



## **Staff and Volunteer Protection (Whistleblower) Policy (Protected Disclosures Policy)**

### **Background**

Balcarrick Golf Club is committed to maintaining the highest standards of honesty, openness and accountability. We are aware that sometimes people feel apprehensive about reporting their concerns. This may be because they feel that speaking up would be disloyal or it may be because they do not think that their concerns will be taken seriously or they have concerns that they will be intimidated, bullied or dismissed as a result of making the allegations. However, the Club does not believe that it is in anyone's interests for those with knowledge of wrongdoing to remain silent. The Club takes all malpractice very seriously, whether it is committed by staff, members, officers, committee members, volunteers, suppliers or contractors.

Whistleblower is a colloquial expression to describe a person who reports suspicions in respect of some wrong doings. This Whistleblowing Policy sets out a procedure by which concerns can be reported.

### **Purpose**

The purpose of the policy is to outline the responsibilities under the Protected Disclosures Act 2014, (as amended) and to demonstrate this Club's commitment to observing and maintaining the highest standards of honesty, openness and accountability in all of our practices. Our Protected Disclosures Policy is intended to encourage and enable any person to raise, rather than overlook, genuine concerns or disclose information related to potential wrongdoing as outlined within this policy without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

All individuals are encouraged to be familiar with this policy and to feel confident to disclose any genuine concerns internally, at the earliest possible stage.

Any Person who raises a concern in line with this policy is legally protected from penalisation and /or unfavourable treatment.

## Introduction

This statement sets out the Club's policy and procedure for persons to raise concerns in relation to any specific knowledge or any properly

grounded suspicions that they may have about actual, or potential, material irregularities in:

- The running of the Club; or
- Activities of anyone involved in the Club;

insofar as such activities are illegal or have a material adverse bearing on the work of these parties in the Club commonly referred to as "whistleblowing".

The Club's existing policies and procedures in relation to grievances, harassment, disciplinary matters or other complaints are the appropriate procedures to use where injustices or discrimination affects an individual personally and such matters are therefore outside the scope of this policy and should be addressed through the appropriate procedures as set out by these policies.

The Club's existing reporting structures and internal controls (both financial and operational) are the normal and correct mechanisms to detect and/or draw attention to irregularities of all kinds. Additionally, in exceptional circumstances it is sometimes necessary to have an alternative reporting line available as a mechanism of last resort. In such instance, this Whistleblowing policy applies.

Persons making genuine, supported, material allegations should be assured that their concerns will be treated seriously and sensitively. The Club will provide reasonable support to all persons making genuine, supported, material allegations and will aim to protect them from detriment, provided that at all times the person making the allegation has acted in good faith and that the allegations made are material and are properly grounded.

Action to inappropriately deter a person from raising valid concerns about a material irregularity or other significant malpractice may result in the invocation of disciplinary procedures. Likewise, anyone abusing the process by raising unfounded, unsupported and/or immaterial allegations or repeating allegations previously investigated and found to be false will also be subject to the invocation of disciplinary procedures. Anyone who makes a genuine, supported material complaint in good faith, in ignorance of the fact that the same complaint has already been investigated and proven to be false, need have no concerns in this regard.

## Policy Statement

A Protected Disclosure is the term used when someone raises a concern about a relevant wrongdoing such as possible fraud, crime, danger or failure to comply with any legal obligation which came to their attention. 'Relevant wrongdoings' are broadly defined in the Act and include the following:

- 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 individual's contract of employment or other contract whereby the individual undertakes to do or perform personally any work or services;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health and safety of any individual has been, is or is likely to be, in danger;
- That the environment has been, is being or is likely to be, damaged;
- 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;
- That an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or
- That information tending to show any matter falling within any of the points above has been, is being or is likely to be, concealed or destroyed.

This policy describes the procedures at the Club for handling material allegations of irregularities relating to the running of the Club or to the activities of employees, contractors, suppliers or other persons, where such activities adversely affect the work of these parties with the Club. Such material allegations may concern, inter alia, questions of financial malpractice, serious breaches of appropriate and agreed procedures, or significant departures from the statutory or other requirements for good governance. The Club takes such actual or alleged irregularities very seriously.

