



**MAYNOOTH UNIVERSITY (“the University”)**

**PROTECTED DISCLOSURE (WHISTLEBLOWING) POLICY**

**June 2023**

## REVISION HISTORY

<b>Date of this revision:</b> <b>June 2023</b>	<b>Date of next review:</b> One year post approval
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## GLOSSARY OF TERMS

**Designated Person:** the person within the University with primary responsibility for receiving and assessing a disclosure, and for communicating with a Reporting Person about the outcome of their 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 a Reporting Person and in particular includes:

- suspension, lay-off or dismissal;
- demotion, loss of opportunity for promotion or withholding of promotion;
- transfer of duties, change of location of place of work, reduction in wages or change in working hours;
- the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty);
- coercion, intimidation, harassment or ostracism;
- discrimination, disadvantage or unfair treatment;
- injury, damage or loss;
- threat of reprisal;
- withholding of training;
- a negative performance assessment or employment reference;
- failure to convert a temporary employment contract into a permanent one, where the Reporting Person had a legitimate expectation that he or she would be offered permanent employment;
- failure to renew or early termination of a temporary employment contract;
- harm, including to the Reporting Person's reputation, particularly in social media, or financial loss, including loss of business and loss of income;
- 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;
- early termination or cancellation of a contract for goods or services;
- cancellation of a licence or permit; or
- psychiatric or medical referrals.

**Relevant Information:** Information in the reasonable belief of the Worker tends to show one or more Relevant Wrongdoings and the information comes to the attention of the Worker in a work related context.

### **Relevant Wrongdoing:**

- that an offence has been, is being or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the Reporting Person's contract of employment or other contract whereby the

Reporting Person undertakes to do or perform personally any work or service;

- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health and safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged;
- 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;
- that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- that a breach has occurred, is occurring or is likely to occur (i.e. that a breach of European Union law in any of the following areas has occurred, is occurring or is likely to occur: public procurement; financial services, products and markets, and prevention of money laundering and terrorist financing; product safety and compliance; transport safety; protection of the environment; radiation protection and nuclear safety; food and feed safety and animal health and welfare; public health; consumer protection; protection of privacy and personal data, and security of network and information systems; the financial interests of the European Union and/or the internal market); or
- that information tending to show any matter falling within any of the preceding bullets 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.

**Reporting Person:** a Worker who discloses Relevant Information under this policy.

**Worker:** former or current employees, independent contractors, suppliers, agency workers, volunteers, unpaid trainees, work experience students, board members, shareholders, members of administrative, management or supervisory bodies, an individual who acquires information on a relevant wrongdoing during a recruitment process and an individual who acquires information on a relevant wrongdoing during pre-contractual negotiations.

## 1. PURPOSE OF THIS POLICY

The purpose of this policy is:

- (a) to encourage the reporting by Workers of suspected Relevant Wrongdoing as soon as possible in the knowledge that reports will be taken seriously and investigated as appropriate;
- (b) to provide guidance as to how to raise those concerns and how those concerns will be dealt with in a clear, formal and safe manner; and
- (c) to reassure employees that genuine concerns can and should be raised, even if they turn out to be mistaken, without fear of Penalisation.

This policy sets out the internal reporting channels and procedures for the purposes of the Protected Disclosures Act 2014, as amended (the “**Act**”).

## 2. SCOPE OF THE POLICY

This policy covers Reporting Persons i.e. Workers who disclose Relevant Information under this policy.

A student may come within the scope of this policy in certain circumstances such as when on work placement, carrying out research with employees and delivering contracted services to the University.

The University is committed to the highest possible standards of honesty and accountability where our Workers can report concerns in confidence. It recognises that Workers have an important role to play in achieving this goal. The University lauds Workers who raise concerns in respect of matters which they reasonably believe to be true. This policy is intended to encourage and enable Workers to raise concerns within the workplace rather than overlooking a problem or reporting the problem externally. Under this Protected Disclosure (Whistleblowing) Policy, a Worker is entitled to raise concerns or disclose Relevant Information appropriately without fear of Penalisation or threat of less favourable treatment, discrimination or disadvantage.

Employees should note that this policy does not form part of any contract of employment, and may be amended by the University from time to time.

