

# Protected Disclosures Policy

21 January 2025

Version 3.0

<b>Document Details</b>	
Document Title:	<b>Protected Disclosures Policy</b>
Version:	3.0
Approved By:	Governing Body
Date Approved:	21 January 2025
Effective Date:	21 January 2025
Next Review Date:	21 January 2028
Policy Owner:	Vice President Governance / University Secretary

<b>Revision History</b>			
<b>Previous Version No.</b>	<b>Summary of Amendments</b>	<b>Approval date</b>	<b>Version No.</b>
n/a	Approved by Governing Body	26 July 2022	1.0
1.0	Updated in respect of the Protected Disclosures Amendment Act 2022	July 2023	2.0
2.0	<b>6 September 2023 - reviewed by the Policy Review Group:</b> Recommended to extend for 3 years and submit to the Governing Body for approval	-	2.0
2.0	Approved by Governing Body	12 September 2023	2.0
2.0	Updated in respect of DPENDR Statutory Guidance – Changes made following Policy committee recommendations on 9 January 2025	9 January 2025	2.0
2.0	Approved by Governing Body	21 January 2025	3.0

<b>Publication Details</b>	
<b>Where</b>	<b>Date</b>
SETU Website	Version 3.0 (27 January 2025)
Drive/Public/HR/Policies	
All Staff Email	

## Table of Contents

1. Introduction	4
2. Scope	4
3. Purpose	5
4. Roles & Responsibilities	5
5. Relevant Wrongdoing	6
6. Protected Disclosure vs Grievance	7
7. Protection	7
8. Anonymous Disclosures	10
9. Disclosure Process	10
10. Process on receipt of a disclosure (under formal reporting process)	12
11. Other avenues of disclosure	15
12. Subject of the Disclosure	16
13. Representation	16
14. Records	17
15. Reporting	17
16. Policy updates	18
17. Training	18
18. Policy Author	18
APPENDIX 1 Advice for staff making a disclosure	19
APPENDIX 2 Roles & Responsibilities	20
APPENDIX 3 Definitions	23
APPENDIX 4 Integrity at Work Pledge	25
APPENDIX 5 Contact details for Designated Person (s)	26
APPENDIX 6 Other Policies for Complaints or Grievances	27
ANNEX 1 - Investigation procedure	28
ANNEX 2 Addressing report of penalisation	31

## 1. Introduction

1.1 SETU is committed to the highest possible standards of openness, probity and accountability. SETU has put in place a wide range of rules, regulations, procedures and codes of practice to deliver on its commitments and to deter malpractice, abuse and wrongdoing.

1.2 Malpractice, abuse or wrongdoing will not be tolerated within SETU or in any activities related to SETU. SETU encourages members of the SETU community who have reasonably held concerns about such wrongdoings to come forward and voice those concerns, without fear of reprisal.

1.3 This Policy has been introduced by SETU to enable workers to raise concerns and disclose information regarding wrongdoing that has come to their attention in a work-related context, in the knowledge that they can avail of significant employment and other protections if they are penalised or victimised by their employer or suffer any detriment for doing so.

1.4 This Policy does not address all possible situations that may arise but is intended to provide guidance on the procedure to make protected disclosures under the Protected Disclosures Act 2014 as amended (the Act).

## 2. Scope

2.1 This policy applies to all SETU workers at all levels. The term 'worker(s)' or 'Reporting Person' in this policy is very broad (and are used interchangeably) and refers to employees, independent contractors, suppliers, board members, volunteers, agency workers and/or work experience students or trainees, job candidates, shareholders, temporary employees and former employees. The term 'worker' also applies to workers connected to subsidiary companies of SETU.

2.2 Members of the public can report a concern by emailing [protecteddisclosures@setu.ie](mailto:protecteddisclosures@setu.ie)

2.3 Concerns raised under section 2.2 may not come under the provisions of the Act, however they will be given serious consideration by the University.

2.4 This Policy is designed to encourage workers, where they have a reasonable belief that wrongdoing has occurred, is occurring or is likely to occur, to disclose information about this wrongdoing through an appropriate channel.

2.5 This policy is intended to deal with concerns about wrongdoing as defined in section 5.1 below. Should a worker have a concern which is exclusively in relation to their own employment or personal circumstances in the workplace, it should generally be dealt with by way of the Grievance Procedure. Likewise,

concerns arising in regard to workplace relationships should generally be dealt with through the Dignity & Respect policy. See Appendix 6 for other relevant policies for reporting complaints or grievances.

2.6 This policy does not oblige a worker to make a protected disclosure and it also does not absolve any worker from mandatory reporting obligations under other legislation, such as that required under the Children First Act 2015. Where statutory reporting requirements or procedures exist, these must be fully complied with.

2.7 Once a protected disclosure has been made in accordance with the Act, it is not possible for a Reporting Person to withdraw the disclosure (See Section 9.7)

### **3. Purpose**

3.1 The Protected Disclosure Policy sets out the principles SETU will apply in dealing with protected disclosures.<sup>1</sup> This policy aims to give effect to the obligations and provisions of the Protected Disclosures Act 2014 as amended.

3.2 The intention of the policy and procedures is:

- To protect public interest by encouraging and facilitating the reporting of a wrongdoing;
- To provide clear guidance on reporting wrongdoing at work (see section 5.1 for a list of ‘relevant wrongdoings’);
- To develop an ethos of transparency and trust within the University;
- To encourage workers to feel confident and safe in raising concerns and disclosing information;
- To provide avenues for workers to raise concerns in confidence and receive feedback on any action taken;
- To ensure that workers receive a response where possible to their concerns and the information disclosed;
- To reassure workers that they will be protected from penalisation or any threat of penalisation;
- To make workers aware of support available;
- To deter wrongdoing in the University;
- To assist with the early detection and remediation of potential wrongdoings;
- To build a responsible, ethical, and trustworthy organisational culture.

### **4. Roles & Responsibilities**

4.1 The overall responsibility for this policy falls within the remit of the President of the University. The President is supported and advised in this by SETU Governing Body.

4.2 There are certain roles within the University that have specific responsibilities attached. The full list of roles and associated responsibilities are set out in Appendix 2 of this policy.

