

EXCELLENCE THROUGH  
EDUCATION AND TRAINING

# Protected Disclosures Policy

Policy adopted by LOETB Board  
24 February 2020



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## **LOETB Policy for the making of Protected Disclosures by serving and former LOETB Workers**

### **1. Introduction**

- 1.1 LOETB is committed to the highest possible standards of compliance with our legal obligations.
- 1.2 LOETB values transparency and accountability in its administrative and management practices. LOETB is committed to preserving the highest standards of honesty, openness and accountability and recognises that workers play a key role in achieving these aims. The Senior Management Team of the LOETB takes responsibility for the successful operation of this policy and we are fully committed to observing the spirit and purposes of the Protected Disclosures Act 2014.

This policy therefore supports a culture that:

- gives a voice in matters of ethics;
  - enhances an environment where people feel safe in discussing genuine and legitimate concerns about governance and ethical behaviour;
  - promotes the development of a culture of “speaking up” whereby workers can raise concerns regarding serious wrongdoing in the workplace without fear of reprisal; and
  - questions inappropriate behaviour at all levels throughout the organisation.
- 1.3 This policy is intended to encourage and enable serving and former LOETB workers to raise and report serious concerns in a safe manner within the LOETB in the first instance without the need to bring their concerns outside of the LOETB. Under this policy a serving or former LOETB worker can make a protected disclosure about relevant wrongdoings 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 2014 Act. If there is any ambiguity between the 2014 Act and this policy, the 2014 Act takes precedence. The procedures set out in this policy do not replace any legal reporting or disclosure requirements arising under other legislation. Where other statutory reporting requirements or procedures exist these must be fully complied with.
  - 1.5 This Policy should not be used to raise concerns about a worker’s own personal circumstances, arising from his/her contract of employment with the LOETB. Such concerns should be referred under the Grievance Procedure or such other policy as appropriate.
  - 1.6 The LOETB Code of Conduct requires all workers to observe the highest legal, management and ethical standards in the conduct of their duties and responsibilities.

1.7 This policy should be read in conjunction with other LOETB policies including but not limited to the Grievance Procedure, Bullying Prevention Policy, Harassment/Sexual Harassment Prevention Policy and Anti-Fraud & Corruption Policy.

## **2. Definitions**

For the purposes of this policy, the following definitions apply:

2.1 “**2014 Act**” means the Protected Disclosures Act 2014.

2.2 “**IAU-ETB**” means the Internal Audit Unit of Education and Training Boards.

2.3 “**Protected Disclosure**” means a disclosure of information, which in the reasonable belief of the worker, tends to show one or more relevant wrongdoings and that this information came to the attention of the worker in connection with the worker’s employment and is disclosed in a manner set out in this policy.

2.4 “**PDO**” means Protected Disclosures Officer.

2.5 “**Reasonable Belief**” means that the belief is based on reasonable grounds. This does not mean that the worker’s belief needs to be correct. A worker has the right to be wrong in their reasonable belief. The test applied to “reasonable belief” will be an objective test i.e. the disclosure will be assessed based on how a reasonable person would respond to the information available to him or her at the time that the disclosure was made.

2.6 “**Relevant Wrongdoing**” shall be construed in accordance with subsections (3) to (5) of the 2014 Act.

*5 (3) The following matters are relevant wrongdoings for the purposes of this policy.*

- a. The commission of an offence;*
- b. The failure of a person 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. A miscarriage of justice;*
- d. A danger to the health and safety of any individual;*
- e. Damage to the environment;*
- f. An unlawful or otherwise improper use of funds or resources of a public body, or of other public money;*
- g. An act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or*
- h. Information tending to show any matter falling within any of the preceding paragraphs (a) to (g) has been, is being, or is likely to be concealed or destroyed.*

*5 (4) For the purposes of subsection (3) it is immaterial whether a relevant wrongdoing, occurred, occurs or would occur in the State or elsewhere and whether the law applying to it is that of the State or that of any other country or territory.*

5 (5) 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.

2.7 **“Respondent”** means the person against whom an allegation under this policy is made.

2.8 **“Worker”** means the person who makes the protected disclosure. Worker includes serving or former employees at all levels and also includes contractors and consultants, temporary workers, agency staff, interns and persons on paid work experience.

### 3. **Scope of the Policy**

3.1 This policy applies to all serving and former LOETB Workers as defined at section 2.8 of this policy.

### 4. **Aim of Policy**

4.1 The aim of this policy is

- to set out the LOETB guidance and procedures for the management of Protected Disclosures in the workplace and to outline the channels and procedures provided for reporting concerns;
- to promote and encourage LOETB Workers to disclose information that the Worker ***reasonably believes demonstrates Relevant Wrongdoings*** that come to their attention, during the course of their work, without fear of suffering consequential detriment; and
- to promote and encourage the development of a positive workplace culture in which raising concerns regarding potential wrongdoing is valued and appropriate action is taken by the LOETB in response to such disclosures.

4.2 In proceedings involving an issue as to whether a disclosure is a Protected Disclosure it shall be presumed, until the contrary is proved, that it is.

4.3 Motivation is irrelevant when determining whether or not it is a Protected Disclosure under the 2014 Act. All Protected Disclosures will be dealt with regardless of the Worker's motivation for making the disclosure, and the Worker should be protected so long as he/she reasonably believes that the information disclosed tended to show a Relevant Wrongdoing, even if it turns out to be unfounded.

However, a disclosure made in the absence of a Reasonable Belief will not attract the protection of the 2014 Act and, will result in disciplinary action against a Worker who is found to have raised a Protected Disclosure recklessly or with malicious intent. Furthermore, the disclosure of a Relevant Wrongdoing does not provide a Worker

with any protection or immunity in terms of his/her involvement in the Relevant Wrongdoing.

- 4.4 A disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is not a Protected Disclosure if it is made by a person to whom the information was disclosed in the course of obtaining legal advice.
- 4.5 In order for a Worker of the LOETB to be protected against penalisation as a result of making a disclosure under this policy, the Worker must have a Reasonable Belief that the content of the disclosure tends to show one or more of the Relevant Wrongdoings set out at Clause 2.5 above and that this information has come to their attention during the course of their work with the LOETB.



**Adopted by:**

**Date: 24 February 2020**