



**Belvedere College SJ**

<b>Name of Policy/Document:</b>	<b>PROTECTED DISCLOSURES POLICY</b>												
										<u>2017</u>			
										<b>r</b>			
											No		
										_____017			
													_____

## Table of Contents

<b>Section</b>	<b>Title</b>	<b>Page No.</b>
1.	Table of Terms/Definitions	
2.	Introduction	
3.	The Aim and Scope of the Policy	
4.	What is a Protected Disclosure?	
5.	Disclosure of Information	
6.	The Standard Required for Protection: A Reasonable Belief	
7.	Protections	
8.	Procedure for Making a Protected Disclosure	
9.	The Assessment Meeting	
10.	Post-Disclosure Procedure	
11.	Investigation of the Protected Disclosure	
12.	Confidentiality	
13.	Outcome of the Investigation of the Protected Disclosure	
14.	Records	
15.	Anonymous Disclosures	
16.	Disclosure made without a Reasonable Belief	
17.	Disclosures to External Bodies	
18.	Review and Amendments	

## 1. Table of Terms/Definitions

Term	Definition/Meaning
2014 Act	The Protected Disclosures Act 2014.
Board	Board of Management of Belvedere College SJ.
Chair/Chairperson	Chairperson of the Board of Management of Belvedere College SJ.
College	Belvedere College SJ.
Discloser	A Staff Member who has made a disclosure/protected disclosure pursuant to the Policy.
Headmaster	Headmaster of Belvedere College SJ.
Policy	The Protected Disclosures Policy of Belvedere College SJ.
Staff Member	<p>Member of staff of the College to include:</p> <ul style="list-style-type: none"> <li>(a) all current and former employees (including permanent, temporary, fixed-term, casual and substitute);</li> <li>(b) contractors and consultants engaged to carry out work or services for the College;</li> <li>(c) individuals who are engaged or supplied by a third person to do work for the College where the terms of such engagement are or were, in practice, substantially determined by the College or by the third person or by both of them (e.g. agency workers);</li> <li>(d) individuals who are on work experience pursuant to a training course and trainees of or with the College; and</li> <li>(e) volunteers.</li> </ul>

## **2. Introduction**

- 2.1 The Board is committed to maintaining the highest standards of openness, honesty and accountability in the operational procedures and relations of the College.
- 2.2 The Policy details the process by which a Staff Member can make a protected disclosure, how a disclosure will be dealt with and what the Board will do to protect a Staff Member who has made a protected disclosure. The Policy allows Staff Members to make protected disclosures without fear of penalisation, discrimination, disadvantage or the threat of less favourable treatment.

## **3. The Aim and Scope of the Policy**

- 3.1 The Policy is designed to give effect to the provisions and obligations of the 2014 Act. The 2014 Act provides for the protection of Staff Members from the taking of action against them in respect of the making of certain disclosures ('protected disclosures') that are in the public interest.

- 3.2 The aim of the Policy is to:

encourage Staff Members to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and will be investigated as appropriate;

- (a) provide Staff Members with guidance as to how to raise such concerns;
- (b) assist, support and protect Staff Members who make protected disclosures;
- (c) protect the identity of a Staff Member in a manner consistent with the requirements of the 2014 Act and take action where those requirements have been breached;
- (d) reassure Staff Members that they should be able to raise genuine concerns without fear of reprisal; and
- (e) provide for appropriate action against Staff Members who make disclosures without a reasonable belief in the truth of the disclosure.

- 3.3 The Board is of the view that the most appropriate way for a Staff Member to disclose a relevant wrongdoing is, in the first instance, to alert the Headmaster (or the Chairperson), so that the alleged wrongdoing may be addressed and, if established, confronted and rectified by the Board.
- 3.4 The Board is committed to dealing with such internal disclosures of wrongdoing in a speedy, fair and effective manner. The College will not tolerate the penalisation of a Staff Member who makes a disclosure in accordance with the terms of the Policy.
- 3.5 The Board recognises that there may be circumstances where internal disclosure within the College may not be feasible or appropriate. In such circumstances, information concerning the procedure available to a Staff Member is set out in section 17 of the Policy.