The Club has a duty to conduct its affairs with propriety having particular regard for its role as a promoter of best practice standards and good governance in the community and voluntary sector and its service commitments to its employees, members, stakeholders and any funder alike.

Persons are not required or entitled to investigate matters themselves to find proof of their suspicion(s) and should not endeavour to do so. Persons should disclose the information that they have based on a reasonable belief that it discloses a wrongdoing.

This procedure enables all persons to raise any genuine concern(s) relating to the Club in the correct way and at an early stage in the confidence that he /she will not be penalised or suffer detriment for having done so.

In situations where a person makes a disclosure not in compliance with the Act, the protection of the Act does not apply.

Allegations should be raised and dealt with through one of the routes indicated in this document depending on the nature of the allegation.

Allegations about an individual's financial conduct should be made to the Honorary Treasurer, or if the matter relates to the Honorary Treasurer, the Club Captain. By way of example, (although these examples are by no means exhaustive) these concerns could be regarding inappropriate ordering / financial commitments, misappropriation of assets, materially excessive or fraudulent travel and subsistence claims or fraudulent reporting of financial matters.

Allegations about other issues about perceived material irregularities in relation to the running of the Club which do not fall within categories referenced above, they should be reported to the Honorary Secretary. By way of example (although these examples are by no means exhaustive) these concerns could be regarding the material breach of significant procedures, improper departures from good governance, serious and substantial concerns regarding potential criminal activities.

Where, for any reason, the person making the allegation considers it inappropriate to refer the matter to Honorary Treasurer, Honorary Secretary or Club Captain, material allegations can be made to any member of the of the Joint Committee, who shall decide what action to take having regard to the particular circumstances.

This person may also request that the matter be investigated by appropriate professionals either internally or externally. The Club is not obliged to accede to such a request.

In all cases, where a material allegation has been made, the person contacted, as appropriate, will make a record of its receipt and of the subsequent action taken. If, on preliminary examination, the allegation is judged to be wholly without substance or merit, the allegation may be dismissed.

The person making the allegation will be so informed and may re-make the allegation to another of the persons stated above.

If the preliminary investigation finds that there is prima facie substance to a complaint, the matter may be:

- considered under the appropriate stage of the disciplinary procedures;

- the subject of a formal investigation; and/or
- referred to an outside body including An Garda Síochána.
- The person or persons against whom a material allegation is made must be informed in writing of the allegation and all of the evidence supporting it and must be allowed full opportunity to comment before the investigation is concluded.

All material, genuine allegations, including those dismissed after preliminary examination, and the results of their investigation, will be reported to the Joint Committee.

The identity of any person making an allegation may be kept confidential, as appropriate, until a formal investigation is launched. Thereafter the identity of the person making the allegation may not be kept confidential. In addition, a person may be required to cooperate with investigating authorities and to give evidence to a Court or other forums.

The report is confidential to the investigator, the Clubs legal advisers, the appropriate disciplinary authority (if relevant), and the persons of the Joint Committee (if relevant). The person against whom the allegation is made will be informed of the outcome of the investigation and will be entitled to receive a copy of the report if the investigation concludes that a breach has occurred.

## **Confidentiality**

This Club is committed to taking all reasonable steps to protect the identity of the person making a disclosure and to ensure that relevant disclosures are treated in confidence. Persons who are concerned that their identity is not being protected should notify Club Captain. Such notifications will be assessed, and appropriate action taken as necessary. However, there are circumstances, as outlined in the Protected Disclosures Act 2014, where confidentiality cannot be maintained. This may include instances in which:

- The disclosure recipient shows that he/she took all reasonable steps to avoid such identity disclosure;
- The person has made it clear that he/she has no objection to his/her identity being disclosed;
- The identity of the person making the disclosure is critical to:
  - 1) an investigation of the matter raised,
  - 2) to prevent serious risk to the security of the state, public health, public safety or the environment, or
  - 3) the prevention of crime or the prosecution of a criminal offence;
- Where the disclosure is otherwise in the public interest of otherwise required by law.

Should such a situation arise, the Club will make every effort to inform the

person that his/her identity may be disclosed.

Where action is to be taken following a disclosure, except in exceptional cases, the disclosure recipient, should contact the discloser and where possible, gain the informed consent of the discloser, prior to any action being taken that could identify them. Where it is decided it is necessary to disclose information that may or will disclose the identity of the discloser, the discloser should be informed of this decision, except in exceptional cases. The discloser may request a review of this decision and a review should be carried out where applicable.