---

<sup>1</sup>As outlined in [DPER Protected Disclosures Act Statutory Guidance for Public Bodies & Prescribed Persons](#)

4.3 The Internal Auditor is the Designated Person with day-to-day responsibility for the handling of reports. (See Appendix 5)

## 5. Relevant Wrongdoing

5.1 For a worker to be protected, they must reasonably believe the subject matter of the disclosure tends to show one or more relevant wrongdoings and have come to the worker's attention in a work-related context.<sup>2</sup>

Relevant wrongdoings are defined under the Act<sup>3</sup> as:

- a) an offence has been, is being or is likely to be committed;
- b) 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 services;
- c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- d) that the health or safety of any individual has been, is being or is likely to be endangered;
- e) that the environment has been, is being or is likely to be damaged;
- f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has, is or is likely to occur;
- g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;
- h) that a breach of EU law has occurred, is occurring or is likely to occur; or
- i) that information tending to show any matter outlined above 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.

5.2 A 'protected disclosure' under this policy may be about a relevant wrongdoing:

- That is happening now
- That took place in the past
- That is likely to happen

---

<sup>2</sup> It is worth noting that some workers may share information that falls outside the definition of 'relevant wrongdoing' under the Act. If a worker shares information that is not a relevant wrongdoing as defined under the Act, then they may not be protected under the Act. If uncertain, it is important to seek legal advice before making a disclosure. See Appendix 1 for advice on making a disclosure.

<sup>3</sup> Protected Disclosure Act 2014 Section 5 (3)

5.3 A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker or the worker's employer to detect, investigate or prosecute<sup>4</sup> and does not consist of or involve an act or omission on the part of the employer.

5.4 The motivation for making a disclosure by a worker is irrelevant as to whether or not it is a protected disclosure. The worker will be protected if they reasonably believe when making the report that the information disclosed tended to show a relevant wrongdoing.

## 6. Protected Disclosure vs Grievance

6.1 This policy does not generally cover personal complaints or personal grievances or matters otherwise falling under a worker's personal contract of employment or engagement. A matter concerning interpersonal grievances or a complaint concerning the reporting person which **exclusively** affects the Reporting Person, (e.g. interpersonal conflicts involving the Reporting Person and another worker) is not a relevant wrongdoing for the purposes of the Act and may be dealt with under other policies. See [Appendix 6](#) for relevant policies.

6.2 Workers are expected to use the most appropriate and relevant procedure in relation to issues as they arise. Where a procedure already exists for the raising of an issue, then the worker is expected to follow the relevant procedure, for example a Grievance Procedure. While some grievances may also be protected disclosures, grievances that solely relate to a personal employment grievance, **and only affects an individual**, is not considered a protected disclosure.

## 7. Protection

7.1 Workers who make a disclosure under this Policy will not be at risk of losing their job/position or suffering any form of retribution (including those listed in section 7.2 below) as a result, except where the worker has been complicit in the malpractice, abuse or wrongdoing itself.

So long as they have not been complicit, workers will be protected even if the report is found to be mistaken, provided they:

- Are raising concerns and disclosing information regarding potential wrongdoing that has come to their attention in a work-related context and
- Have a reasonable belief that the information disclosed tends to show a

---

<sup>4</sup> The language of "function to detect, to investigate or to prosecute" connotes either a public law role or at least an official role pursuant to a particular contractual obligation in detecting, investigating or prosecuting rather than a role which might be implied as arising from the general duties on an employer.

relevant wrongdoing.

## Penalisation

7.2 A worker cannot be penalised for making a disclosure. Penalisation includes<sup>5</sup> but is not limited to:

- Suspension, lay-off or dismissal;
- Demotion, loss of opportunity for promotion or withholding of promotion;
- Transfer of duties, change of work location, 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/victimisation 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 worker had a legitimate expectation that he/she would be offered permanent employment;
- Failure to renew or early termination of a temporary employment contract;
- Harm including to the workers reputation, particularly in social media, or financial loss, including the 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, and
- Psychiatric or medical referrals.

7.3 SETU will not tolerate any harassment or victimisation of a worker who has made a disclosure under this policy (including informal pressures) and commits to assess/investigate all notifications of penalisation and take appropriate action where necessary. Workers who penalise or retaliate against those who have raised concerns under this policy will be subject to disciplinary action. Further, the penalisation of a worker who makes a protected disclosure may constitute a criminal offence.

7.4 Any worker who believes they are being/have been penalised for making a protected disclosure should contact the Designated Person (See Appendix 5 for details) ([protecteddisclosures@setu.ie](mailto:protecteddisclosures@setu.ie)) or the VP People, Culture & EDI as soon as

---

<sup>5</sup> Protected Disclosures Act 2014 (as amended) Section 3 (a) (ii)



possible. Such notifications will be addressed promptly. For further information, see Section 9.

7.5 The motivation for making a disclosure is not relevant to whether or not the worker is protected. A worker does not need to be certain about the facts in their disclosure, it is sufficient that in the reasonable belief of the worker, the information tends to show one or more relevant wrongdoings and the information came to the attention of the worker in a work-related context. The worker is not required to investigate their concerns in order for them to have a reasonable belief.

7.6 While SETU welcomes the submission of all genuine disclosures which the worker reasonably believes to be true, it will nevertheless view very seriously any knowingly false or vexatious allegations that are made under this policy. SETU will regard such allegations as a serious matter which could result in disciplinary action. Disclosure of knowingly false information could potentially constitute a criminal offence under the Act. A report made in the absence of a reasonable belief will not be entitled to the protections of the Act.

#### Protection of Identity of Reporting Person

7.7 SETU will treat all disclosures made under this policy in a confidential and sensitive manner. Subject to exceptions, the identity of the Reporting Person or any information from which their identity may be directly or indirectly deduced will not be shared with anyone other than persons authorised to receive, handle or follow-up on reports made under this policy without the explicit consent of the Reporting Person. The breaching of confidentiality provisions may constitute a criminal offence under the Act, as amended. At the appropriate time, the identity of the Reporting Person may need to be revealed if it is necessary for the investigation and in accordance with the principles of natural justice and fair procedures<sup>6</sup>.

7.8 Where a decision is taken to disclose the identity of the Reporting Person, where at all possible, they will be provided with advance notification in writing, outlining the reasons why, and the opportunity to make any representations.

7.9 Workers who are concerned that their identity is not being protected should notify the Designated Person or the Vice President People, Culture & EDI as soon as possible. Such notifications will be addressed promptly.

