



MAYNOOTH UNIVERSITY (“the University”)

PROTECTED DISCLOSURE (WHISTLEBLOWING) POLICY

1. PURPOSE OF THIS POLICY

The purpose of this policy is to encourage employees or any person who works or has worked under a contract (“worker”) with the University to make a disclosure of Relevant Information of which they become aware and to provide protection for the worker making the disclosure (“Protected Disclosure”). A student may be a worker in certain circumstances such as when on work placement, carrying out research with employees and delivering contracted services to the University.

Relevant Information is information that comes to the attention of a worker in connection with the worker’s employment and which the worker has a reasonable belief points towards a relevant wrongdoing.

Relevant Wrongdoings are:

- 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 worker’s contract of employment or other contract whereby the worker 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 damage to the environment has occurred, is occurring or is likely to occur,
- 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, or
- that information tending to show any matter falling within any of the preceding bullets has been, is being or is likely to be destroyed.

2. SCOPE OF THE POLICY

A disclosure by a worker of Relevant Information in relation to a Relevant Wrongdoing in one of the manners set out in this Policy shall be a Protected Disclosure under this policy.

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 our 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.

Relevant Information may include, but is not limited to investigation results, findings, opinions or information obtained during the course of a worker performing their duties which relates to relevant wrongdoing.

Any alleged injustice affecting an individual's personal employment law rights shall be dealt with through the Human Resources Department, the University's Grievance Procedure, Policy and Procedures for the Protection of Staff Against Workplace Bullying, Harassment and Sexual Harassment or the Disciplinary Procedures for Staff where appropriate. In the case of alleged relevant wrongdoing made by a student, the matter shall be dealt with through the Registrar's Office.

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 protected disclosure, being afforded all the rights and entitlements that ordinarily would flow under the Protected Disclosure (Whistleblowing) Policy and under the Protected Disclosures Act 2014. Similarly, there may be other examples where it is appropriate that the principal investigation is carried out under the relevant policy, but with the protection of workers as outlined in this policy and under law.

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.

3. PROTECTED DISCLOSURES

Persons making a disclosure relating to a reasonably held concern should be assured that their concerns will be treated seriously. The University does not expect proof of any Relevant Wrongdoings. However, a worker must have a reasonable belief that the

information disclosed tends to show a wrongdoing. 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 worker making such a disclosure. The University shall endeavour to protect any worker from detrimental consequences arising from making a Protected Disclosure within the meaning of this policy. The normal protections provided by law include

- Protection from dismissal,
- Protection from penalisation,
- Protection from tort actions as a result of making the disclosure,
- Immunity from civil liability for making the disclosure,
- Protection of identity (where possible).

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.

4. REPORTING LINES FOR INTERNAL MATTERS

A Protected Disclosure will be examined by a Disclosures Committee made up of the Director of Human Resources, the University Secretary and the Registrar. To avail of the protections offered and available under this policy, workers must make their disclosure to Disclosure Recipients, in accordance with the following protocol. Workers should raise their suspected Relevant Wrongdoing with:

- (a) their line manager, Head of Department/School or Dean of Faculty;
- (b) the Director of Human Resources if for any reason the employee does not wish to go through their line manager, Head of Department/School or Dean of Faculty; or
- (c) the University Secretary if for any reason an employee does not wish to report the matter to their line manager, Head of Department/School or Dean of Faculty in the first instance or the Director of Human Resources in the second instance.

Workers must exercise discretion and commit to keeping the reporting and investigation process confidential.

If a disclosure is relating to possible Relevant Wrongdoings by the Registrar, Director of Human Resources or Bursar/Secretary, then the disclosure can be made to the President who will convene an alternative Disclosures Committee. If a disclosure relates to possible Relevant Wrongdoings by the President, then the disclosure should be made to the Chairperson of Governing Authority who will arrange for an appropriate Disclosures Committee.