- 3.6 The overall responsibility for overseeing the Policy rests with the Board. The Board delegates this responsibility to the Headmaster on a day to day basis. The Headmaster (or the Chairperson) will have an obligation to inform the Board of all disclosures made (pursuant to sections 9.6(b) and 10.1(b)).
- 3.7 It is important to note that the Policy does not replace or substitute any legal obligation to report or to disclose wrongdoing as provided for under other legislation that is in force, such as, reporting obligations arising from child protection requirements.
- 3.8 Furthermore, the Policy does not replace the existing policies and/or complaints or grievance procedures of the College to include Bullying, Harassment, Discipline or Dignity at Work.

#### **4. What is a Protected Disclosure?**

- 4.1 For a disclosure to qualify as a 'protected disclosure' under the 2014 Act, it must meet the following conditions:
- (a) the Staff Member making the disclosure must reasonably believe that the information disclosed tends to show a relevant wrongdoing(s);
  - (b) the information must have come to the attention of the Staff Member in connection with his/her employment; and
  - (c) the information is disclosed, intentionally, pursuant to the Policy and the provisions of the 2014 Act.

#### **4.2 What is a Relevant Wrongdoing?**

- 4.2.1 A 'relevant wrongdoing' may have already occurred or may be occurring or likely to occur and may include the following:
- (a) the commission of an offence;
  - (b) a failure by a person to comply with a legal obligation;
  - (c) a miscarriage of justice;
  - (d) the endangerment or the likely endangerment of the health or safety of an individual;
  - (e) damage to the environment;
  - (f) the misuse of public money;
  - (g) gross mismanagement by a public body (including the College); and

- (h) the destruction or concealment of information tending to show any of the matters listed at (a) to (g) above.

4.2.2 A 'relevant wrongdoing' does **not** include:

- (a) a failure to comply with obligations arising under a Staff Member's contract of employment, for example, a failure to pay a Staff Member's overtime as provided for in his/her contract of employment; or
- (b) a grievance concerning conditions contained in a Staff Member's contract of employment or a grievance concerning work relations or any matter that falls within the scope of a recognised grievance procedure applicable to Staff Members; or
- (c) any matter that falls within the scope of the College's Grievance Policy or Disciplinary Procedures and/or within any other internal employment policies and procedures.

4.3 **What is the difference between a grievance and a protected disclosure?**

4.3.1 It is important for Staff Members to understand the distinction between a grievance and a protected disclosure.

(a) Grievance:

A grievance is a matter specific to the employee ie the employee's employment position and his/her duties, terms and conditions of employment, working procedures or working conditions. A grievance should be processed under the College's Grievance Policy. For example, a complaint around selection criteria for a promotional post or a complaint regarding the allocation of overtime constitutes grievances.

(b) Protected disclosure:

A protected disclosure is where a Staff Member has information about a relevant wrongdoing. For example, information about the improper use of funds, bribery and/or fraud in the College is an example of a protected disclosure.

The Board encourages Staff Members to ask questions if they are unsure as to whether their concern constitutes a protected disclosure.

**5. Disclosure of Information**

A disclosure should contain information which tends to demonstrate a relevant wrongdoing rather than a mere allegation. The information disclosed should not contain conjecture or speculation and should not extend beyond that which is necessary to disclose the relevant wrongdoing. Staff Members are only required to disclose information which they reasonably believe discloses a wrongdoing.

## **6. The Standard Required for Protection: A Reasonable Belief**

- 6.1 Certainty or proof of the facts disclosed is not required. Reasonable belief based on specific grounds is sufficient. The Staff Member making the disclosure is not required or entitled to undertake an investigation of the matter the subject of the disclosure.
- 6.2 A Staff Member who was acting in good faith will not be penalised if it subsequently transpires that he/she was mistaken as to his/her belief in relation to a wrongdoing.