---

<sup>6</sup> Possible reasons: person to whom the disclosure was made shows they took all reasonable steps to avoid such disclosure; reasonable belief that it was necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment; disclosure is otherwise required by law or the disclosure is a necessary and proportionate obligation imposed by union law / or law of State in context of investigations or judicial proceedings (including with a view to safeguarding the rights of defence of the person concerned).

7.10 SETU will not ask a worker (or former worker) to waive their right to make a protected disclosure under any circumstances.

## **8. Anonymous Disclosures**

8.1 There is a distinction between anonymous disclosures (where identity is withheld by the Reporting Person) and confidential disclosures (where identity of the Reporting Person is protected by the recipient of the disclosure). Anonymous disclosures made by workers are not excluded from the protections of the Act and SETU will accept and consider such disclosures to the extent that is possible in the circumstances.

8.2 Anonymous disclosures may be considered and investigated, to the extent that this is possible in the circumstances, at the discretion of the Executive Review Group. (See Appendix 2) When exercising this discretion, the Executive Review Group shall take into account factors such as:

- The seriousness of the issues raised;
- The credibility of the disclosure;
- The likelihood of being able to investigate and confirm the allegation (using alternative sources if possible); and
- The requirements of fairness with reference to any individual named in the disclosure.

8.3 Anonymous disclosures may be less capable of being addressed as it may be difficult to investigate and to corroborate facts. It may also be difficult to protect the worker from any penalisation that may arise as a result of having made the disclosure. SETU encourages workers to put their name to disclosures where possible or to provide a means of continuing communication e.g., an anonymised email address.

## **9. Disclosure Process**

9.1 The Protected Disclosures Act, as amended, provides for a number of avenues of disclosure:

- An Employer/or other responsible person<sup>7</sup>
- A Minister
- A Trade Union Official or Legal Advisor
- A Prescribed Person i.e. a Body/Person prescribed by the Minister

---

<sup>7</sup> In situations where the worker reasonably believes that the relevant wrongdoing relates to the conduct of a person other than their employer, or in situations where someone other than the employer has legal responsibility, the worker may disclose to the relevant responsible person or body.

- Relevant institutions, bodies, offices or agencies of European Union<sup>8</sup>
- Others<sup>9</sup>

## Formal Reporting

9.2 The first avenue for disclosing information is internal to SETU. Such disclosures can be made verbally or in writing directly to the Designated Person via email or by using the Notification Form available on the protected disclosures webpage. This is referred to as **formal reporting**. See Appendix 5 for contact details.

9.3 In order to allow SETU to effectively manage disclosures, verbal disclosures will be recorded, either electronically, or in writing. The Designated Person will arrange to meet with the Reporting Person so that this can be accommodated. Reports via telephone must also be recorded, either electronically, or in writing by the recipient. Permission to record disclosures electronically must be sought from the Reporting Person.

9.4 Where the disclosure is made in the format described in Section 9.3, the Designated Person will ensure that the Reporting Person is given the opportunity to check, review, and amend, as appropriate, the transcript of the report taken by the Designated Person. A record of agreement will be kept by way of signature or by way of a confirming email (where the disclosure is anonymous) from the reporting person.

9.5 Workers can also make a formal disclosure to the Worker's line manager, or to the Vice President (VP) for Governance / University Secretary. Where a disclosure has been made to the VP for Governance / University Secretary and/or the line manager, the disclosure will be passed to the Designated Person for assessment and action. The Designated Person will notify all formal disclosures to the President and will liaise with the Executive Review Group for action as appropriate. The Designated Person will also inform the Chair of the Audit and Risk Committee that a disclosure has been received.

## Informal Reporting

9.6 Where the concern raised is relatively straight-forward, or is not very serious, or does not require consideration of the making of an adverse finding about any individual, such as initial health and safety issues, it can be raised directly with the Worker's line manager. This is referred to as **informal reporting**. The line manager can address the concern in the first instance. The line manager

---

<sup>8</sup> Where there is reasonable grounds to believe that the information on breaches reported was true at the time of reporting and that such information fell within the scope of the EU Directive 2019/1937.

<sup>9</sup> 'Others' can include journalists or public representatives. There are very specific criteria for choosing to report in this way, see 11.1 below.

may seek advice from the Designated Person) to determine if a matter should be dealt with formally under this policy / procedure. The Worker may still be entitled to protection under the Act irrespective of whether the disclosure is formally investigated provided the disclosure is made in a manner consistent with the Act.

9.7 Once a protected disclosure has been made in accordance with the Act, (either on a formal or informal basis) it is not possible for a Reporting Person to withdraw the disclosure. Reporting Persons are required under the Act to co-operate with a Prescribed Person, the Office of the Protected Disclosures Commissioner (See Section 11.6) or a person to whom a report is transmitted to such extent as may reasonably and lawfully be required for the purposes of the Act.

9.8 It should be noted that if a disclosure is made during an investigation or disciplinary process, it does not affect either of those distinct processes.

## **10. Process on receipt of a disclosure (under formal reporting process)**

10.1 Within 7 working days of a disclosure being received, the Designated Person will reply to the Reporting Person who made the disclosure:

- Acknowledging that the concern has been received;
- Indicating that the matter is being dealt with;
- Informing them that further communications will take place;
- Signposting them to available support services.

10.2 Once a report has been received, the Designated Person will notify the President of its receipt, carry out an initial assessment (including a risk assessment Section 10.3) and furnish this assessment to the Executive Review Group. The Executive Review Group will review the assessment report, and determine the appropriate course of action. In the event that an investigation is required, the Executive Review Group will develop terms of reference to progress the investigation and related matters. See Annex 1 for investigation procedures.

10.3 The Designated Person will also inform the Chair of the Audit and Risk Committee that a disclosure has been received. The Chair of the Audit and Risk Committee is the Independent Oversight Person (see Appendix 2). The Independent Oversight person provides objective oversight of the disclosure process including, any concluding reports drafted by the Executive Review Group / External Assessor.

10.4 A detailed risk assessment will be carried out by the Designated Person in consultation with the Reporting Person in order to identify the extent to which the Reporting Person may be at risk of penalisation because of their report. The risk assessment will include recommended measures to be put in place in order to

mitigate these risks.

10.5 As referenced in section 9.6, where the relevant wrongdoing alleged in the disclosure is relatively straight-forward, or is not very serious, or does not require consideration of the making of an adverse finding about any individual, the Executive Review Group may decide to use an informal process to address the disclosure. Where possible and appropriate the Reporting Person will be consulted to determine if they are agreeable to the informal approach. The Reporting Person is still protected under the Act for informal reports.

