



---

## Protected Disclosures Policy

### 1. Policy Overview

This Policy aims to give effect to the obligations and provisions of the Protected Disclosures Act, 2014 (hereinafter referred to as 'the Act') and does not replace any legal reporting or disclosure requirements arising under other legislation. Where statutory reporting requirements or procedures exist, these must be fully complied with. Specifically, this policy aims:

- To encourage the reporting of suspected relevant wrongdoing as soon as possible in the knowledge that reports will be taken seriously and investigated as appropriate and that confidentiality will be respected in the manner provided by the Act.
- To guide as to how to raise concerns internally and to set out how those concerns will be dealt with.
- To reassure staff that genuine concerns can and should be raised, even if they turn out to be mistaken, without fear of penalisation.
- This Policy sets out the College procedures for making and dealing with protected disclosures as prescribed by section 21 of the Act.

### 2. Policy Statement

This Policy expresses the College commitment to addressing concerns about potential/possible wrongdoing that may arise and protecting staff members who make reports of misconduct under this policy. In line with that commitment, staff who have concerns about any aspect of College activities are encouraged and expected to come forward and voice those concerns. They may do so without fear of victimisation, subsequent discrimination, or disadvantage because of their disclosure.



---

### 3. Roles and Responsibilities

This Policy covers all “staff members” as defined by the Act<sup>1</sup>, which includes current and former employees, Board members, advisors, independent contractors, trainees, part-time, full-time, and agency staff members. This policy will be communicated to all staff as part of induction procedures as per UPOL010 UniHaven Staff Learning and Development Policy Rev 1. A copy of this policy can be obtained by contacting the Academic Director and it is the responsibility of the CEO to ensure the policy is implemented described for all academic and non-academic staff. The Academic Director is responsible for ensuring that policies are developed and maintained, that they remain fit for purpose, that they remain in compliance with QQI guidelines, that they are updated as per agreed schedules, and that they are being implemented as intended. In the latter context, the Academic Director will inspect a sample of policies each year to check for the correct implementation and bring the findings to AC as part of the annual QA/QQI review and reporting process.

### 4. Policy

#### **Protected Disclosures**

A protected disclosure, as defined in the Act, is a disclosure of relevant information where, in the staff member's reasonable belief, it tends to show one or more relevant wrongdoings and when the information came to the staff member's attention in connection with his or her employment and is disclosed in the manner prescribed in the Act. The following matters are relevant wrongdoings for the Act and as outlined in the Act<sup>2</sup>:

- That an offence has been, is being or is likely to be committed.
- That a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the staff member’s contract of

---

<sup>1</sup> Protected Disclosures Act, 2014, section 3

<sup>2</sup> Protected Disclosures Act, 2014, section 5



---

employment or another contract whereby the staff member undertakes to do or personally perform any work or services.

- That a miscarriage of justice has occurred, is occurring or is likely to occur.
- That the health or safety of any individual has been, is being or is likely to be endangered.
- That the environment has been, is being or is likely to be damaged.
- It is immaterial whether a relevant wrongdoing occurred, occurs, or would occur in the State or elsewhere and whether the law applying to it is that of the State or that of any other country or territory.
- A matter is not relevant wrongdoing if it is a matter which
  - It is the function of the staff member or the staff member's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.
  - A disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is not a protected disclosure if it is made by a person to whom the information was disclosed while obtaining legal advice.
- The motivation for making a disclosure is irrelevant to whether it is a protected disclosure.
- In proceedings involving an issue as to whether a disclosure is a protected disclosure, it shall be presumed, until the contrary is proved, that it is.

### **When Not to Use This Policy**

This policy should not be used to raise complaints relating to personal circumstances or staff members' terms or conditions of employment, such as the way they are being treated at work or workplace issues affecting them personally. In such cases, refer to UDOC007 UniHaven Employee Handbook Rev 1 and the grievance procedures therein. For the avoidance of doubt, a matter is not relevant wrongdoing if it a matter which is the function of the staff member or



---

the employee's staff member to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

### **Assurance of Protection**

The College recognises that the decision to report a concern can be difficult to make, not least because of the fear of reprisal. If staff members make allegations in good faith, they should have nothing to fear as they will be doing their duty to the College, their colleagues, and to students and stakeholders. The College is strongly committed to the protection of staff members such that they can safely raise concerns about wrongdoing in the knowledge that they will be supported and protected from repercussions. That said, staff members should not pursue their investigations, however well-intended, because a flawed or improper investigation could compromise the College's ability to take effective action to rectify any wrongdoing uncovered.