## **7. Protections**

- 7.1 A Discloser shall not be penalised or threatened with penalisation for having made a protected disclosure pursuant to the Policy.
- 7.2 Penalisation involves any act or omission that affects a Staff Member to his/her detriment on foot of having made a protected disclosure and includes but is not limited to: -
- (a) suspension, lay-off or dismissal;
  - (b) demotion or loss of opportunity for promotion;
  - (c) transfer of duties and/or change of location of place of work;
  - (d) reduction in salary or change in working hours;
  - (e) the imposition or administration of any discipline, reprimand or other penalty, including, a financial penalty;
  - (f) unfair treatment;
  - (g) coercion, intimidation or harassment;
  - (h) discrimination or disadvantage;
  - (i) injury, loss or damage; and
  - (j) reprisal and/or the threat of reprisal.
- 7.3 The protection from penalisation for having made a protected disclosure shall apply

notwithstanding that the reasonable belief of the Discloser is not, subsequently, deemed to be well-founded.

- 7.4 Any employee of the College who penalises (or threatens to penalise) a Discloser shall be subject to disciplinary action.
- 7.5 If a Discloser believes that he/she has been penalised (or threatened with penalisation) by another Staff Member/employee of the College for having made a protected disclosure, the Headmaster and/or the Chairperson should be notified, in writing, and the matter shall be investigated and assessed.
- 7.6 Where, following investigation and assessment, the claim of penalisation is upheld, appropriate action, including disciplinary action, shall be taken against the Staff Member/employee who has penalised or threatened to penalise the Discloser for having made a protected disclosure.
- 7.7 Where, following investigation and assessment, the claim of penalisation is not upheld, the Discloser shall be so informed and a reasoned decision as to why the claim of penalisation has not been upheld shall be furnished to the Discloser.
- 7.8 If the Discloser does not feel that the matter has been remedied, he/she can raise the matter formally using the College's Grievance Policy.
- 7.9 If the Discloser feels that he/she has been penalised by the employer (ie the College/the Board), the Discloser may refer the matter to an Adjudicator of the Workplace Relations Commission (in accordance with Schedule 2 of the 2014 Act). The Discloser can seek independent legal advice in that regard.

## **8. Procedure for Making a Protected Disclosure**

### **Initial Review**

- 8.1 A Staff Member wishing to make a protected disclosure should, in the first instance, contact the Headmaster and make the disclosure to him/her, either orally or in writing.
- 8.2 Where the disclosure is made orally, the Headmaster shall take a note recording the information as disclosed by the Discloser.
- 8.3 If the Headmaster is the subject matter of a disclosure, then the Discloser shall make the disclosure, in writing, to the Chairperson.
- 8.4 A written disclosure should be made on the template Notification Form at **Appendix 1**.
- 8.5 Subject to the exceptions set out in section 16 of the 2014 Act (**Appendix 2**), a person to whom a protected disclosure is made ("**Recipient**") shall take reasonable steps to ensure that the identity of the Discloser is protected. Please refer to section 15.1 of the Policy.

- 8.6 A protected disclosure made in writing should confirm that it is being made in accordance with the Policy. It should contain relevant details relating to the alleged wrongdoing, including, details of the persons allegedly involved, dates and times of alleged acts or omissions plus an account of the sequence of events leading up to the disclosure itself.
- 8.7 If the Discloser has previously disclosed the alleged wrongdoing to another person or body, then details of this should be furnished to the Recipient. The Discloser should also provide details of the identity of the person(s) to whom an earlier disclosure was made, the time when the disclosure was made and what, if any, known action was taken on foot thereof.