10.6 The Reporting Person will be informed in writing, by the Designated Person, where it is deemed necessary to progress a disclosure from an informal to a formal process.

10.7 The Designated Person will provide feedback in relation to the status of the disclosure to the Reporting Person within 3 months of acknowledgement of receipt of the disclosure, and upon written request at 3 months intervals thereafter, until the process has been concluded. Feedback is provided in confidence and should not be disclosed further by the Reporting Person, other than their legal advisor or trade union representative.

10.8 Employees of SETU, including Executive Management, may be called on by the Executive Review Group to provide information relevant to the disclosure in order to assist in establishing further facts. Additionally, where appropriate, Executive Management may be asked to assist in the process. Those who are called upon must not disclose the identity of the Reporting Person. Every effort will be made to ensure that any potential conflicts of interest are identified and that a completely objective and impartial process is assured.

10.9 Actual, perceived or potential conflicts of interest that may arise at any stage of the process will be managed appropriately in line with the Conflicts of Interest policy. Where an actual, perceived or potential conflict relates to the President or Chair of the Audit and Risk Committee, the Chair of the Governing Body will be notified by the Designated Person of the receipt of the disclosure.

10.10 The identity of the reporting person (or any information that might reveal the identity of the reporting person) cannot be shared without the explicit consent of the reporting person, other than strictly within the provisions permitted in the Act. (See section 7.7 and 7.8)

10.11 If the Executive Review Group deems it appropriate, they may call on external expertise at their discretion in order to assist them.

10.12 The Designated Person should ensure the Reporting Person is aware of the timetable for the assessment and is assured that the outcome will be

communicated with them in due course.

10.13 Having carried out the initial assessment, the Executive Review Group may decide that the matter should be dealt with under a different policy and, if so, will provide advice to the Reporting Person as to the steps to take.

10.14 The Executive Review Group may assess that the matter does not meet the criteria of a relevant wrongdoing under the Act and if so, the Designated Person will advise the Reporting Person accordingly. The Reporting Person has a right to request a review of this decision, see Section 10.20.

10.15 Where the assessment concludes a full investigation is deemed appropriate, the Executive Review Group will develop a Terms of Reference to include details of who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to.

10.16 Where it is considered appropriate, the matters raised may be referred to external agencies to investigate, e.g., the Gardaí or through some other form of independent enquiry, including services obtained through the Office of Government Procurement Framework for receipt and investigation of protected disclosures.

10.17 The person/persons appointed to carry out the investigation will provide a written report to the Executive Review Group detailing their findings and recommendation(s) for consideration.

10.18 Upon receipt of the Investigator's report, the Executive Review Group will decide on the necessary action that is required

10.19 The Reporting Person will be informed in confidence what action has taken place where appropriate, however it may not be possible to provide details of that appropriate action.

10.20 The Reporting Person has a right to request an appeal of the outcome of any assessment and/or the outcome of any investigation undertaken in respect of the protected disclosure. Such requests should be made to the Designated Person within 10 working days of the Reporting Person having received a decision.

10.21 On completion of a review appeals process, the Designated Person will advise the Reporting Person of the outcome in writing.

10.22 Where a protected disclosure concerns a member of the Executive Review Group, the Designated Person shall follow the steps above with the Alternate Review Group.

10.23 Where the Executive Review Group deem it necessary, they may seek advice from the Advisory Body (Appendix 3) on the appropriate next steps.

## 11. Other avenues of disclosure

11.1 The preferable course of action is for the Reporting Person to make the disclosure to the employer (**the University**) and, if that is not suitable, to use one of the options set out below. (Sections 11.2 – 11.6).

11.2 Disclosures can also be made by public sector workers to the **Minister for Further and Higher Education, Research, Innovation and Science**.<sup>10</sup> If a report is made to the Minister, it will within 10 days be transmitted, without consideration, directly to the Protected Disclosures Commissioner.

11.3 The Act provides for a wider disclosure by the Worker to ‘**others**’ which includes disclosure to the media. In order for the Reporting Person to benefit from protection for disclosure to a person other than their employer, a responsible person, a prescribed person, the Commissioner, a legal advisor or a Minister, the Act requires that additional specific – and more onerous – criteria are satisfied.

The worker must reasonably believe the information disclosed in the report to be substantially true and at least one of the following conditions is met:

- The Reporting Person has previously made a disclosure of substantially the same information to the University or other responsible person, to a prescribed person, to the Protected Disclosures Commissioner or to the Minister and no appropriate action was taken in response to the report within the specified time period; or
- The Reporting Person 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; or
- The Reporting Person reasonably believes that if they were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that there is a risk of penalization; or
- The Reporting Person reasonably believes that if they were to make a report to a prescribed person, the Protected Disclosures Commissioner or a relevant Minister that 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.
- Workers are advised to seek legal advice before opting to make a disclosure in this way.

---

<sup>10</sup> Guidance is available at <https://www.gov.ie/en/organisation-information/27e82-make-a-protected-disclosure/>.

11.4 Disclosures made to a legal advisor and / or to a trade union official in the course of obtaining legal advice are also protected under the Act.

11.5 A further avenue of disclosure is to a **Prescribed Person** as outlined in the Act. An example of this would be a disclosure made to the Comptroller & Auditor General or to the Chief Executive of the Higher Education Authority. When a worker chooses to disclose in this manner, they must reasonably believe that the relevant wrongdoing falls within the remit of the Prescribed Person and that the information disclosed, and any allegation contained in it, are substantially true.<sup>11</sup>

11.6 Disclosures can also be made directly to **the Office of the Protected Disclosures Commissioner** under the same conditions that apply to making a disclosure to a prescribed person. The Commissioner has specific powers and responsibilities under the Protected Disclosures Act. The Commissioner's primary duty is to refer to any reports received under the Act to the most appropriate prescribed person (or other suitable person if a prescribed person cannot be identified). The Commissioner may directly follow up on a report only where an appropriate prescribed person or suitable person cannot be identified.

11.7 Reporting Persons are invited to make an internal disclosure under this policy, even where they have already made an external disclosure so that SETU can take steps to ensure that they are protected from any form of retaliation or detrimental treatment for reporting wrongdoing.

## 12. Subject of the Disclosure

12.1 A worker who is the subject of a disclosure (Person Concerned) is entitled to fair treatment. While an investigation is ongoing, all reasonable steps will be taken to protect the confidentiality of any persons concerned who are the subject of a protected disclosure pending the outcome of the investigation.