## 3. WHAT IS NOT IN SCOPE OF THE POLICY

This policy should not be used to raise complaints relating to interpersonal grievances exclusively affecting a Worker, namely grievances about interpersonal conflicts between a Worker and another Worker, or a matter concerning a complaint by a Worker to, or about, the University which concerns the Worker exclusively. In such circumstances, it may be more appropriate to raise complaints / grievances under a different University policy such as:

- the University’s Grievance Procedure; or

- Policy and Procedures for the Protection of Staff Against Workplace Bullying, Harassment and Sexual Harassment; or
- the Disciplinary Procedures for Staff where appropriate.

If a Protected Disclosure is made in relation to Research Integrity then it is appropriate that it should be considered under the Maynooth University Research Integrity Policy, albeit with the Worker making the report being afforded all the rights and entitlements that ordinarily would flow under this policy.

This policy is not designed to be used to re-open any matters which have been addressed under other University policies and procedures, nor should it be viewed as an alternative to those policies and procedures in respect of matters which would more appropriately be considered under them. Action arising from the implementation of this policy may lead to the invocation of other University policies and procedures, including Grievance Procedures and Disciplinary Procedures.

This policy does not include a wrongdoing which it is in a Worker's function or the University's function to detect, investigate or prosecute and does not involve an act or omission on the part of the University.

#### **4. PROTECTED DISCLOSURES**

A Reporting Person is a Worker who discloses Relevant Information under this policy.

The University will ensure that a Reporting Person will not be at risk of suffering any form of Penalisation as a result of making a disclosure of Relevant Information.

The University recognises that a decision to report can be a difficult one to make and, for this reason, the University shall provide reasonable support for any Reporting Person.

A Worker should not pursue their own investigations, however well intended, as a flawed or improper investigation could compromise the University's ability to take effective action.

Any individual found deterring a Worker from raising genuine concerns of any suspected Relevant Wrongdoing may be subject to the disciplinary procedures of the University or other sanction.

A reasonable but mistaken disclosure of Relevant Wrongdoing will not lose protection under this policy.

#### **5. DESIGNATED PERSON**

The primary point of contact in the University in relation to Protected Disclosures is the 'Designated Person'. The Designated Person is the Director

of Governance, who can provide advice on this policy, receive protected disclosures, and will maintain communication with a Reporting Person about progress on a protected disclosure.

## 6. DISCLOSURES COMMITTEE

There is a Disclosures Committee made up of the Director of Human Resources, the Registrar (both of whom are ex officio members) and two members nominated by the President, one of which shall be a senior academic drawn from the academic staff of the University. The Disclosures Committee may co-opt an additional member(s) to the Committee in order to complement the skills, expertise and gender balance of Committee members. The appointment of any additional member(s) co-opted by the Disclosures Committee shall be approved by the President.

The members of the Committee, other than the 2 ex-officio members, will normally be appointed for a period of approximately three years. The period of appointment may be extended or renewed with the approval of the President, and members (other than ex-officio members) will not normally serve for more than 2 consecutive terms. The period of appointment may be extended (with the approval of the President) if there is an active investigation of a protected disclosure or disclosures that would benefit from the continued involvement of an existing member or members of the Disclosures Committee.

The Disclosures Committee may include members from outside the University.

The Disclosures Committee as a whole will be expected to possess the following skills, experience and competencies:

- Extensive institutional knowledge of Maynooth University
- Demonstrable knowledge of University policies and procedures, particularly in the area of HR
- Academic leadership
- Experience of decision making at senior level
- Expertise relating to the area of Protected Disclosures

It is a requirement that the Disclosures Committee shall have at least 40% male and 40% female members.

The President shall designate the Chair of the Disclosures Committee.

The names and contact details of all members of the Disclosures Committee are available on the University website.

A quorum for a meeting of the Disclosures Committee shall be three members and must include a senior academic nominated by the President.

The Designated Person acts as secretary to the Disclosures Committee but is not a member of the Committee.



