant wrongdoings has been committed or is likely to be committed:

- Unlawful or improper use of public funds or resources
- Financial misconduct or fraud
- Corruption, bribery or blackmail
- Failure 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
- Endangerment of the health or safety of any individual
- Damage to the environment
- The commission of an offence
- Miscarriage of justice
- Gross negligence or gross mismanagement by public bodies
- The concealment of any of the above

The list above is not exhaustive. A full definition of wrongdoing can be found in Section 5(3) of the Act at <http://www.irishstatutebook.ie/2014/en/act/pub/0014/index.html>.

All Workers are encouraged to raise genuine concerns about possible wrongdoing at the earliest opportunity, and in an appropriate way. If a Worker makes a disclosure and feels they have been penalised as a result of making a disclosure, then that complaint will be dealt with in accordance with this policy.

## PROCEDURES FOR MAKING A DISCLOSURE

A Worker must make a disclosure in the manner set down in the 2014 Act to gain the protections of the Act. A disclosure can be made in two ways:

1. Internally
2. Externally

Workers are not required or entitled to investigate matters themselves to find proof of their suspicion(s) and should not endeavour to do so. Workers should disclose the information that they have based on a reasonable belief that it discloses a wrongdoing.

This procedure enables all Workers to raise any genuine concern(s) relating to the Augustinians/Charity in the correct way and at an early stage in the confidence that he / she will not be penalised or suffer detriment for having done so.

In situations where a Worker makes a disclosure not in compliance with the Act, the protection of the Act does not apply.

## RAISING A CONCERN INTERNALLY

In the first instance, a Worker is encouraged to raise any concern(s) to their Line Manager. However, should the Worker feel that it is not appropriate or feel uncomfortable disclosing such information to their Line Manager, the Worker should raise any concern(s) to the Chairperson of the Board and confirm that a Protected Disclosure is being made in accordance with this policy. Concerns may be raised verbally or in writing. Should a Worker raise a concern verbally, a written record of the conversation will be kept, and a copy provided to the Worker.

The disclosure should state:

- That the disclosure is being made under this procedure;
- The discloser's name, position in the Charity, place of work, and confidential contact details;
- The name of the person(s), body or otherwise alleged involved;
- A description of the 'relevant wrongdoing';
- Information in respect of the alleged wrongdoing – what is occurring / has occurred, and how including dates/times and locations so as to assist the investigation of the matters raised in the disclosure;
- 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;
- Any other relevant information.

## HANDLING OF CONCERNS

Reports of serious and sensitive concerns are managed by the Chairperson of the Board.

## CONFIDENTIALITY

This Charity is committed to taking all reasonable steps to protect the identity of the Worker making a disclosure and to ensure that relevant disclosures are treated in confidence. Subject to Section 16 of the Act, all communication will be anonymous and confidential unless you directly instruct otherwise. Notwithstanding this, you are encouraged to identify yourself and explain your concern in sufficient detail to facilitate investigation of the matter. Workers who are concerned that their identity is not being protected should notify their Line Manager. Such notifications will be assessed, and appropriate action taken as necessary. However, there are circumstances, as outlined in the Protected Disclosures Act 2014, where confidentiality cannot be maintained. This may include instances in which:

- The disclosure recipient shows that he / she took all reasonable steps to avoid such identity disclosure;

- The Worker has made it clear that he/she has no objection to his / her identity being disclosed;
- The identity of the person making the disclosure is critical to 1) an investigation of the matter raised, 2) to prevent serious risk to public health, public safety or the environment or 3) the prevention of crime or the prosecution of a criminal offence;
- Where the disclosure is otherwise in the public interest or otherwise required by law.

Should such a situation arise, the Augustinians will make every effort to inform the Worker that his/her identity may be disclosed.

Where action is to be taken following a disclosure, except in exceptional cases, the disclosure recipient, should contact the discloser and where possible, gain the informed consent of the discloser, prior to any action being taken that could identify them. Where it is decided it is necessary to disclose information that may or will disclose the identity of the discloser, the discloser should be informed of this decision, except in exceptional cases. The discloser may request a review of this decision and a review should be carried out where applicable.

All Workers involved in the process must respect the need for confidentiality. A failure to do so may represent a serious disciplinary offence, up to and including dismissal or other action.