All persons involved in the process must respect the need for confidentiality. A failure to do so may represent a serious disciplinary offence, up to and including termination of membership or other action.

Where a person seeks advice from a trade union, solicitor or barrister, this discussion is treated as a Protected Disclosure, including at early stages in contemplation of making a disclosure or seeking information on the operation of the legislation.

### **Raising a Concern Anonymously**

A concern(s) may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern(s). The Club encourages all persons to put their names to allegations, with our assurance of confidentiality, where possible, in order to facilitate appropriate follow-up. This will make it easier for the Club to assess the disclosure and take appropriate action, including an investigation if necessary.

## **Safeguards and Protection**

Any penalisation of a person who makes a Protected Disclosure is in breach of the Act and will not be tolerated by the Club . The Club's disciplinary procedure or other appropriate action will be invoked against any person who engages in penalisation or threatened penalisation of a person in line with this policy.

No person engaging in the procedures outlined here will be penalised or subject to unfavourable treatment for their role in the process, whether they are making a Protected Disclosure, supporting a disclosure, giving evidence in proceedings or giving notice of any intention to do any of the foregoing. Penalisation means any act or omission that affects a person to the individual's detriment, -demotion, loss of opportunity, transfer of duties, the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty), unfair treatment, coercion, intimidation, harassment, discrimination, disadvantage, unfair treatment, injury, damage, loss or threat of reprisal. Each person is also responsible for not causing detriment to another person because the other person or a third person has made a protected disclosure. A detriment in this context includes coercion, intimidation, harassment, discrimination, disadvantage, adverse treatment in relation to employment (or prospective employment), injury, damage, loss or threat of reprisal. This list is non- exhaustive.

A person who believes that they have suffered any such treatment should inform the Club Captain or the Honorary Secretary immediately. If the matter is not remedied a person should raise it formally using the Club Grievance Procedure.

## **Frequently Asked Questions**

### **How do I make a report?**

You can make a report orally or in writing. The Club would normally expect you to raise your concerns internally to either:

- Honorary Secretary
- Club Captain.

Which of these individuals is the more appropriate will depend on the circumstances of the malpractice and who you think is involved in it. If, under the circumstances, you do not feel comfortable about making a report directly to management, then you can report instead to a member of the Joint Committee

Please say if you want to raise the matter in confidence so that appropriate arrangements can be made.

## **Do I need proof of wrongdoing to make my report?**

The Club does not expect you to have absolute proof of any misconduct or malpractice that you report. However, you will need to be able to demonstrate and support the reasons for your concern.

## **Will the Club protect my identity if I make a report?**

We will do everything possible to protect your identity if you so wish. However, there are circumstances, for example, if your report becomes the subject of a criminal investigation or where a formal investigation is launched, you will be required to disclose your identity as necessary. Should this be the case, you will be advised at the earliest opportunity.

## **How will my report be investigated?**

Once you have made a report we will acknowledge receipt within 5 working days.

Principles of natural justice will apply and the Club will make preliminary enquiries to decide whether a full investigation is deemed necessary. If such an investigation is necessary then, depending on the nature of the misconduct, your concerns will be either:

- investigated internally; or
- referred to the appropriate external person (for example our external auditors, independent body/individual or An Garda Síochána) for investigation.

Subject to any legal constraints, the Club will inform you of the outcome of the preliminary enquiries, full investigation and any further action that has been taken.

## **What can I do if I am unhappy with the way the Club has dealt with my report?**

If you are unhappy with the outcome of an investigation, the Club would prefer that you submit another report explaining why this is the case. This may be submitted to one of the persons referenced in this policy. Your concern will be investigated again if there is good reason to do so. However,

the continued reporting of unfounded or previously rejected allegations without further reason or because an individual refuses to accept the findings of investigation may be considered vexatious and subject to disciplinary proceedings.

However, it may be that you do not think that this is appropriate and wish to

raise your concern with an external body, such as a regulator. It is, of course, open for you to do so provided you have sufficient evidence to support your concern.

The Club advises that if reporting your concern externally, you seek professional advice at your own cost.