## 7. HOW TO RAISE A CONCERN

### **Who to send a report:**

All disclosures by a Reporting Person should be made in writing to the 'Designated Person', who is the Director of Governance. Where a written disclosure is not possible, a written record should be taken of the disclosure by the Designated Person and dated accordingly. There is a specific email address for making disclosures – [protecteddisclosures@mu.ie](mailto:protecteddisclosures@mu.ie)

The Designated Person will maintain communication with the Reporting Person and, where necessary, request further information from, and provide feedback to, that Reporting Person.

### **Information to be included in any report:**

The Reporting Person will need to be able to demonstrate and support the reasons for their concerns and provide evidence of their concerns where such evidence is available. Any reports setting out an individual's concerns should be factual (to the best of their knowledge) and should address the following key points to the extent that such information is known to the individual in relation to the Relevant Wrongdoing:

- (a) what has occurred;
- (b) when and where it occurred;
- (c) who was involved;
- (d) has the University been put at risk or suffered loss as a result;
- (e) has it happened before;
- (f) has it been raised with anyone else either within the University or externally;
- (g) if so, when/whom;
- (h) are there any other witnesses;
- (i) is there any supporting information or documentation; and
- (j) how the matter came to light.

### **Next steps**

The Designated Person, will acknowledge same, in writing to the Reporting Person not more than 7 days after receipt of the disclosure.

The Reporting Person must not mention the disclosure to anyone except the Designated Person.

The Reporting Person must not send information relating to the disclosure to any person other than the Designated Person.

The Reporting Person must not contact the person about whom the disclosure is made, or tell them about the disclosure.

If a disclosure relates to possible Relevant Wrongdoings by the Designated Person, then the report can be made to the President.

If a disclosure relates to possible Relevant Wrongdoings by one of the Disclosures Committee, that person will not be involved in the consideration of the disclosure.

If a disclosure relates to possible Relevant Wrongdoings by the President, then the disclosure should be made to the Chairperson of the Governing Authority who will arrange for an appropriate Disclosures Committee to be convened.

## 8. INITIAL ASSESSMENT

After receipt of the disclosure, the Designated Person, will carry out an initial assessment to determine whether there is evidence that a Relevant Wrongdoing may have occurred. If necessary to make an initial assessment, the Designated Person will seek further information from the Reporting Person.

The Designated Person will carry out an initial assessment, including seeking further information from the Reporting Person if required, as to whether there is prima facie evidence that a relevant wrongdoing may have occurred.

Following the assessment, the Designated Person will report to the Disclosures Committee, and recommend a course of action. The Disclosures Committee will be responsible for approving the course of action or recommending an alternative course of action. The Designated Person may recommend to the Disclosures Committee that:

- there is no prima facie evidence that a relevant wrongdoing may have occurred, that the disclosure should be closed, or that the matter should be referred to such other agreed policy/procedures within the University.
- that there is prima facie evidence that a relevant wrongdoing may have occurred, and that appropriate action should be taken to address the relevant wrongdoing, having regard to the nature and seriousness of the matter concerned.

The Designated Person will conduct the initial assessment in a timely and appropriate manner, and will inform the Reporting Person, in writing, as soon as practicable, of the decision and the reasons for it.

## 9. EXAMINATION AND INVESTIGATION PROCEDURES

If, having considered the initial assessment undertaken by the Designated Person, the Disclosures Committee decides that there is evidence that a Relevant Wrongdoing may have occurred, the Disclosures Committee may take appropriate action to address the Relevant Wrongdoing, including, but not limited to, the appointment of such person or persons (either internal or external to the University) who is or are appropriately placed to investigate the particular disclosure in question (the “**Investigator(s)**”).

The scope and terms of reference of any investigation will be determined by the Disclosures Committee prior to the investigation being carried out.

The Reporting Person may be invited to attend additional meetings in order to provide further information. The Reporting Person is entitled to bring a colleague or an employee representative with them to any meeting if they so wish.

The Investigator(s) will draft a report on the investigation (the **“Report”**).

The Report will be sent to the Disclosures Committee, who will determine what (if any) action should be taken by the University. Such action could include changes to the way the University conducts its operations, referral of the matter for consideration under a specific University policy or procedure including the Disciplinary Procedure, or a report to an appropriate third party, such as An Garda Síochána.