## 13 Representation

13.1 Any worker making a protected disclosure (Reporting Person) or any worker against whom an allegation has been made (person concerned) must have their constitutional right to natural justice and fair procedures upheld in accordance with all relevant employment legislation. In this regard, appropriate representation, if requested, will be accommodated. For the purposes of this policy, representation includes a colleague of the worker's choice or a

---

<sup>11</sup> A list of Prescribed Persons can be found at <https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/>



representative of a recognised trade union which holds the negotiating rights for the grade of the worker.

## **14 Records**

14.1 Records associated with disclosures, including the outcome of any investigations, shall be retained, in accordance with SETU's Data Retention Policy. All such records shall be maintained in a confidential and secure environment.

14.2 SETU will put in place such measures as are considered appropriate to ensure that access to records associated with disclosures is restricted to authorised persons only. In general, only the Designated Person (DP) will have access to these records. A system of encrypted folders and electronic password safes will be utilised to ensure confidentiality is maintained.

14.3 The Freedom of Information Act 2014 (the "FOI Act") has been amended by the Protected Disclosures Act as amended. As a result of this amendment, the FOI Act does not apply to a record relating to a disclosure made under the Act, whether the disclosure was made before or after the date of the passing of the Protected Disclosures (Amendment) Act 2022. Records concerning a public body's general administration of protected disclosures are still subject to FOI.

14.4 The Act as amended also contains certain restrictions to the rights of data subjects under data protection law in respect of their personal data processed for the purposes of the Act, including receiving, dealing with or transmitting a report of a disclosure or follow-up on such a report.

The restrictions also apply where it is necessary and proportionate:

- (a) to prevent the disclosure of information that might identify the Reporting Person, where such disclosure of identity would be contrary to the protections of the Protected Disclosures Act; or
- (b) where exercise of the right would prejudice the effective follow-up, including any investigation, of the relevant wrongdoing.

These restrictions will apply to a subject access request if the personal data requested falls under points (a) and (b) above.

## **15 Reporting**

15.1 The Audit & Risk Committee (ARC) will include relevant updates on disclosures in their reports to the Governing Body whilst preserving all necessary confidentiality obligations.

15.2 The Governing Body will make an annual report to the Minister, (before 1

March each year) in the format prescribed by the Minister as required under the Protected Disclosures Act which will also be published on SETU's website. This report will not enable the identification of the person involved to be revealed. It will, however, include the number of disclosures made, the action (if any) taken in response and other such information and action taken, and any other information as may be requested by the Minister. The report will also confirm that the University has internal and external reporting channels and procedures as required by legislation.

## **16 Policy updates**

16.1 This policy will be reviewed in advance of the review date i.e. 21 January 2028, and / or as soon as possible following new or updated legislation, national or sectoral policy.

16.2 At all times legislation will take precedence where relevant over the provisions made in this policy and the associated procedures.

## **17 Training**

17.1 Existing and new staff will be made aware of this policy through induction and training or as appropriate. This policy will be available on the SETU website.

17.2 SETU will ensure that the Designated Person and the Executive Review Group receives appropriate training to deal with Protected Disclosures, and issues that might arise as a result thereof.

## **18 Policy Author**

18.1 The author of this policy is the Internal Auditor. Any feedback or issues arising on implementation of this policy should be communicated to the policy author. They are responsible to ensure that the Policy Owner is aware of these comments when reviewing the policy.

## APPENDIX 1 Advice for staff making a disclosure

SETU acknowledges the difficult choice a worker may have to make a disclosure. As the issues that prompt disclosures are likely to be complex, how the worker proceeds will vary from situation to situation. The following advice is recommended if a worker wishes to make a disclosure:

- make any disclosures of illegal, unsafe or unethical practices promptly, as timely disclosures can be verified or investigated with less difficulty;
- focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- be accurate in observations and claims and keep a record of relevant events.

Workers may also wish to seek advice through their union, or legal advisor. Staff should note that the Protected Disclosures Act 2014 provides that these disclosures are protected.

As an initiative for the Technological University sector, sponsored by the Department of Further and Higher Education, Research, Innovation and Science, SETU is a member of the [Integrity at Work](#) programme, a Transparency International (TI) Ireland initiative that supports employers to foster an environment where staff feel safe to share concerns of wrongdoing.

As part of our commitment to protecting workers who raise concerns, SETU signed the Integrity at Work Pledge (Appendix 4) to ensure that workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised. If you are considering reporting a concern, free and confidential advice is available from TI Ireland's Speak Up Helpline at 1800 844 866, which operates Monday to Friday from 10am to 6pm. You can also make an enquiry via secure online form or encrypted text at [www.speakup.ie](http://www.speakup.ie).

Further information is available in the [Speak Up Safely video](#) and in the Speak Up Safely Guide.

Where appropriate, the Speak Up Helpline can refer callers to access free legal advice from the Transparency Legal Advice Centre (see <https://www.transparency.ie/helpline/TLAC>).

## APPENDIX 2 Roles & Responsibilities

<p><b>President and Governing Body of SETU</b></p>	<p>The approval of procedures to ensure compliance with the Act and consideration of guidance.  The allocation of adequate resources for effective operation of the procedures.  Integration of procedures into the organisations business processes.  Regular review and updating of procedures as necessary.  Day-to-day responsibilities can be delegated to appropriate function or individual (with necessary independence, knowledge and expertise).</p>
<p><b>All Staff</b></p>	<p>To ensure that disclosures are communicated to nominated disclosure recipients (Appendix 5 and Section 11 refers) and that workers seek advice to ensure that they are aware of the requirements of the Protected Disclosures Act 2014 as amended. (Appendix 1)</p>
<p><b>Executive Management Team</b></p>	<p>To advise staff as to the appropriate policy / route to take to ensure the appropriate steps are followed.</p>
<p><b>Designated Person</b></p>	<p>The official ‘Recipient’ of protected disclosures whose role is to assess or engage an independent assessor and/or investigator to address the issues received in each disclosure. The Designated Person will consider each disclosure and prepare an assessment report for the Executive Review Group. The Designated Person will provide advice and assistance for all matters relating to the process.  The Designated Person will ensure that Reporting Persons are provided with feedback in relation to their disclosures and that they may be informed in general terms of the outcome of the investigation except in exceptional circumstances.</p>
<p><b>Governance / University Secretary Office</b></p>	<p>The office where the Designated Person will be situated.  This office will provide advice, direction and support to the worker / Reporting Person, and recipients of the protected disclosure.  This office will also provide for training and awareness as required in this policy.</p>
<p><b>Human Resources</b></p>	<p>To ensure that all workers are informed of the Protected Disclosures Policy.</p>