Where a Worker seeks advice from a trade union, solicitor or barrister, this discussion is treated as a Protected Disclosure, including at early stages in contemplation of making a disclosure or seeking information on the operation of the legislation.

## RAISING A CONCERN EXTERNALLY

The aim of this policy is to provide an internal avenue within the workplace in which a concern(s) or in regard to a 'relevant wrongdoing' can be raised. The Augustinians/Charity is confident that such concerns can be dealt with internally in an appropriate and timely manner and strongly encourages all Workers to report such concerns internally.



However, it is recognised that in some limited circumstances it may not always be appropriate to report any genuine concerns internally and that it may be necessary to raise a concern(s) externally. The Protected Disclosures Act 2014 provides for a number of avenues in this regard.

It is important to note however, that the evidential criteria for making an external disclosure is set at a higher level than that applying to raising a concern(s) internally. While a Worker need only have a reasonable belief as to wrongdoing to make a disclosure internally, if a Worker is considering an external disclosure, different and potentially more onerous obligations apply, depending on to whom the disclosure is made.

**Workers must be very careful of making disclosures into the public domain. Any Worker considering making disclosures to other persons or bodies as described above, would be advised to obtain legal advice.**

## HOW THE AUGUSTINIANS WILL DEAL WITH A CONCERN

In the event of a concern being raised, the Augustinians will arrange a meeting with the Worker to discuss the matter on a strictly confidential basis. The meeting will be conducted by an independent member of the Board or external assistance may be necessary in some circumstances so as to ensure impartiality, objectivity and fairness. A Worker is permitted to have a representative present (colleague or trade union representative).

The Worker will be advised of any supports that may be available at this time.

The Augustinians/Charity will clarify at this point if the concern is appropriate to this policy or is a matter more appropriate to our other policies, for example our Grievance or Dignity in the Workplace policies.

Having met with a Worker in regard to concerns raised and clarified that the matter is in fact appropriate to this policy, the concerns raised may be subject to an initial examination by a designated independent member of management or other appropriate person, with a view to determining an appropriate course of action. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.

Should this approach be deemed inappropriate or inconclusive or where deemed appropriate, matters raised in the disclosure may:

- Be investigated internally by an appropriate independent member of management or other appropriate person;
- Be referred to an external enforcement agency or regulator;
- Be referred to An Garda Síochána.

## PERSON(S) AGAINST WHOM THE REPORT IS MADE

The Person (s) will be informed in writing of the report with the evidence supporting it within five working days of the conclusion of the preliminary enquiry. They will be advised that an investigation is being carried out with a view to establishing the facts.

The investigation will be conducted thoroughly, objectively, with sensitivity and confidentiality with due respect for the rights of the person(s) involved any witnesses or other relevant person(s). They will be allowed a full opportunity to comment before the investigation is concluded taking account of the rules of natural justice. The investigation will be carried out and completed as quickly as possible within an agreed timeframe. They will be informed of the outcome of the investigation within 3 days of its conclusion and will be entitled to receive a copy of the report if the investigation concluded that a breach has occurred. This breach will then be dealt with in a manner which is proportionate to its gravity.

Where a Worker against whom a report is made is dissatisfied with the outcome or aspects of the process, the matter should be raised by them in accordance with the Charity's grievance procedure.

Any Worker making a Protected Disclosure or any Worker against whom a concern has been made is entitled to be accompanied by a representative (colleague). The investigation will be conducted thoroughly, objectively and with sensitivity. Utmost confidentiality will be protected in so far as it is reasonably practicable.

Where possible or appropriate, the Augustinians will keep the Worker who made the disclosure informed of actions taken. Such information should be treated as confidential. Sometimes the need for

confidentiality may prevent the Charity however from giving specific details of any steps, including the outcome of any investigation or sanctions taken as a result.

## APPEALS

If you make a complaint under this policy and you are not satisfied with the outcome, you should submit another report outlining the reasons why and submit this to a more senior level of responsibility for review. Your concerns will be investigated again as per the procedure outlined in this policy. Please note that continued reporting of unfounded or previously rejected reports without further reason or because the individual refuses to accept the findings of the investigation may be subject to disciplinary proceedings.