## **Raising Concerns Externally**

The aim of this policy is to provide an internal channel within the workplace in which a concern, or in regard to a 'relevant wrongdoing', can be raised. The Club is confident that such concerns can be dealt with internally in an appropriate and timely manner and strongly encourages all persons to report such concerns internally.

However, it is recognised that in some limited circumstances it may not always be appropriate to report any genuine concerns internally and that it may be necessary to raise a concern externally. The Protected Disclosures Act 2014 provides for a number of avenues in this regard.

It is important to note however, that the evidential criteria for making an external disclosure is set at a higher level than that applying to raising a concern internally. While a person need only have a reasonable belief as to wrongdoing to make a disclosure internally, if a person is considering an external disclosure, different and potentially more onerous obligations apply, depending on to whom the disclosure is made. If you go this route, this is entirely at your own expense.

## **Responsibilities**

Overall responsibilities for the Procedures rests with the Joint Committee.

The Joint Committee will endeavour to ensure that this policy is communicated to all persons and will ensure that the policy is reviewed periodically and maintained and updated in line with legislative and/or regulatory changes and any amendments to any relevant Code of Practice. Where required, measures will be taken to ensure the accessibility of policies and procedures for all persons.

All persons are expected to comply with this policy and to raise issues of concern through the procedures outlined in the policy.

## **External Disclosures**

### **1. Other Responsible Person**

Where the Person reasonably believes that the 'relevant wrongdoing' relates solely or mainly to the conduct of a person other than the Person's Employer, or to something for which that other person has

legal responsibility, then the person can make the disclosure to that other person.

## 2. Prescribed Person

Certain external persons are prescribed by Statutory Instrument 339 of 2014 ("SI 339") to receive Protected Disclosures ("prescribed persons"). This includes the heads or senior officials of a range of statutory bodies.

A Protected Disclosure is made in the manner specified if a person:

- makes the disclosure to a person prescribed in the link provided above and,
- reasonably believes that, that the relevant wrongdoing falls within the description of matters in respect of which the person is prescribed in the link provided for;
- that the information disclosed, and any allegation contained in it, are substantially true. Minister of the Government

A disclosure is made in the manner specified in this section if:

- the Person is or was employed in a public body, and;
- the disclosure is made to a Minister on whom any function relating to the public body is conferred or imposed by or under any enactment.

## Legal Advisor

A disclosure is made in the manner specified in this section if it is made by the person in the course of obtaining legal advice (including advice relating to the operation of this Act) from a barrister, solicitor, trade union official or official of an excepted body (within the meaning of Section 6 of the Trade Union Act 1941).

### Alternative External Disclosure (in very limited circumstances)

It will rarely be appropriate to make alternative external disclosures where the disclosure could be dealt with through one of the other disclosure options above. There are stringent requirements for alternative external disclosures to qualify as Protected Disclosures under the 2014 Act.

The protections will only be available if the following conditions are met:

- The person must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true,
- The disclosure is not made for personal gain,
- At least one of the following conditions at (i) to (iv) are met:
  - i. At the time the person makes the disclosure, the person reasonably believes that they he/she will be subjected to penalisation by the Persons Employer if he/she makes the disclosure to the Employer, other Responsible Person, a Prescribed Person, or a Minister; or
  - ii. In a case where no relevant Prescribed Person is prescribed in relation to the relevant wrongdoing, the Person reasonably believes that it is likely that evidence relating to the relevant wrongdoing will be concealed or destroyed if the Person makes the disclosure to the Employer, or responsible person; or
  - iii. The Person has previously made a disclosure of substantially the same information to their Employer or other Responsible Person or a Prescribed Person or a Minister; or
  - iv. That the relevant wrongdoing is of an exceptionally serious nature;  
AND
- In all the circumstances of the case, it is reasonable for the Person to make the disclosure. In determining whether it is reasonable for the Person to make the disclosure regard shall be had, in particular, to:
  - a) the identity of the person to whom the disclosure is made,
  - b) the seriousness of the relevant wrongdoing,
  - c) whether the relevant wrongdoing is continuing or is likely to occur in the future,
  - d) whether any action had been taken in cases where a previous disclosure was made and whether the Person complied with any procedures in place when making that previous disclosure.