

POLICY OF SCOIL MHUIRE CBS MARINO

Document Title:

Whistleblowing Policy

Effective Date:

February 2017

Document No.:5

First Edition

No. of pages: 6

1 Purpose

Scoil Mhuire CBS is committed to the highest possible standards of compliance with our legal requirements. This policy enables employees to make a protected disclosure without fear of penalisation or threat of unfavourable treatment, discrimination or disadvantage.

The policy gives effect to the obligations of Scoil Mhuire CBS pursuant to the *Protected Disclosure Act (2014)*, but does not replace any legal reporting or disclosure requirements arising under other legislation or legal obligations which, where exist, must be fully complied with.

This policy does not replace the Scoil Mhuire's grievance procedure in particular where the issue relates to an individual employee's Contract of Employment.

2 Scope

This policy aims to:

- encourage employees to feel confident about raising concerns about relevant wrongdoings;
- provide an avenue for employees to make protected disclosures about relevant wrongdoings;
- ensure that members of the school community are aware of their responsibilities;
- reassure employees that they will be protected from penalisation for making a protected disclosure in accordance with this policy.

The policy applies to all employees of Scoil Mhuire CBS including temporary employees, trainees and self-employed persons acting on behalf of the school and in certain circumstances the employees of companies that supply the school with goods and services. The policy applies to current, past and prospective employees.

3 Principles

Protected disclosure

This policy deals with disclosures that relate to "relevant wrongdoings" as provided for in the Protected Disclosure Act, 2014 and in summary these are:

- a) Offences that are or are likely to be committed;
- b) Failing to comply with legal obligations;
- c) A miscarriage of justice;
- d) Health and safety risks, including risks to the public as well as to other employees;
- e) Damage to the environment;
- f) The unauthorised use of public funds or resources;
- g) Oppressive, discriminatory or grossly negligent actions or inactions by a public body;
- h) Information showing any matter falling into any of the categories above which may be destroyed.

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A “protected disclosure” under this policy may be about a relevant wrongdoing:

- that is happening now;
- that took place in the past;
- that is about to happen.

Reasonable beliefs

It is sufficient for the employee to have a reasonable belief that information tends to show one or more relevant wrongdoings and that the information came to their attention in connection with their employment.

4 Key Terms

Not applicable

5 Policy

5.1 RAISING A CONCERN

A disclosure about a “relevant wrongdoing” should normally be raised using the current internal disclosure procedures and should be made in writing to the “Protected Disclosure Manager” nominated by the school which will be the Principal and where that is not appropriate, the Deputy Principal.

Employees who wish to make a written disclosure are invited to use the following format and are advised to keep a copy of the disclosure and any information provided:

- I. Give a description of the “relevant wrongdoing”.
- II. Provide any information that tends to show the relevant wrongdoing so as to assist any investigation or the matters raised which may be conducted.
- III. Date the disclosure.
- IV. Give your preferred contact details.
- V. State that the disclosure is made under the Protected Disclosure Act, 2014.
- VI. State if you do or do not expect confidentiality.

5.2 CONFIDENTIALITY

All concerns will be treated confidentially insofar as that is possible unless the employee making the disclosure clearly states that they do not object to having their name associated with it. At an appropriate time, the identity of the person making the disclosure may need to be revealed if it is necessary to facilitate any investigation which it is determined should be carried out.

Employees are encouraged to put their name to a disclosure. Concerns expressed anonymously may be significantly more difficult to assess and, if considered necessary, to investigate.

5.3 RESPONDING TO A PROTECTED DISCLOSURE

Any disclosure made pursuant to this policy will be subjected to an initial screening process to determine whether or not it is a protected disclosure and in particular to consider whether the employee making the disclosure had or could have had a reasonable belief that a relevant

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wrongdoing had taken place and thereafter to determine whether an investigation can or should take place.

Depending on the seriousness of the allegation, disclosures may be referred to the appropriate authorities. Urgent action maybe required before any other investigation is conducted for example, to remove a health and safety hazard.

An initial enquiry will be made to consider whether an investigation can or should take place or whether the matter should be referred to an external agency including an Garda Síochána and/or the HSE.

If it is determined that an investigation should take place, this will be dealt with either internally or externally or may be dealt with in accordance with the school's grievance and disciplinary procedures.

Scoil Mhuire will endeavour to ensure that the Protected Disclosure Manager will write to the employee who has made the disclosure within 21 working days:

- acknowledging that the disclosure has been received;
- indicating in summary form how the organisation proposes to deal with the matter;
- giving an estimate of how long it will take to provide the next response;
- providing an approximate date by which the employee making the disclosure will receive further communications; or
- confirming that no investigation will take place.

In the event of an investigation taking place, the level of communication between the Protected Disclosure Manager (or the person working on their behalf) and the employee making the disclosure will depend on the nature of the matters raised and the nature of the investigation being conducted. Scoil Mhuire does not commit that the person making the disclosure will necessarily have any role in the investigation as that will be a matter for Scoil Mhuire and/or the person conducting the investigation.