<b>Executive Review Group</b>	<p>The President (or their nominee), the VP Governance / University Secretary and the VP for People, Culture and EDI will review the assessment report (prepared by the Designated Person) and make a determination on the appropriate course of action, and liaise with the Designated Person in relation to the disclosure.</p> <p>Conflict of Interest will be considered by all members of the Executive Review Group in accordance with Conflict of Interest policy.</p>
<b>Alternate Review Group</b>	<p>Where the Executive Review Group deems it appropriate, or in the event of a conflict of interest, an Alternate Review Group will be appointed. This may consist of two members of the Executive Management Team who do not have a conflict of interest, or an appointed External Assessor (see below).</p>
<b>Independent Oversight Person</b>	<p>The person who will provide objective oversight of the disclosure process including, reports drafted by the Executive Review Group or External Assessor. The Independent Oversight Person will be the Chairperson of the Audit &amp; Risk Committee, or their nominee as deemed appropriate.</p>
<b>External Assessor</b>	<p>The Executive Review Group may decide to appoint an external person/body to assess the disclosure received and make a determination on the issues and whether they should be investigated as a protected disclosure.</p>
<b>External Investigator</b>	<p>The Executive Review Group may decide to appoint an external person/body to investigate the disclosure and provide a written report to the Executive Review Group.</p>

<b>Appeal Group</b>	<p>Two – three members of the executive staff who were not involved in the original assessment or investigation process of the protected disclosure. The Executive Review Group will appoint an Appeal Group having cognisance of any conflict of interest. Where appropriate, the Executive Review Group may appoint an external person/body to undertake this examination.</p> <p>The Appeal Group shall carry out the examination of the assessment outcome and/or investigation process, having cognisance of any potential conflict of interest. They will examine if the assessment and/or investigation processes were carried out in accordance with policy and in a fair and transparent manner.</p>
---------------------	---

## APPENDIX 3 Definitions

Term	Definition
Protected Disclosure	A disclosure of information which, in the reasonable belief of the worker, tends to show one of more relevant wrongdoings; came to the attention of the worker in the context of current or past work-related activity; and is disclosed in the manner prescribed in the Protected Disclosures Act 2014 as amended.
Protected Disclosures Act (the Act)	The Protected Disclosures Act (the Act) refers to the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, the Protected Disclosures Act (Disclosure to Prescribed Persons) (Amendment) Order 2023 (S.I. No. 524 of 2023), and the European Union (Protection of Persons who Report Breaches of Union Law) Regulations 2023 (S.I. No.375 of 2023). A revised consolidated version of the Act is available on the Law Reform Commissions website <a href="#">here</a> .
Worker / Reporting Person	The Protected Disclosures Act applies to all workers. The definition of ‘ <i>worker</i> ’ is very broad and includes employees, contractors, suppliers, board members, volunteers, agency workers and/or work experience students or trainees, job candidates, shareholders, temporary employees and former employees. A Reporting Person is the worker making the disclosure.
Person Concerned	Any person indicated in the protected disclosure alleged to be involved in or otherwise connected to the relevant wrongdoing reported.
Relevant Wrongdoing	<p>Relevant Wrongdoings are defined under the Protected Disclosures Acts as:</p> <ul style="list-style-type: none"> <li>a) an offence, that has been, is being or is likely to be committed;</li> <li>b) 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 services;</li> <li>c) that a miscarriage of justice has occurred, is occurring or is likely to occur;</li> <li>d) that the health or safety of any individual has been, is being or is likely to be endangered;</li> <li>e) that the environment has been, is being or is likely to be damaged;</li> <li>f) 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;</li> </ul>

Term	Definition
	<p>g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement;</p> <p>h) that a breach in EU law has occurred, is occurring or is likely to occur or</p> <p>that information tending to show any matter outlined above 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.</p>
Reasonable belief	<p>When making a protected disclosure to an employer, the Reporting Person is required to have a “reasonable belief” that the information they are reporting tends to show a “relevant wrongdoing” as listed in the Act. While the Act does not provide a definition of reasonable belief, it is taken to mean that there is an honest belief that is objectively reasonable. It is a relative concept and applies to what is appropriate given all of the factors involved in the situation.</p>
Substantially true	<p>The requirement for a Reporting Person to “reasonably believe that the information disclosed, and any allegation contained therein, is substantially true” applies when making an external disclosure i.e. a disclosure made to Prescribed Persons or to Other Persons. Further criteria apply for external disclosures to be protected and it is important for a Reporting Person to seek advice before reporting in this way.</p>
Prescribed Person	<p>Disclosures relating to relevant wrongdoings can be made to ‘Prescribed Persons’ provided certain criteria are met. The most up-to-date list of Prescribed Persons is available at <a href="https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/">https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/</a></p> <p>The Office of the Protected Disclosures Commissioner can forward disclosures to the relevant Prescribed person.</p>
Advisory Body	<p>Government bodies from whom advice can be sought in relation to protected disclosures. These include the Office of the Protected Disclosures Commissioner, Integrity at Work Programme or the Workplace Relations Commission.</p>





Helping foster workplaces where people are supported to raise concerns of wrongdoing and act with integrity.

## THE INTEGRITY AT WORK PLEDGE

**South East Technological University** recognises the importance of maintaining an ethical workplace and the valuable contribution of those who raise concerns about wrongdoing. We commit to not penalising, or permitting penalisation against, a worker\* who reports risks or incidents of wrongdoing and to responding to or acting upon those concerns.