Checklist for acting on Protected Disclosure

- Some workers may not be confident enough to provide the disclosure through the relevant channel but disclose their concerns to a trusted colleague. If any worker or member of the University receives what they consider to be a Protected Disclosure, they should immediately bring the matter to the attention of a Disclosure Recipient as set out above.
- Any documentation provided to or in the possession of a worker or member of the university or other form of evidence should be immediately given to the Disclosure Recipient.
- The worker or member of the University must not mention the disclosure to anyone except for the Disclosure Recipient. Specifically, the worker or member of the University should not talk to any other person about the disclosure.
- The worker or member of the University must not send information relating to the disclosure to any person other than the Disclosure Recipient.
- The worker or member of the University must not contact the person about whom the disclosure is made, or tell them about the disclosure.
- The employee or member of the University must not disclose the identity of the person making the disclosure (save to the Disclosure Recipient). This person's identity would be protected so far as practicable.
- If applicable, the employee or member of the University should advise the person that provided them with the relevant information that the Disclosure Recipient has been notified and that the Disclosure Recipient will follow up regarding next steps.

Concerns can be raised verbally or in writing. Should a worker choose to raise a concern verbally, the recipient of the protected disclosure will make and keep a written record and provide the worker making the disclosure with a copy after the meeting in which the protected disclosure is made. Should the worker raise a concern in writing, the worker should provide the background and history of the concern, giving relevant details, insofar as is possible, such as dates, sequence of events and description of circumstances.

A Relevant Disclosure must be based on a reasonably held belief held by the person making the disclosure. The person should be asked, where appropriate, for details of the basis of their reasonably held belief. If it is at all possible that the person making the disclosure has some reasonable grounds for their belief, Disclosure Recipients will assume that they do have reasonable grounds.

5. REPORTING UNDER EXISTING LEGISLATION

Workers should be mindful of the fact that reporting provisions already exist in Irish legislation and that matter disclosed under this policy may be relevant and apply.

This Policy shall be regarded as an internal University policy for the purposes of receiving Protected Disclosures. Should any inconsistencies exist between the terms of this policy in respect of Protected Disclosures and the terms of any Act or Acts of the Oireachtas, then the terms of the Act or Acts shall prevail.

6. EXAMINATION AND INVESTIGATION PROCEDURES

The Registrar, the University Secretary and the Director of Human Resources shall form a Disclosures Committee which will convene when a disclosure is reported to any of its three members (alternative committee membership will apply where the disclosure relates to relevant wrongdoing by one of the members or by the President).

The Disclosures Committee may where it considers it appropriate delegate the task of carrying out a preliminary review and investigation in the case of any Protected Disclosure.

Each disclosure shall be examined individually by the Disclosures Committee. A quorum for a meeting of the Disclosures Committee shall be two members. The Disclosures Committee may dismiss the matter, investigate the matter or refer the matter for consideration under a specific University Policy.

If the Disclosures Committee decides an investigation should be undertaken, the Committee shall have discretion in deciding what procedure(s) should apply and may delegate the task of carrying out any investigation. The Disclosures Committee will also determine the nature and extent of any investigation and will have access to a framework of external specialists where investigation is required and is not catered for under an existing University Policy. This group will also determine whether the disclosure should be the subject of referral under the University's Anti-Fraud Policy or notified to the following:

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

It is important that a worker feels assured that a disclosure made by the worker under this policy is taken seriously and that the worker is kept informed of steps being taken by the University in response to the disclosure. The University will:

- Acknowledge receipt of the disclosure and arrange to meet with the worker;
- Inform the worker how the University propose to investigate the matter and keep the worker informed of actions, where possible, in that regard including the outcome of any investigation, and, should it be the case, while no further

investigation should take place. It is important to note that sometimes the need for confidentiality and legal considerations may prevent the University from giving specific details of an investigation;

- Inform the worker of the likely timescale of each step being taken but in any event commit to dealing with the matter as quickly as possible;

The University acknowledges that there may be circumstances where an employee wants to make a disclosure externally. The legislation governing disclosure provides for a number of avenues in this regards. It is important to note that while a worker need only have a reasonable belief as to wrongdoing to make an internal disclosure, if a worker is considering an external disclosure, different and potentially more onerous obligations may apply.

In particular, subject to particular technical requirements, it is possible to make an external protected disclosure to ‘Prescribed Persons’ under Section 7 of the Protected Disclosures Act about certain specific matters only, such as to the Chairman of the Higher Education Authority. Furthermore, under Section 8 of the Protected Disclosures Act, for University employees only, disclosures can also be made to the Department of Education and Skills.

