

# STANDARD 1

## CREATING AND MAINTAINING SAFE ENVIRONMENTS GUIDANCE FOR INDICATOR 1.6

### 1.6A Guidance on Whistle-Blowing

#### 1. Introduction

Allegations, suspicions, knowledge and concerns about the abuse of a child which meet the threshold must be reported to statutory authorities and Church authority (if the allegation related to a cleric or religious) (see guidance 2.1A).

This guidance relates to concerns about malpractice in child safeguarding.

All staff and volunteers ministering or volunteering within the Catholic Church in Ireland have an individual responsibility to bring matters of concern about any dereliction of duty to safeguard children, to the attention of the appropriate person within the Church or statutory authorities. This could be the parish priest, religious superior, bishop, provincial and/or relevant agency managers. Although this can be difficult to do, it is particularly important where the welfare of children may be at risk.

You may be the first to recognise that something is wrong, but you may not feel able to express your concerns out of a feeling that this would be disloyal to colleagues, or you may fear harassment or victimisation. These feelings, however natural, must never result in a child or young person continuing to be unnecessarily at risk. Children need an advocate to safeguard their welfare.

**Don't think, 'what if I'm wrong?' Think, 'what if I'm right!'**

#### 2. What is whistleblowing?

Whistleblowing can be defined as 'raising concerns about wrong-doing or misconduct within an organisation or within an independent structure associated with it'. It differs from raising concerns about allegations of abuse.

The concern could relate to:

- a breach of the Church Body's child safeguarding procedures
- practice which falls below the standards set out in "Safeguarding Children, Policy and Standards for the Catholic Church in Ireland 2016"
- a breach of the law
- failure to comply with legal obligations
- a possible miscarriage of justice
- a Health & Safety risk
- misuse of public money
- corruption or unethical conduct
- deliberate concealment of any of these matters

Those in ministry within the Church have certain common law confidentiality obligations to their Church Authority. However, in a limited set of circumstances, whistleblowing may override these

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obligations if a person has information which they believe will not be addressed properly within the Church.

This guidance sets out the circumstances under which these disclosures may lawfully be made.

### 3. Legislation underpinning whistleblowing

There is legislation in both jurisdictions related to whistleblowing; and this applies to clerics, religious, and employees of Church bodies, as well as to agency workers in certain circumstances; to contractors and consultants engaged on contract by the Church body; and to trainees, temporary workers and those on work experience with the Church body. It does not apply to volunteers.

#### Republic of Ireland

In the Republic of Ireland the legislation is called the Protected Disclosures Act 2014, a guide to which can be accessed electronically at [www.raiseaconcern.com/legislation/raiseaconcern-easy-guide-to-pdpa#accept](http://www.raiseaconcern.com/legislation/raiseaconcern-easy-guide-to-pdpa#accept).

The Protected Disclosures Act 2014 aims to protect people who raise concerns about possible wrongdoing in the workplace. The Act, which came into effect on 15 July 2014, is often called the whistleblower legislation. It provides for redress for employees who are dismissed or otherwise penalised for having reported possible wrongdoing in the workplace.

Under the Act, a protected disclosure is made by church personnel who disclose relevant information in a particular way. Information is relevant if it came to the Church personnel's attention in connection with their ministry or employment and they reasonably believe that it tends to show wrongdoing.

Wrongdoing is widely defined in the Act and includes bullet points above:

- Commission of criminal offences
- Failure to comply with legal obligations
- Endangering the health and safety of individuals
- Damaging the environment
- Miscarriage of justice, misuse of public funds Oppressive, discriminatory, grossly negligent or grossly mismanaged acts or omissions by a public body
- Concealment or destruction of information about any of the above wrongdoing

Wrongdoing can take place in or outside the State.

#### Northern Ireland

In Northern Ireland the law that covers whistleblowing is The Public Interest Disclosure (Northern Ireland) Order 1998, (as amended in October 2017). Blowing the whistle is more formally known as 'making a disclosure in the public interest'. The law states the importance of disclosing concerns, knowing that you are protected from losing your job and/ or being victimised as a result of what you have uncovered and made public.

