



Shellybanks Educate Together National School

Shellybanks ETNS

Protected Disclosures Policy

What is a Protected Disclosure?

“A protected disclosure means disclosure of relevant information, which in the reasonable belief of the worker, tends to show one or more **relevant wrongdoings** and which came to the attention of the worker in connection with their employment”.

In making a disclosure a worker must reasonably believe the information disclosed to be substantially true. No worker will be penalised simply by getting it wrong so long as the worker had a reasonable belief that the information disclosed shows, or tends to show, wrongdoing.

The Protected Disclosures (Whistle-blowers) Act 2014:

The above Act came into effect on the 16th of July 2014 and was reviewed in 2022. Schools are required to put a Protected Disclosure policy in place which meets the requirements of the Act. The Board of Management of Shellybanks Educate Together National School takes the issue of wrongdoing seriously and as a result has drafted this policy.

What are “Relevant Wrongdoings”?

Relevant Wrongdoings include but are not limited to the following:

- Criminal offences
- Failure to comply with a legal obligation (other than a workers contract of employment)
- Miscarriage of justice
- Endangerment of health and safety
- Damage to the environment
- Unlawful or improper use of public funds
- Oppressive, discriminatory or negligent behaviour by a public body
- Breaches of EU law
- Concealing or destroying evidence of wrongdoing

Personal grievances between a reporting person and their employer or a co-worker that solely affect the reporting person are not protected by the Act. Such matters may be protected under general employment law however

Who does the Act apply to?

- Employees
- Contractors and consultants engaged to carry out work or services for the school;
- Agency workers;
- Individuals on work experience pursuant to a training course and trainees of/with the school.
- Volunteers
- Board Members
- Job applicants

To whom do you make the Disclosure?

The vast majority of disclosures should be made, orally or in writing, to the school Principal or to the Chairperson of the Board of Management (BOM). Where this is inappropriate or impossible there is provided a list of "*Prescribed Persons*". In relation to schools, the Prescribed Person is the Secretary General of the Department of Education (DE).

What protections are available to whistle blowers (Disclosers)?

Among the protections are:

- Protection from dismissal.
- Up to 5 years' remuneration for unfair dismissal.
- Protection of identity (subject to certain exceptions)
- Protection from penalisation by the school Board of Management.

What is best practice?

If you as a member of staff have a genuine or reasonable concern that there is wrongdoing in the school you should report it to the Principal. If this is not appropriate or possible you should then report it to the Chairperson of the BOM. Workplace grievances should be reported in the normal manner and are not covered by this policy. It should be noted that while internal reporting is encouraged you have the option to raise concerns outside of the school's Board of Management and report to the Secretary General of the DES.

Procedure

Raising a Concern

Who should you raise your concern with?

As a first step, appropriate concerns should be raised with the Principal. However, should a staff member not wish to use this route, for example given the seriousness and sensitivity of the issues involved, they should approach the Chairperson of the Board of Management.

How to raise a concern

Concerns may be raised verbally or in writing. Should a staff member raise a concern verbally, a discussion will take place between them and the Principal/Chairperson of Board of Management, and the staff member may be advised to put the concern in writing, if it is decided between both parties that there is merit to the concern or disclosure. The written concern/disclosure should give the background and history of the concern, giving relevant details, insofar as is possible, such as dates, sequence of events and description of circumstances. There should be an acknowledgement of all reports received within 7 days. There will be diligent follow-up on all reports received. If a concern is raised anonymously a statement of policy as regards the conditions, if any, under which anonymous reports will be followed up.

Dealing with the disclosure

Having received the written concern, the Board of Management will arrange a meeting to discuss the matter with the staff member on a strictly confidential basis. It will need to be clarified at this point if the concern is appropriate to this procedure or is a matter more appropriate to other procedures, for example the Grievance or Anti Bullying procedures. The staff member can choose whether or not they want to be accompanied by a colleague or a trade union representative. In regard to confidentiality, it is important that there should be an awareness of respecting sensitive school information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

Having met with the staff member in regard to their concern and clarified that the matter is in fact appropriate to this procedure, the Board of Management or its representatives will carry out an initial assessment to examine what actions are needed to be taken to deal with the matter. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.

If, on foot of the initial assessment, it is concluded that there are grounds for concern that cannot be dealt with at this point, an investigation will be conducted which will be carried out fairly and objectively. The form and scope of the investigation will depend on the subject matter of the disclosure.

Disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the appropriate authorities. Likewise, if urgent action is required (for example to remove a health and safety hazard), this action will be taken.

It is important that staff members feel assured that a disclosure made under this policy is taken seriously and that the staff member is kept informed of steps being taken in response to the disclosure. In this regard the school undertakes to communicate with the relevant staff member as follows:

1. Acknowledge receipt of the disclosure and arrange to meet with the relevant staff member as outlined above;
2. Inform the staff member of how it is proposed to investigate the matter and keep them informed of actions, where possible, including the outcome of any investigation, and, should it be the case, why no further investigation will take place. However it is important to note that sometimes the need for confidentiality and legal considerations may prevent the school from giving the staff member specific details of an investigation.
3. Inform the staff member of the likely time scales will be within three months, but in any event, commit to dealing with the matter as quickly as practicable. There is a provision for further feedback to the reporting person at 3 month intervals, on request.
4. It is possible that in the course of an investigation the staff member may be asked to clarify certain matters. To maximise confidentiality, such a meeting can take place outside of the school and they can choose whether or not to be accompanied by a colleague or trade union representative.

5. Where a concern is raised or a disclosure is made in accordance with this policy, but the allegation is subsequently not upheld by an investigation, no action will be taken against the staff member making the disclosure and the staff member will be protected against any penalisation. It is important to note that if an unfounded allegation is found to have been with malicious intent, then disciplinary action may be taken.

How the matter can be taken further

The aim of this policy is to provide an avenue within this school to deal with concerns or disclosures in regard to wrongdoing. The Board of Management is confident that most issues can be dealt with at school level and strongly encourages staff members to report such concerns internally.

If the reporting person doesn't want to report to the school personnel or BoM or reporting to their employer hasn't worked they can report to a regulator, known as a "prescribed person".

A list of prescribed persons can be found at: www.gov.ie/prescribed-persons. They can also report to the Protected Disclosures Commissioner who will refer the report usually to a suitable regulator, for acknowledgement, follow-up and feedback.

Public disclosure

If all other options fail, workers can make a public disclosure. Such disclosures are subject to more stringent conditions to qualify for protection however.

Confidentiality:

Shellybanks ETNS is committed to protecting the identity of the worker, making a protected disclosure and ensuring that protected disclosures are treated in confidence. However, there are circumstances, as outlined in the 2014 Act, where confidentiality cannot be maintained, for example, where the Disclosure makes it clear that they have no objection to their identity being disclosed and/or the identity of the Disclosure is critical to an investigation of the matter raised. If it is decided that confidentiality cannot be maintained in the context of an investigation, the school will inform the Discloser in advance that their identity will be disclosed.

Communication, Monitoring and Review

This policy will be communicated to staff and the school community as appropriate and will be subjected to regular review. In accordance with the systematic cycle of review of policies adopted in February 2023

Policy adopted by Board of Management
on March 2023

Signed
, Chairperson.