It is important that a Reporting Person feels assured that a disclosure made by them under this policy is taken seriously and that the Reporting Person is kept informed of steps being taken in response to the disclosure. The Designated Person will provide feedback to the Reporting Person within a reasonable time, being not more than 3 months from the date the acknowledgement of receipt of the disclosure was sent to the Reporting Person or, if no such acknowledgement was sent, not more than 3 months from the date of expiry of the period of 7 days after the disclosure was made. Where the Reporting Person so requests in writing, the Designated Person will provide further feedback at intervals of 3 months until such time as the procedure concerned is closed.

Feedback should include information on the progress of the investigation and its likely timescale.

However, sometimes the need for confidentiality may prevent the University from giving the Reporting Person specific details of the investigation or any action taken as a result.

The Reporting Person should treat any information about the investigation as strictly confidential. Any breach of this confidentiality may result in disciplinary action up to and including dismissal.

It should be noted that fair and due process requires that any person accused of wrongdoing should be made aware of and given the opportunity to respond to any allegations made against them.

If the Investigator(s) conclude(s) that the Reporting Person has made a false or malicious complaint, they may be subject to disciplinary action in accordance with the University’s disciplinary policies, procedures and regulations.

In certain circumstances the Disclosures Committee may determine that the disclosure should be the subject of referral under the University’s Anti-Fraud Policy or notified to the following:

- The University Insurers;

- An Garda Síochána;
- HSE;
- TUSLA;
- Any third party aligned with the University affected by the disclosure;
- Higher Education Authority;
- Department of Further and Higher Education, Research and Skills; and
- Any other relevant authority.

The Designated Person will report to the Audit and Risk Committee whether any Protected Disclosures have been received, and the outcome of the assessment of such disclosures. In such reporting, the confidentiality of the Reporting Person will be maintained.

## 10. EXTERNAL DISCLOSURE

The University acknowledges that there may be circumstances where a Worker wants to make a disclosure externally. It is important to note that while a Reporting Person need only have a reasonable belief as to wrongdoing to make an internal disclosure, if a Reporting Person is considering an external disclosure, different and potentially more onerous obligations may apply.

### Disclosure to a Prescribed Person

A list of prescribed persons for the purpose of making an external disclosure of Relevant Information is set out on the website of the Government available [here](#). This website may be updated by the Government from time to time.

It specifies that a report can be made to the Chief Executive of the Higher Education Authority if it relates to:

- matters relating to the planning and development of higher education and research in the State.
- matters relating to funding for universities and certain institutions of higher education designated under the Higher Education Authority Act 1971 (No. 22 of 1971).

A Reporting Person may make a disclosure to a prescribed person if the Reporting Person reasonably believes:

- that the Relevant Wrongdoing falls within the description of matters in respect of which the person is prescribed; and
- that the information disclosed, and any allegations contained in the information disclosed, are true.

### Disclosure to the Minister for Further and Higher Education, Research and Skills

A Worker can make a disclosure of Relevant Information to the Minister for Further and Higher Education, Research and Skills (the “**Minister**”), if they

reasonably believe that the information disclosed, and any allegations contained in the information disclosed, are true, and one or more of the following conditions are met:

- i) the Worker has previously disclosed substantially the same information but no feedback has been provided in response to the disclosure within the specified period or, where feedback has been provided, the Worker reasonably believes that there has been no follow up or that there has been inadequate follow up;
- ii) the Worker reasonably believes that the head of the University is complicit in the Relevant Wrongdoing concerned;
- iii) the Worker reasonably believes that the Relevant Wrongdoing concerned may constitute an imminent or manifest danger to the public interest such as where there is an emergency situation or a risk of irreversible damage.

### Disclosure to a Legal Advisor

The Act allows a Protected Disclosure to be made in the course of obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body (an excepted body is a body which negotiates pay and conditions with an employer but is not a trade union as defined in section 6 of the Trade Union Act 1941).