Direct or indirect pressure on staff members not to disclose or make a disclosure contrary to this policy will not be tolerated. The College recognises that penalisation can take many forms. It can be direct or indirect and may be perpetrated by fellow staff members or by College management. Examples of penalisation include any unfair or adverse treatment (whether acts of commission or omission) that can result in a staff member suffering any unfavourable change in his/her conditions of employment. The College will not penalise or threaten to discipline a staff member for making a protected disclosure nor will it allow any other person to discipline or threaten penalisation for having disclosed under this policy. This protection extends outside the workplace, for example, to conferences and training outside the workplace and work-related social events. Penalisation or threats of penalisation made against any staff members who choose to exercise their right to make a protected disclosure, or any person related to them, will not be tolerated. Such behaviour may constitute misconduct and may



---

lead to disciplinary action up to and including dismissal for staff and termination of agreements for stakeholders.

### **Channels for making Protected Disclosure**

This policy guides staff members as to how best to make a protected disclosure. The Act recognises that it may be appropriate for concerns to be raised to an external body in some limited circumstances, such as a regulator or a person prescribed by law<sup>3</sup>. The staff member is encouraged to consult with the College if s/he believes an external disclosure should be made. See section 5 for procedures for making protected disclosures while working at or for the College.

---

<sup>3</sup> Protected Disclosures Act, 2014, section 17



---

## **Confidentiality**

All disclosures will be treated in confidence, and every effort will be made to protect a staff member's identity if the staff member so wishes. The focus will always be on the information in the disclosure rather than the identity of the staff member making the disclosure. Disclosures will be kept secure and in a form that does not endanger the staff member's confidentiality with the exception that a staff member's identity may have to be revealed as obliged under law, e.g. child protection matters, criminal offences etc. The College does not encourage anonymous disclosures as such disclosures make investigation difficult and, in some cases, impossible.

## **Untrue Allegations**

If a staff member makes a disclosure under this policy, but the information or allegation is subsequently not confirmed by the investigation, no action will be taken against the person. They will be fully protected from any less favourable treatment, penalisation, or victimisation as described earlier because the staff member's motive for making a disclosure is not relevant. However, if an allegation is or was known to be false is made maliciously, then disciplinary action may be taken.

## **Complaints Procedure**

The College hopes that staff members will be able to make a protected disclosure to a Line Manager. If for any reason, the staff member feels that it is not appropriate to disclose to his/her Line Manager, the disclosure may instead be brought to the CEO. A complaint relating to matters arising in respect of invoking this policy can be made as per the procedures outlined in UDOC007 UniHaven Employee Handbook Rev 1. Staff members can also make a complaint of penalisation under the Act to the Adjudication Officer, Workplace Relations Commission, following Schedule 2 of the Act.



---

## 5. Procedures and Forms

Staff members who wish to make a written disclosure are recommended to use the following format and to keep a copy of the disclosure and any supporting documentation. Although they are not expected to prove the truth of the facts in the disclosure, they must have a 'reasonable belief' that there are grounds for their concern when making a disclosure using the internal procedure.

### **Information Requirements**

It is recommended that, at a minimum, disclosures should include the following details:

- That the disclosure is being made under this Protected Disclosures policy.
- The discloser's name, role, place of work and confidential contact details.
- The alleged wrongdoing date (if known) or the date the alleged misconduct commenced or was identified.
- Whether or not the alleged wrongdoing is still ongoing.
- Whether the alleged wrongdoing has already been disclosed and, if so, to whom, when and what action was taken.
- Any supporting documentation.
- The name of any person(s) allegedly involved in the alleged wrongdoing if any name is known and the staff member considers that naming an individual is necessary to expose the wrongdoing disclosed.
- Any other relevant information.



---

## Format for Making an Internal Disclosure

- Describe the relevant wrongdoing.
- Provide any information that supports the alleged relevant wrongdoing to assist the investigation of the matters raised in the disclosure.
- Date the disclosure.
- Provide your preferred contact details.
- State that the disclosure is made under the Act and whether you do/do not expect confidentiality.