In committing ourselves to this pledge we will work towards implementing a 'whistleblowing'/protected disclosures policy and procedures which will:

- a. Promote the reporting of wrongdoing or the risk of harm to a responsible person inside the organisation or external bodies as appropriate.
- b. Provide comprehensive information about the types of disclosures that can be made, by whom and in respect of what.
- c. Encourage our workers to seek professional advice both prior or subsequent to making a report.
- d. Assure our workers that any report will be dealt with in the strictest confidence and that their identity or identifying information will not be disclosed to third parties unless required by law or necessary for the purposes of conducting an investigation.
- e. Provide our workers with sufficient notice and a timely explanation in the event that his or her identity is to be disclosed to a third party.
- f. Confirm that reports will be acted upon within a reasonable time frame and take whatever remedial action is deemed necessary by the organisation to address any wrongdoing or the risk of wrongdoing that might have been identified in response to the report.
- g. Commit to keeping any worker who makes a report informed on the progress of investigations.
- h. Provide for appropriate disciplinary action to be taken against anyone found to have penalised a worker for (i) having reported wrongdoing or (ii) refusing to engage in wrongdoing.
- i. Additionally, the organisation commits to record anonymised data each year on i) the number of reports made to it under the Protected Disclosures Act 2014, ii) the nature of each report, iii) the number of complaints of retaliation against workers who have made disclosures and iv) the action taken in response to each report.
- j. Share this data (as set out in paragraph i) with senior management, including the Board, or with the Minister of Public Expenditure and Reform (where appropriate).
- k. Ensure that our managers and responsible persons are aware of our commitments under this Pledge and related policies and procedures and are adequately trained in handling a report.
- l. Publicise our commitment to the Integrity at Work initiative with our workers and other relevant stakeholders.

\* "Worker" refers to staff, contractors, consultants, agency staff and interns

Details of our Protected Disclosures Policy and Procedures can be found on our website [here](#)

Signed:

**Prof. Patrick Prendergast**

Chairperson

**Prof. Veronica Campbell**

President

## **APPENDIX 5      Contact details for Designated Person (s)**

Name: Sarah Morrissey  
Phone: 059 9175128  
Email: [protecteddisclosures@setu.ie](mailto:protecteddisclosures@setu.ie) / [sarah.morrissey@setu.ie](mailto:sarah.morrissey@setu.ie)  
Position: Designated Person

Should circumstances arise where it is inappropriate that the primary Designated Person above be involved in the process, the following contact details are appropriate:

Name: Susan Green  
Phone: 051 302494  
Email: [protecteddisclosures@setu.ie](mailto:protecteddisclosures@setu.ie) / [susan.green@setu.ie](mailto:susan.green@setu.ie)  
Position: Deputy Designated Person

Alternatively, a disclosure can be made using the following link: [SETU | Protected Disclosure](#)

## APPENDIX 6 Other Policies for Complaints or Grievances

Policy/Procedure	Purpose
Dignity & Respect Policy	The policy addresses the development of awareness among all participants in the educational process of the need to promote dignity & respect opportunity for staff. The policy outlines the obligations of SETU as an equal opportunities' employer. It also deals with Bullying & Harassment procedures and remedies.
Grievance Procedure	This procedure generally deals with matters specific to employees, such as that worker's employment, their duties, their working procedures or working conditions
Disciplinary Procedure	The purpose of the disciplinary procedure is to ensure that SETU acts reasonably and fairly towards employees in investigating and dealing with alleged instances of unacceptable conduct or performance.
Safety Statement	It is the policy of SETU to promote high standards of health and safety within SETU and to ensure that the best practicable methods of compliance with the Safety, Health and Welfare at Work Act 2005, the Safety, Health & Welfare at Work (General Application) Regulations 2007 and associated legislation are achieved.
Conflict of interest Policy	This policy sets out the procedures to be followed by SETU in respect to actual, perceived, or potential conflicts of interest

## **ANNEX 1 - Investigation procedure**

### **DECISION TO PROCEED TO INVESTIGATION**

Where an investigation is deemed appropriate under Section 10.15 of the policy or following an appeals process, a Terms of Reference will be developed outlining who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to.

Depending on the issues raised and in the event of any conflict of interests, the Executive Review Group may call on external expertise, at their discretion, in order to assist them.

It is not possible to lay down precise timescales or steps required for investigations, as this will depend on the nature of the issues raised, however, the Designated Person will advise the Reporting Person on progress and the investigation will be concluded as soon as possible.

The person / persons appointed to carry out the investigation will provide a written report to the Executive Review Group detailing their findings and recommendation(s) for consideration. Upon receipt of the Investigator's report, the Executive Review Group will decide on the necessary action that is required. The Independent Oversight Person will provide objective oversight on any concluding reports and actions. The final report with recommendations will be given to the Executive Review Group who will decide on the necessary action that is required.

It should be noted that if a further disclosure is made during an investigation or disciplinary process, it does not affect those distinct processes.

As per section 10.19 of the Policy, the Reporting Person may be informed in confidence what action has taken place where appropriate, however, it may not be possible to provide details of the appropriate action to the Reporting Person.

### **APPEAL PROCESS FOLLOWING INVESTIGATION**

In the event that the Reporting Person is dissatisfied with the outcome of an investigation, it is open to the Reporting Person to request an appeal. A request for an appeal must be made to the Designated Person within 10 working days of having been informed that the investigation has been concluded.

The Designated Person will liaise with the Executive Review Group to appoint an Appeal Group (not previously involved in the investigation process and with no perceived or actual conflicts of interest) to undertake a review of the investigation. The Appeal Group will notify the Designated Person of the outcome of the appeal. The Office of VP Governance / University Secretary will provide secretarial assistance as required to the Appeal Group.

On completion of the appeal process, the Reporting Person will be advised by the Designated Person of the outcome of the appeal, which will be either (a) or (b) below.

- a) That the investigation outcome was appropriate;
- b) That the investigation outcome was not appropriate, referring the matter back to the Executive Review Group to take further action.

The outcome of this appeal will represent a final internal decision on the matter.

As it is not possible to know at the time whether a disclosure will subsequently be deemed protected under the Protected Disclosures Act as Amended, the Designated Person should keep a written record of their actions, including timelines. All disclosures will be treated as protected until such time as they are deemed to be more appropriately investigated under another policy, and the Reporting Person will be advised accordingly.

It is important to note that some matters may be of such seriousness that the investigation will have to be carried out professionally, such as by subject matter experts, or the matter may need to be reported to and investigated by An Garda Síochána. If this is the case the Reporting Person will be informed accordingly.

## DECISION NOT TO PROCEED TO INVESTIGATION

If the decision is not to proceed to investigation, the Designated Person will advise the Reporting Person accordingly. There are two reasons why the decision not to proceed may be taken:

- No grounds to proceed
- Another organisational policy may be more relevant

Where the Executive Review Group decides that the matter should be dealt with under a different policy, advice will be provided to the Reporting Person as to the steps to take in this regard.