## **9. The Assessment Meeting**

- 9.1 As soon as possible and within ten (10) school days of having received a disclosure, the Recipient shall arrange a meeting with the Discloser (“**Assessment Meeting**”).
- 9.2 The purpose of an Assessment Meeting shall be:
- (a) to discuss the substance of the disclosure; and
  - (b) to determine whether the disclosure made concerns a matter which falls, appropriately, within the scope of the Policy.
- 9.3 The Assessment Meeting shall be held in private and on a strictly confidential basis.
- 9.4 The Discloser may be accompanied to the Assessment Meeting by another person, such as a friend, a trade union representative or a colleague.
- 9.5 At the end of the Assessment Meeting or within five (5) school days of the Assessment Meeting, the Recipient shall confirm to the Discloser whether the disclosure falls within the terms of the Policy.
- 9.6 If the Recipient considers that the disclosure is not a matter that falls within the terms of the Policy/the 2014 Act, then he/she shall:
- (a) at the time of communicating the decision to the Discloser, advise the Discloser of the decision and notify the Discloser of other policies and procedures (such as, the relevant Complaints’ Procedures) which may provide a more appropriate mechanism for dealing with the subject matter of the disclosure; and
  - (b) in advance of the next meeting of the Board, notify the Board of the disclosure made pursuant to the Policy and the reasons for the decision formed by the Recipient that the disclosure did not constitute a protected disclosure under the Policy/the 2014 Act.
- 9.7 If, following the Assessment Meeting, the Recipient considers that the disclosure is a matter that falls within the terms of the Policy then he/she shall, within five (5) school days of the Assessment Meeting, advise the Discloser of the decision and of

the Post-Disclosure Procedure to be followed in response to the disclosure made (see section 10 below).

### **Review of Initial Decision**

- 9.8 The Discloser may request a review of the Recipient's decision in which case the Recipient shall immediately notify the Board of (i) the fact of the disclosure having been made and (ii) his/her view that the matter does not fall within the terms of the Policy together with the reasons for forming such a decision.
- 9.9 Upon receipt of a notification of a request for a review under section 9.8 of the Policy, the Board shall nominate one of its members (who was not involved in the Assessment Meeting) to review the decision made by the Recipient. Within ten (10) school days of receipt of the notification by the Board, the Discloser shall be informed, in writing, of the outcome of the review and shall be provided with a brief account of the rationale grounding the final decision. The Discloser shall also be notified of the Post-Disclosure Procedure to be pursued in response to the disclosure made (if appropriate). The decision taken following the review shall be final.
- 9.10 If the decision following a review under section 9.9 differs from the decision taken by the Recipient, or where the Recipient is doubtful as to whether or not the disclosure falls within the terms of the Policy, the Recipient shall deem the disclosure to be a protected disclosure. The Recipient shall treat the matter as a protected disclosure unless and until it is determined that it is not, in fact, a protected disclosure under the Policy.

### **10. Post-Disclosure Procedure**

- 10.1 If the Recipient, following the Assessment Meeting, forms the view that the disclosure is a protected disclosure under the 2014 Act, the Recipient shall:-
- (a) arrange, if necessary, for any additional meetings between the Discloser and Recipient to obtain further clarification or information concerning the matters disclosed and/or to consider any additional steps that may be deemed necessary; and
  - (b) immediately refer the disclosure to the Board for investigation.
- 10.2 Once notified of a protected disclosure, the Board shall appoint either (i) a sub-committee of the Board (excluding the Chairperson, if he was the Recipient) or (ii) an independent external investigator approved by the Board to investigate the matters referred to in the protected disclosure ("**Investigating Body**") and to report and advise thereon.
- 10.3 If the disclosure relates to a criminal offence, the Recipient shall immediately refer the matter to An Garda Síochána.
- 10.4 Other disclosures that raise serious matters should be referred immediately to the appropriate authorities.