5.4 MAKING A DISCLOSURE TO A PROTECTED PERSON

The *Protected Disclosure Act* (2014) provides for certain circumstances in which a disclosure may be made to a protected person. Whether or not this will be appropriate will depend on the nature of the disclosure and employees who are considering making a disclosure to a protected person should inform themselves of their entitlement to do so beforehand.

5.5 RAISING A CONCERN EXTERNALLY OTHER THAN TO A PRESCRIBED PERSON

5.5.1 The Protected Disclosure Act provides for external reporting to other persons which must be reasonable bearing in mind:

- I. the identity of the person to whom the disclosure was made,
- II. the seriousness of the relevant wrongdoing,
- III. whether the relevant wrongdoing is continuing or is likely to continue in the future,
- IV. any action which Scoil Mhuire or the person to whom the previous disclosure was made has taken or might reasonably be expected to have taken as a result of the previous disclosures.

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5.5.2 In addition the employee must reasonably believe:

- I. that the information disclosed in the allegation is substantially true,
- II. the disclosure is not made for personal gain,
- III. in all of the circumstances of the case it is reasonable for the employee to make the disclosure, and
- IV. any one of the following applies:
 - a) That at the time of the disclosure the employee has reason to believe they would be subjected to penalisation by the employer if they made the disclosure under the internal process or to a prescribed person;
 - b) That in the case where there is no “prescribed person” in relation to the relevant wrongdoing, the employee reasonably believes that it is likely that the evidence will be concealed or destroyed if the employee made a disclosure under the internal procedures;
 - c) That the employee previously made a disclosure of substantially the same information under the internal process or to a prescribed person;
 - d) That the relevant wrongdoing is of an exceptional serious nature.

In determining whether it is reasonable for an employee to make an external disclosure, regard shall be had in particular to the matters set out at paragraph 5.5.2 above. Where the employee has previously made a disclosure of substantially the same information internally, regard will also be had to any action which Scoil Mhuire has taken and might reasonably be expected to have taken at the result of the previous disclosures.

5.6 WORKERS OUTSIDE OF SCOIL MHUIRE

Employees from outside Scoil Mhuire performing any work or services for Scoil Mhuire who become aware of a relevant wrongdoing as part of their work with or for Scoil Mhuire, may make a report to the Protected Disclosure Manager in respect of a relevant wrongdoing.

5.7 UNTRUE ALLEGATIONS

If an employee makes a report in accordance with this policy but the information or allegation is subsequently not confirmed by the investigation, then further action may be required. If the employee had a reasonable belief that a relevant wrongdoing had occurred, then the fact that it turns out that no relevant wrongdoing had occurred will not remove the protection from penalisation which the employee enjoys pursuant to this policy and pursuant to the *Protected Disclosure Act*.

If an allegation is made maliciously and/or vexatiously and/or in the knowledge that it is false, then the employee who made the disclosure may be subject to the disciplinary procedure and to a disciplinary sanction up to and including dismissal.

5.8 AN EMPLOYEE WHO IS THE SUBJECT OF A DISCLOSURE

An employee who is the subject of a disclosure is entitled to fair procedures. Any investigation which is required to be conducted will be done in accordance with the rights of the employee to fair procedures and, insofar as is possible, to confidentiality.

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In some circumstances where the fact of an investigation is widely known, the conclusion of the investigation may include an exoneration of the person against whom any allegations were made.

5.9 PROTECTION FROM PENALISATION

Scoil Mhuire is committed to good practice, to support and protect employees who make disclosures under this policy.

Scoil Mhuire is committed to ensure that no employee who makes a protected disclosure in the reasonable belief that a relevant wrongdoing has occurred will be subjected to penalisation which may include any unfair or adverse treatment (where by acts of commission or omission) that result in an employee suffering an unfavourable change in his or her conditions of employment including (but not limited to) suspension, lay off, dismissal or the threat of suspension, lay off or dismissal, demotion or loss of opportunity for promotion, transfer of duties, change of provision of work, reduction in wages or changes in working hours, imposition of any disciplinary reprimand or other penalty, unequal treatment under any policies, unfair selection for classes or attendance at events, coercion, intimidation, discrimination, disadvantage, unfair treatment, injury, damage or loss, treats of appraisal, verbal harassment, written harassment or intimidatory harassment, isolation or exclusion from activities or bullying.

Scoil Mhuire will not penalise or threaten to penalise an employee for making a protected disclosure and will not allow any other person to penalise or threaten penalisation for having made a protected disclosure in accordance with this policy.

If any employee believes that they have been subjected to penalisation then they should bring their concerns to the attention of management in accordance with the grievance procedure or otherwise as may be appropriate.

Any employee found to have penalised or threatened penalisation against any employee for having made a protected disclosure may be the subject of the disciplinary procedure.

5.10 COMMUNICATION, MONITORING, AND REVIEW

This policy will be communicated to all employees and will be monitored for its effectiveness and will be reviewed by the Board of Management at a minimum every three years.

6 Appendices

There are no appendices attached

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7 Approval & Review

Initial Approval

Chairperson of Board of Management

Effective Date

Month/Year

Review date

1st Review Approval

2nd Review Approval

Chairperson of Board of Management

Chairperson of Board of Management

Effective Date

Effective Date

Month/Year

Month/Year

Review date

Review date