## Investigation

- Once a staff member has made a disclosure under this policy, the College will carry out an initial assessment to determine what action is appropriate, to include the scope of any investigation required.
- The College will inform the staff member of the outcome of its assessment. If the concern falls more appropriately within a different policy/procedure, the staff member will be informed that it should progress under that policy/procedure.
- If sufficient grounds for an investigation exist, the CEO will then appoint such person /person's (either internal or external to the College) who is or are more appropriately placed to investigate the particular disclosure in question ('the investigator(s)'). The scope and terms of reference of any investigation will be determined before the investigation is carried out and the CEO must be informed where the Line Manager is the investigator.
- Investigate the disclosure as follows:
  - Carry out relevant inquiries promptly, sensitively, and discreetly, taking all reasonable steps to protect the identity of the maker of the disclosure.
  - If it is necessary to reveal the staff member's identity to undertake an effective inquiry, consult with the staff member.
  - Obtain evidence from any relevant witnesses.



- 
- The staff member may be invited to attend additional meetings to provide further information. Where possible, the staff member will be informed of the progress of the investigation. All information concerning the investigation should be treated as confidential other than when such confidentiality cannot be guaranteed as outlined in the policy.
  - The investigator(s) will draft a report on the investigation ('the report'). The report will be sent to EMT who will determine what action the College should take (if any). Such action could include changes to how the College conducts its operations, disciplinary action (following the disciplinary procedures), referral of the matter for consideration under a different College policy or procedure, or a report to an appropriate third party such as Tusla, An Garda Siochana etc.
  - It should be noted that fair and due process requires any person accused of wrongdoing to be made aware of and allowed to respond to any allegations made against them.
  - If the disclosure is deliberately false, consider action under the College disciplinary policy...see UDOC007 UniHaven Employee Handbook Rev 1.
  - Provide written feedback to the staff member on the outcome of the investigation within 20 days, including any proposed action.

### **Guidance for Line Managers in Dealing with Disclosures**

All reported disclosures about perceived wrongdoing in the workplace must be treated seriously. The Line Manager to whom a concern is disclosed should:

- Record the disclosure and the steps taken to deal with it.
- Clarify the basis of the concerns raised with the staff member.
- Establish what evidence is available to support the concern.
- Consider any personal interest the staff member might have in the issue concerned.



- 
- Risk assesses the issue and takes immediate action if the alleged wrongdoing involves a serious loss or danger to others. This may involve contacting the Child Protection Officer, or state bodies such as Tusla, QQI or An Garda Siochana if necessary as per policy guidelines.
  - Assess whether the disclosure report is based on a reasonable belief but ungrounded, based on a reasonable belief and grounded or a deliberately false report.
  - Take appropriate action if the disclosure is grounded by ensuring that an investigation is initiated as per this procedure.



**Quality Assurance Manual (QAM) Chapter 5**

<b>Document Name</b>	<b>Protected Disclosures Policy</b>
<b>Policy Document Number</b>	<b>UPOL031</b>
<b>Version Reference</b>	<b>Rev.1</b>
<b>Document Owner</b>	<b>Academic Director</b>
<b>Roles with Aligned Responsibility</b>	<b>All College staff</b>
<b>Approved By</b>	<b>Academic Council</b>
<b>Approval Date</b>	<b>2.3.2023</b>
<b>Date Policy Becomes Active</b>	<b>1.4.2023</b>
<b>Revision Cycle</b>	<b>Annually</b>
<b>Revision History/Amalgamation History</b>	<b>Revised for text errors post programme validation</b>
<b>Additional Information</b>	<b>N/A</b>
<b>References/ Supporting Documentation</b>	<b>UDOC000 UniHaven Quality Assurance Manual Rev 2</b> <b>Statutory Quality Assurance Guidelines developed by QQI for use by all Providers (2016)</b> <b>Statutory Quality Assurance Guidelines developed by QQI for Independent/Private Providers coming to QQI on a Voluntary Basis (2016)</b> <b>Protected Disclosures Act, 2014</b> <b>UDOC007 UniHaven Employee Handbook Rev 1</b>