### Other Disclosure Channels

In order to qualify for protection in relation to Protected Disclosures through other channels (e.g. to the media), the Reporting Person must:

- i) reasonably believe that the information disclosed and any allegation contained in it, are substantially true; and
- ii) have previously made a disclosure of substantially the same information to the University, Prescribed Person or Minister but no appropriate action was taken within the specified period; or
- iii) reasonably believe that:
  - a. the Relevant Wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage, or
  - b. if they were to make a report to a Prescribed Person or Minister there is a risk of Penalisation, or there is a low prospect of the Relevant Wrongdoing being effectively addressed due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where a Prescribed Person may be in collusion with the perpetrator of the wrongdoing or involved in the wrongdoing.

### External Reporting Procedures

The University does not have control over external reporting procedures.

If a Reporting Person makes an external disclosure they should expect the following procedure:

- acknowledgement, in writing, to the Reporting Person of receipt of the report not more than 7 days after receipt of it, save where the Reporting Person explicitly requested otherwise or the recipient reasonably believes that acknowledging receipt of the report would jeopardise the protection of the identity of the Reporting Person;
- diligent follow-up by the recipient or a person designated by the prescribed person or recipient including an initial assessment and a decision thereafter based on the initial assessment.

## **11. PROTECTION AND SUPPORT FOR PERSONS MAKING A DISCLOSURE**

The University aims to encourage openness and will support a Reporting Person who raises a genuine concern under this policy, even if they turn out to be mistaken.

A Reporting Person who makes a disclosure under this policy must not suffer any Penalisation as a result of raising a concern.

If a Reporting Person believes that they have suffered any such treatment, they should inform the Head of Human Resources immediately. If the matter is not remedied, the Reporting Person should raise it formally using the University's Grievance Procedure.

## **12. PROCEDURE IN RELATION TO ANONYMOUS NOTIFICATIONS**

A Reporting Person is encouraged to identify themselves when making a disclosure whenever possible.

It is not always possible to examine or investigate anonymous disclosures, but they will be considered by the Designated Person as part of the initial assessment.

Any individual who subsequently identifies themselves as the discloser shall be afforded protection under this policy.

## **13. CONFIDENTIALITY**

All reasonable steps shall be taken to protect the identity of the Reporting Person making the Protected Disclosure. However, the identity of the Reporting Person may need to be disclosed:

- i) where the disclosure is a necessary and proportionate obligation imposed by law in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of others;
- ii) where the Designated Person and/or Disclosures Committee took all reasonable steps to avoid disclosing the identity of the Reporting

Person or any information from which the identity of the Reporting Person may be directly or indirectly deduced, or reasonably believes that disclosing the identity of the Reporting Person or any such information is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment;  
or

- iii) where the disclosure is required by law.

In these circumstances, the Reporting Person will be notified, in writing by the Designated Person, before their identity is disclosed, unless such notification would jeopardise:

- i) the effective investigation of the disclosure;
- ii) the prevention of serious risk to security of the State, public health, public safety or the environment; or
- iii) the prevention or prosecution of a crime.

#### **14. ANNUAL REPORT**

The University will prepare and publish an annual report in accordance with Section 22 of the Act. The Annual Report shall maintain the anonymity of all those involved.

## 15. EFFECTIVE DATE FOR POLICY ENFORCEMENT

This policy shall take effect on 1 January 2023.

<b>Version 2</b>	<b>14 December 2022</b>
Version 3	8 June 2023

### Review of Policy

This policy will be reviewed on an annual basis.

### **Annex**

#### **KEY CONTACTS UNDER THE POLICY**

<b>Designation</b>	<b>Contact</b>	<b>Telephone and Email</b>
Director of Governance	Dr. Tony Gaynor	01 7083502 <a href="mailto:tony.gaynor@mu.ie">tony.gaynor@mu.ie</a> (for any general queries about the policy) or <a href="mailto:Protecteddisclosures@mu.ie">Protecteddisclosures@mu.ie</a> (to make a disclosure)
Director of Human Resources	Mr Peter Miller	01 4747447 <a href="mailto:Peter.miller@mu.ie">Peter.miller@mu.ie</a>
President	Professor Eeva Leinonen	01 7084718 <a href="mailto:President@mu.ie">President@mu.ie</a>
Chairperson of the Governing Authority	Dr. Mary Canning	<a href="mailto:Chairperson.GA@mu.ie">Chairperson.GA@mu.ie</a>

These contact details will be kept under review and updated as necessary.