## INTERNAL INVESTIGATION OUTCOMES

Every reported issue will be taken seriously. Appropriate action will be taken based on the outcome of any actions or investigation undertaken.

Measures will be taken against a Worker where an investigation finds sufficient evidence to conclude that the concern(s) raised by the discloser was justified. This may include formal disciplinary action, or other appropriate sanction or intervention deemed necessary to prevent a recurrence of the 'relevant wrongdoing'. Prior to any disciplinary action being taken, a fair disciplinary hearing will be held in line with the Charity's disciplinary procedure.

Where an investigation is inconclusive or the concern is not upheld, there will be no negative inference against any party to the concern raised. All parties to the disclosure(s) will be expected to continue working as normal, and to conduct themselves in an appropriate manner at work.

A Worker is not expected to prove the truth of any concern raised. However, the Worker must have a reasonable belief that there are grounds for their concern. A deliberate false disclosure will not be protected and could leave him / her open to disciplinary action or other appropriate action in that regard. Prior to any disciplinary action being taken, a fair disciplinary hearing will be held in line with the Augustinian Charity's disciplinary procedure.

## SAFEGUARDS AND PROTECTION

Any penalisation of a Worker who makes a Protected Disclosure is in breach of the Act and will not be tolerated by the Augustinians. The Charity's disciplinary procedure or other appropriate action will be invoked against any Worker who engages in penalisation or threatened penalisation of a Worker in line with this policy.

No Worker engaging in the procedures outlined here will be penalised or subject to unfavourable treatment for their role in the process, whether they are making a Protected Disclosure, supporting a disclosure, giving evidence in proceedings or giving notice of any intention to do any of the foregoing. Penalisation means any act or omission that affects a Worker to the individual's detriment and may include suspension, lay-off, dismissal, demotion, loss of opportunity for promotion. Transfer of duties, change of location of place of work, reduction in wages, change in working hours, the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty), unfair treatment, coercion, intimidation, harassment, discrimination, disadvantage, unfair treatment, injury, damage, loss or threat of reprisal.

Each Worker is also responsible for not causing detriment to another person because the other person or a third person has made a protected disclosure. A detriment in this context includes coercion, intimidation, harassment, discrimination, disadvantage, adverse treatment in relation to employment (or prospective employment), injury, damage, loss or threat of reprisal. This list is non-exhaustive.

Any such conduct may, depending on the seriousness of the issue, be deemed gross misconduct by the Charity and may result in summary dismissal or other appropriate action.

A Worker who believes that they have suffered any such treatment should inform their Line Manager immediately. If the matter is not remedied, a Worker should raise it formally using the Augustinian Charity's Grievance Procedure.

## RIGHT TO MAKE A COMPLAINT TO A RIGHTS COMMISSIONER (ADJUDICATION OFFICER)

Workers who believe that they may have been penalised (defined in Section 3 of the Protected Disclosures Act) reserve the right to make a complaint to a Rights Commissioner of the Labour Relations Commission (now Adjudication Officers of the Workforce Relations Commission), under Schedule 2, Section 12 of the Protected Disclosures Act, and seek a hearing.

## GENERAL INFORMATION

### DATA PROTECTION

Whenever a protective disclosure is made, the Augustinian Charity must consider the rights of any person named in the report in keeping with Data Protection legislation.

Protected Disclosure records will be kept in a locked press in the office of the Chairperson.

## RETENTION OF THE RECORDS

The Augustinians shall retain a copy of all complaints or concerns, investigation reports and all relevant documentation thereof. The Board shall decide the period of retention of all these records by the Charity, subject to limitations in applicable legislation.

## POLICY REVIEW

The Charity will endeavour to ensure that this policy is communicated to all Workers and will ensure that the policy is reviewed periodically and maintained and updated in line with legislative changes.

All Workers are expected to comply with this policy and to raise issues of concern through the procedures outlined in the policy.

For and on behalf of Augustinian Province of Ireland.

Handwritten signature of Tony Ryan, O.S.A. in cursive script, with a horizontal line underneath.

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Chairperson, Board of Trustees

Handwritten signature of Pat Gayer, O.S.A. in cursive script, with a horizontal line underneath.

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Secretary, Board of Trustees

July 2022