## **11. Investigation of the Protected Disclosure**

- 11.1 With due regard to the nature of the disclosure made, the Investigating Body shall determine:-
- (a) the format and timeframe for the investigation;
  - (b) the person(s) whose assistance or involvement will be required for the purpose of the investigation; and
  - (c) the person(s) to be interviewed in connection with its investigation.
- 11.2 An investigation into a protected disclosure shall be conducted promptly and efficiently and in a comprehensive, fair and objective manner. Any person implicated by virtue of the disclosure shall be afforded fair procedures and due process in accordance with law. All relevant sources of information will be gathered by the Investigating Body.
- 11.3 The Investigating Body may request a meeting with the Discloser in the course of its investigation. In such circumstances, the Discloser may be accompanied to the investigation meeting by another person, such as, a trade union representative, a friend or a colleague.
- 11.4 The Discloser shall be informed of the timeframe of the investigation.

## **12. Confidentiality**

- 12.1 A protected disclosure shall be deemed to be a confidential disclosure.
- 12.2 During the investigation, attention shall be directed towards the subject matter of the protected disclosure rather than the Discloser.
- 12.3 The Investigating Body shall take all reasonable steps to maintain the confidentiality of the Discloser. There may, however, exist circumstances, as envisaged in the 2014 Act, where the maintenance of confidentiality is neither possible nor required. See section 15.1.
- 12.4 Where confidentiality cannot be maintained, the Investigating Body will endeavor to inform the Discloser in advance that his/her identity will be disclosed and shall provide the reason(s) for this decision.

## **13. Outcome of the Investigation of the Protected Disclosure**

- 13.1 The Investigating Body shall, within six (6) weeks from the date of appointment, prepare and deliver to the Board a confidential report on the outcome of its investigation.
- 13.2 If, following an investigation of the matters disclosed, the allegations of a relevant wrongdoing are found to be true or substantially true, the Investigating Body shall set out in its report the reasons for its conclusions together with any

recommendation(s) for the Board's consideration, which the Investigating Body deems necessary or appropriate by way of response to the matters disclosed. The Discloser shall be informed by the Board of the outcome of the investigation together with the action to be taken by the Board in response.

- 13.3 If, following an investigation of the matters disclosed, the allegations of a relevant wrongdoing are found not to be substantiated, the Board shall inform the Discloser and shall provide a brief synopsis of the reasons for this decision.

#### **14. Records**

- 14.1. All records relating to an initial disclosure and/or a protected disclosure will be maintained securely in compliance with the requirements for confidentiality under the 2014 Act and pursuant to data protection obligations.

#### **15. Anonymous Disclosures**

- 15.1 A Staff Member may choose to make a protected disclosure anonymously. In such circumstances, the 2014 Act provides that the Recipient shall not disclose to another person any information that might identify the Discloser. However, this provision is subject to exceptions under the 2014 Act, for example, where the Recipient can show that he/she took all reasonable steps to avoid disclosing any information that may identify the Discloser and/or where the College deems the disclosure of such information necessary in order to conduct an effective investigation into the relevant wrongdoing.
- 15.2 As the investigation of a relevant wrongdoing may be hindered or rendered impossible by the anonymity of the Discloser, the Board does not encourage Staff Members to make disclosures anonymously. A Staff Member who wishes to make a disclosure is encouraged to do so in a manner which enables the Board to investigate such matters and to undertake appropriate action (if necessary) and in the knowledge that confidentiality will be maintained, to the extent possible.
- 15.3 If an anonymous disclosure is made, it may not be possible for the Board to ensure that the protections set out in the Policy are applied and the Discloser will be unable to avail of the full protections under the 2014 Act.

#### **16. Disclosure made without a Reasonable Belief**

- 16.1 A disclosure made in the absence of a reasonable belief will not attract the protections of the 2014 Act.
- 16.2 A deliberate false disclosure will not attract the protections of the 2014 Act and may result in disciplinary action being taken against the Discloser.
- 16.3 The disclosure of an alleged relevant wrongdoing does not confer any protection or immunity on a Discloser in relation to any personal involvement which he/she may have had in the wrongdoing disclosed.