## APPEAL PROCESS NO INVESTIGATION

If the Reporting Person is dissatisfied with a decision of the Executive Review Group not to pursue the matter further under this policy, they may lodge an appeal of the decision with the Designated Person within 10 working days of having received the decision.

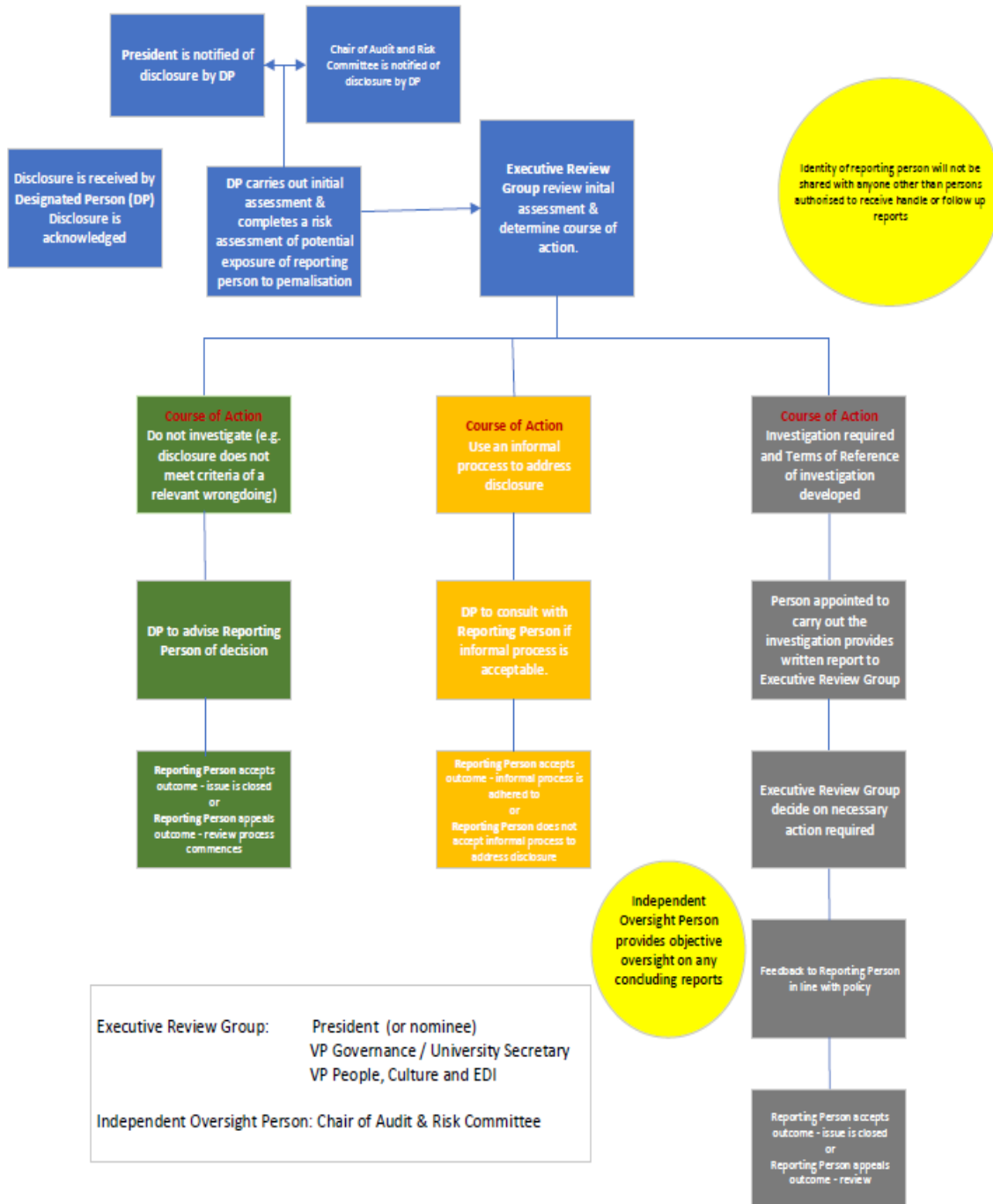
The Designated Person will liaise with the Executive Review Group to appoint an Appeal Group (not previously involved in the process and with no perceived or actual conflict of interest) to undertake a review of the initial decision. The Appeal Group will notify the Recipient of the outcome of that appeal. The Office of VP Governance / University Secretary will provide secretarial assistance as required to the Appeal Group.

On completion of the review, the Reporting Person will be advised by the Designated Person of the outcome of the appeal, which will be either (a) or (b) below.

- a) Uphold the decision not to proceed to investigation
- b) Decision not upheld and the matter is referred back to the Executive Review Group to organise an investigation.

A decision of the Appeal Group not to pursue the matter will represent a final internal decision on the matter.

**FLOW CHART OF PROTECTED DISCLOSURE PROCESS**



## **ANNEX 2 Addressing report of penalisation**

As per Section 7.3 of the policy, SETU will not tolerate any harassment or victimisation of a Worker who has made a disclosure under this policy (including informal pressures) and commits to assess/investigate all notifications of penalisation and take appropriate action where necessary.

As per Section 10.4, a risk assessment of the potential exposure of the Reporting Person to penalisation will be included as part of the process of assessing a report following receipt.

Any Worker who believes they are being/have been penalised for making a protected disclosure should contact the Designated Person or the Vice President People, Culture & EDI as soon as possible. Such notifications will be addressed promptly.

SETU will take prompt and appropriate action to ensure the protection of the Reporting Person and will instigate a formal investigation into the penalisation allegations. This process will be led by the Designated Person and/or the Vice President People, Culture & EDI as appropriate. The investigation may be carried out by an internal or external party.

SETU will treat any acts of penalisation, or attempted penalisation, as a serious matter which may be dealt with under Disciplinary Procedures.

A Worker who has made a protected disclosure can seek a review of the outcome of any assessment/investigation in respect of any complaint of penalisation. Any review will be undertaken by a person who has not been involved in the initial assessment, investigation or decision. There is no entitlement to two reviews in respect of the same issue.

Workers are reminded about the free and confidential advice from TI Ireland's Speak Up Helpline at 1800 844 866, which operates Monday to Friday from 10am to 6pm, and the secure online form or encrypted text at [www.speakup.ie](http://www.speakup.ie). Further information is available in the [Speak Up Safely video](#) and in the Speak Up Safely Guide and the [SETU website](#)