An easy-to-read guide to the effect of this legislation is available to download from [www.economy-ni.gov.uk/sites/default/files/publications/economy/public-interest-disclosure-guidance.pdf](http://www.economy-ni.gov.uk/sites/default/files/publications/economy/public-interest-disclosure-guidance.pdf)

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### **4. Raising a concern of malpractice (In law this is called a disclosure)**

For Church personnel and employees raising a concern/disclosure of malpractice, to be protected by the law, the concern/disclosure must be made to the right person and in the right way. If someone makes a qualifying disclosure in good faith to a Church Authority, or through Church procedures which the Church Authority has authorised, the law protects that person.

It is important to:

- Voice any concerns, suspicions or uneasiness as soon as possible. The earlier a concern is expressed the sooner and easier action can be taken;
- Try to pinpoint exactly what practice is concerning and why;
- Approach your immediate superior/supervisor/manager;
- If your concern is about your immediate superior/supervisor/manager, please contact your DLP, the statutory services or the National Board;
- Confirm your concerns with factual information (dates, times details, history, giving names, dates, locations and any other relevant information) in writing;
- You are not expected to prove the truth of your disclosure, but you need to demonstrate sufficient grounds for concern.
- Seek a satisfactory response in writing; do not let matters rest, if you do not receive a response within a reasonable timeframe, write again seeking a written response. A failure to respond should be included in any further disclosure to the statutory authorities or the National Board.
- Follow up if the person to whom you reported has not responded within a reasonable period of time, and if that follow up is not acted upon, report the matter to the relevant statutory authorities.

### **5. Required response by relevant Church authority**

- The Church person to whom the disclosure is made should acknowledge receipt in writing within 7 days of receiving it.
- Relevant information on the nature and progress of any enquiries resulting from the concern may be shared with the person who made the disclosure. It is acknowledged that confidential sensitive data cannot be shared so the response should include general information about internal inquiries and statutory referrals made.
- The Church person to whom the disclosure is made should keep detailed notes of the disclosure, action taken, who was consulted and the outcome of the inquiries.

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### 6. Protection of whistleblower

- Anyone who raises a concern through these whistleblowing procedures in good faith must be protected from harassment or victimisation.
- Whilst reporting may remain confidential, in most instances this cannot be guaranteed. Everyone has the right to know who makes a complaint against them. This should not deter one from raising the concern, but is a reminder of the importance of providing evidence to support the concern.
- No action will be taken against the whistleblower if the concern proves to be unfounded and was raised in good faith.
- However if the disclosure is made through malicious intent, and there is evidence to support this, this will be considered a disciplinary offence.

### 7. Self-reporting

There may be occasions when a member of staff or a volunteer has a personal difficulty, perhaps a physical or mental health problem, which they know to be impinging on their professional competence. Staff and volunteers have a responsibility to discuss such a situation with their line supervisor/superior/manager so that professional and personal support can be offered to the member concerned.

### 8. Disclosure to an external person, other than statutory bodies, government officials or the National Board.

A disclosure made to an external person, for example, a journalist, may be a protected disclosure if it meets a number of conditions:

- You must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- You must not make the disclosure for personal gain
- The making of the disclosure in public is in all the circumstances, reasonable

At least one of these conditions must be met:

- At the time you make the disclosure you must reasonably believe that you will be penalised if you make the disclosure to the Church authority, statutory personnel or a government minister, or National Board.
- Where you reasonably believe that it is likely that the evidence will be concealed or destroyed if you make the disclosure directly to the Church Authority, statutory body or National Board
- You have previously made a disclosure of substantially the same information to the Church Authority, statutory personnel, government minister or National Board.
- The wrongdoing is of an exceptionally serious nature

The assessment of what is reasonable takes account of, among other things; the person the disclosure is made to, the seriousness of the wrongdoing, and whether any action was taken in cases where a previous disclosure was made.

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### 1.6A Template 1: Whistle-Blowing Record

<b>Section 1 – to be completed by person raising a concern of malpractice</b>	
Name of Person raising Concern	
Name of Person and Church body against whom the Concern is being raised	
Brief Details (factual) of the Concern	
Date and person to whom the concern was raised	
<b>Section 2 – Response by recipient of Concern</b>	
Date Concern was reviewed and assessment of facts <ul style="list-style-type: none"><li>• Concern requires further inquiry</li><li>• No further action (state reasons)</li></ul>	
Details of action taken Include: <ul style="list-style-type: none"><li>• Any referral to statutory agency</li><li>• Consultation with National Board</li><li>• Restrictions on ministry</li><li>• Report to Holy See</li></ul>	
Date and details of response given to person who raised concern	