#### **17. Disclosures to External Bodies**

- 17.1 One of the aims of the Policy is to ensure that a Staff Member has recourse to a mechanism within the College to make a disclosure of a relevant wrongdoing. The Board encourages Staff Members to make disclosures internally in accordance with the Policy, so that the College is afforded an opportunity to address and rectify any wrongdoing that is verified following a disclosure. Disclosures will be taken seriously and the Staff Member making the disclosure will receive appropriate protection.
- 17.2 The Board however, acknowledges that there may be circumstances in which a Staff Member chooses to make a disclosure to an external body. The 2014 Act allows an employee to make a disclosure to persons other than their employer in certain circumstances. Different requirements and standards of belief need to be met in different cases, as set out at (a) to (e) below.

**(a) Other responsible person**

Where a Staff Member reasonably believes that the wrongdoing relates to the conduct of a person other than the Staff Member's employer or to something for which that other person has legal responsibility, then the Staff Member can disclose to that other person.

**(b) Prescribed Persons**

Section 7 of the 2014 Act prescribes certain external bodies and persons as appropriate recipients of disclosures of relevant wrongdoings that fall within their prescribed remit. For example, under Statutory Instrument No. 339/2014, the Secretary General of the Department of Education and Skills ("DES"), the Chief Executive Officer of the State Examinations Commission, the Director of the Teaching Council and the Data Protection Commissioner are prescribed recipients of disclosures in relation to matters that fall within their remit.

A Staff Member disclosing to a 'prescribed person' must:

- (a) **reasonably believe** that the relevant wrongdoing falls within the scope of matters in respect of which the person is the prescribed recipient; and
- (b) reasonably believe that the information disclosed and any allegations contained therein are **substantially true**.

**(c) Minister of the Government**

Section 8 of the 2014 Act provides for a protected disclosure to a Minister of the Government. If a Staff Member is a DES paid employee of the Board, he/she may make a disclosure to the Minister for Education and Skills if the Staff Member reasonably believes that the information being disclosed shows or tends to show that a relevant wrongdoing which falls within the remit of the Minister for Education and Skills has been committed.

**(d) A legal adviser**

Section 9 of the 2014 Act provides for a protected disclosure to a legal adviser in the course of obtaining legal advice (including advice relating to the operation of the 2014 Act) from a barrister, solicitor, trade union official or an official of an excepted body.

**(e) External disclosures in other cases**

It is preferable to make a disclosure internally, or to one of the alternative recipients set out at (a) to (d) above. A Staff Member will have to satisfy the conditions set out in section 10 of the 2014 Act if he/she wishes to make a disclosure “*in other cases*”. This may include the making of a disclosure that involves information regarding action taken/not taken by any person as a result of a previous disclosure. However, certain criteria need to be met in this regard and the Board strongly encourages Staff Members to seek legal, trade union or other advice/assistance if they intend to make an external disclosure pursuant to section 10 of the 2014 Act.

A copy of section 10 of the 2014 Act is at **Appendix 3**.

**18. Review and Amendments**

The Policy is subject to regular monitoring and review. The Policy will be reviewed by the Board (and/or College management) and may be revoked, replaced or amended at any time and Staff Members will be informed, accordingly.

**APPENDIX 1**

**PROTECTED DISCLOSURE OF INFORMATION FORM**

<b>1</b>	<b>NAME OF EMPLOYEE MAKING THE DISCLOSURE</b>	
<b>2</b>	<b>POSITION</b>	
<b>3</b>	<b>DATE OF THE ALLEGED WRONGDOING, IF KNOWN, OR THE DATE THAT THE ALLEGED WRONGDOING COMMENCED OR WAS IDENTIFIED</b>	
<b>4</b>	<b>INFORMATION IN RESPECT OF THE ALLEGED WRONGDOING AND ANY SUPPORTING DOCUMENTATION</b>	
<b>5</b>	<b>NAME OF PERSON(S) ALLEGEDLY INVOLVED IN THE ALLEGED WRONGDOING, IF NAME IS KNOWN AND THE EMPLOYEE CONSIDERS THAT NAMING AN INDIVIDUAL IS NECESSARY TO EXPOSE THE WRONGDOING DISCLOSED</b>	
<b>6</b>	<b>ANY OTHER RELEVANT INFORMATION</b>	
<b>7</b>	<b>DATE OF DISCLOSURE</b>	