7. REPORTING ON RETALIATORY ACTIONS (PERCEIVED/ ACTUAL)

For the purposes of this policy, “Retaliatory actions” means any act of discrimination, penalisation or threat of penalisation, reprisal, harassment, or vengeance, direct or indirect, recommended, threatened or taken against a worker by any person because the worker has made a disclosure pursuant to this Policy. If the worker believes that he / she is a victim of actual or perceived retaliatory actions as a result of the disclosure, they should report the matter directly to a member of the Disclosures Committee. The Disclosures Committee is required to investigate all such allegations of retaliatory action.

8. SANCTIONS AGAINST PERSONS WHO ENGAGE IN RETALIATORY ACTIONS

The University will not tolerate or permit any form of retaliatory action (including the threat of retaliatory action), and will take all appropriate action to support any worker who makes such a disclosure. Appropriate disciplinary action will be taken in accordance with University Statute in the case of an employee or Student Disciplinary Procedure in the case of students, against any employee or student who is found to have perpetrated, or threatened any retaliatory action, harassment or victimisation.

9. PROCEDURE IN RELATION TO ANONYMOUS NOTIFICATIONS

A worker is encouraged to identify herself/himself when making a disclosure whenever possible. It is not always possible to examine or investigate anonymous disclosures, but they will be considered by the Disclosures Committee and, where feasible, an examination will be carried out. Any individual who subsequently identifies himself/herself as the discloser shall be afforded protection under this policy where the

disclosure has been made in the reasonable belief that the matter disclosed tends to show relevant wrongdoing.

10. CONFIDENTIALITY

All reasonable steps shall be taken to protect the identity of the worker. The identity of the worker may need to be disclosed:

- i) for the effective investigation of the disclosure;
- ii) to prevent serious risk to security, public health and safety or the environment;
- iii) for the prevention or prosecution of a crime;
- iv) where identification is required by law, or under the University's policies and procedures;
- v) where the person accused is entitled to the information as a matter of legal right or under the University's Statutes or regulations in disciplinary proceedings; or
- vi) where it is otherwise in the public interest to do so.

In this event the University shall inform the worker prior to revealing his or her identity.

11. REPORTING ON OUTCOMES & FEEDBACK

The Disclosure Recipient to whom the original disclosure was made shall, where appropriate, communicate to the worker whether the matter has been examined, whether it will be investigated further, whether the matter has been fully investigated and what action has been or will be taken or whether no action is to be taken.

On completion of any investigation, a written report shall be presented by the Disclosures Committee to the Audit and Risk Assessment Committee containing the following information:

- A description of the Disclosure and the findings of the investigation;
- The effect the disclosure had on the University if any;
- Any actual findings in relation to wrongdoing and how the perpetrator(s) carried out the wrongdoing;
- Measures proposed to be taken to prevent a recurrence of the wrongdoing (if any);
- Proposed action required to strengthen future responses under this Policy, and;
- Any other relevant matters.

In the case of a disclosure where it is determined after examination or investigation that there is no case to answer, only the fact of the disclosure and not its content will be reported to the Audit and Risk Assessment Committee. Where the Disclosures Committee reasonably believes that a deliberately false disclosure is made, it may

invoke the Disciplinary Procedure or take any other appropriate action against the worker and proceed in accordance with the Disciplinary Policy.

Review of Policy: This policy will be reviewed by the Audit and Risk Assessment Committee within 36 months of implementation.

12. EFFECTIVE DATE FOR POLICY ENFORCEMENT

This policy shall take effect on 1st March 2016.

Committee	Approval Date
University Executive	26 th January 2016
Audit and Risk Assessment Committee	Not Applicable
Governing Authority	18 th February 2016

Key Contacts under the Policy

Designation	Contact	Telephone and Email
VP Academic, Registrar and Deputy President	Professor Aidan Mulkeen	01 7083579 Registrar@nuim.ie
University Secretary & Bursar	Dr Mike O'Malley	01 7083620 Mike.OMalley@nuim.ie
Director of Human Resources	Ms Rosaleen McCarthy	01 7083558 Rosaleen.McCarthy@nuim.ie
President	Professor Philip Nolan	01 7084718 President@nuim.ie
Chairperson of the Governing Authority	Baroness Nuala O'Loan	Chairperson.GA@nuim.ie