## APPENDIX 2

### Section 16 of the 2014 Act

#### ***“Protection of identity of maker of protected disclosure***

16. (1) *A person to whom a protected disclosure is made, and any person to whom a protected disclosure is referred in the performance of that person’s duties, shall not disclose to another person any information that might identify the person by whom the protected disclosure was made.*
- (2) *Subsection (1) does not apply if—*
- (a) the person to whom the protected disclosure was made or referred shows that he or she took all reasonable steps to avoid so disclosing any such information,*
  - (b) the person to whom the protected disclosure was made or referred reasonably believes that the person by whom the protected disclosure was made does not object to the disclosure of any such information,*
  - (c) the person to whom the protected disclosure was made or referred reasonably believes that disclosing any such information is necessary for—*
    - (i) the effective investigation of the relevant wrongdoing concerned,*
    - (ii) the prevention of serious risk to the security of the State, public health, public safety or the environment, or*
    - (iii) the prevention of crime or prosecution of a criminal offence,**or*
  - (d) the disclosure is otherwise necessary in the public interest or is required by law.*
- (3) *A failure to comply with subsection (1) is actionable by the person by whom the protected disclosure was made if that person suffers any loss by reason of the failure to comply.”*

### **APPENDIX 3**

#### **Section 10 of the 2014 Act**

##### **“Disclosure in other cases**

**10.** (1) *A disclosure is made in the manner specified in this section if it is made otherwise than in the manner specified in sections 6 to 9 and—*

*(a) the worker reasonably believes that the information disclosed, and any allegation contained in it, are substantially true,*

*(b) the disclosure is not made for personal gain,*

*(c) any one or more of the conditions in subsection (2) is met, and*

*(d) in all the circumstances of the case, it is reasonable for the worker to make the disclosure.*

(2) *The conditions referred to in subsection (1)(c) are—*

*(a) that, at the time the worker makes the disclosure, the worker reasonably believes that the worker will be subjected to penalisation by the worker’s employer if the worker makes a disclosure in the manner specified in section 6 , 7 or 8 ,*

*(b) that, in a case where no relevant person is prescribed for the purposes of section 7 in relation to the relevant wrongdoing, the worker reasonably believes that it is likely that evidence relating to the relevant wrongdoing will be concealed or destroyed if the worker makes a disclosure in the manner specified in section 6 ,*

*(c) that the worker has previously made a disclosure of substantially the same information—*

*(i) in the manner specified in section 6 , or*

*(ii) in the manner specified in section 7 or 8 , and*

*(d) that the relevant wrongdoing is of an exceptionally serious nature.*

(3) *In determining for the purposes of subsection (1)(d) whether it is reasonable for the worker to make the disclosure regard shall be had, in particular, to—*

*(a) the identity of the person to whom the disclosure is made,*

*(b) in a case falling within subsection (2) (a), (b) or (c), the seriousness of the relevant wrongdoing,*

*(c) in a case falling within subsection (2)(a), (b) or (c), whether the relevant wrongdoing is continuing or is likely to occur in the future,*

*(d) in a case falling within subsection (2)(c), any action which the employer of the worker 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 disclosure, and*

*(e) in a case falling within subsection (2)(c)(i), whether in making the disclosure to the employer the worker complied with any procedure the use of which by the worker was authorised by the employer.*

*(4) For the purposes of this section a subsequent disclosure may be regarded as a disclosure of substantially the same information as that disclosed by a previous disclosure as mentioned in subsection (2)(c) even though the subsequent disclosure extends to information about action taken or not taken by any person as a result of the previous disclosure.*

*(5) In subsection (1)(b) “personal gain” excludes any reward payable under or by virtue of any enactment.”*

## Appendix 4: Process for Making an Internal Disclosure

