Swim Ireland Protected Disclosure Policy

1 Introduction

Swim Ireland is committed to the highest standards of integrity, transparency and accountability and recognises that workers (defined below) play an important role in achieving these aims.

Swim Ireland aims to promote an open and accountable environment in which relevant wrongdoing (defined below) is deterred, workers' interests are protected, and the good reputation of Swim Ireland is maintained. This Protected Disclosure Policy is intended to encourage and enable workers to raise genuine concerns of relevant wrongdoing within the workplace or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

In the event that there is a conflict between this policy and the requirements of a particular jurisdiction wherein a worker submits a report of suspected wrongdoing, then the laws of that jurisdiction will take precedent over this policy.

This policy is governed by the Protected Disclosures Act 2014 as amended by the Protected Disclosures (Amendment) Act 2022 (the **Act**).

2 Who does the policy apply to?

This policy applies to all of our workers at all levels such as employees, directors, senior leaders, contractors, unpaid workers, board members, shareholders, agency workers, trainees, apprentices, interns, job applicants and volunteers. Such individuals are referred to as "workers" throughout this policy.

It is important to note that should you have a concern in relation to your own terms and conditions of employment, personal circumstances or interpersonal grievances in the workplace, these should be dealt with by way of Swim Ireland's Grievance Policy & Procedure.

It is also important to note that this policy does not replace any legal reporting or disclosure requirements where statutory reporting requirements and procedures exist, these must be complied with fully.

3 Designated Person

A designated person (the **DP**) for dealing with worker disclosures must be appointed. The designated person must:

- be impartial and competent to follow up on reports; and
- communicate with reporting persons, provide feedback to them on the investigation and request more information, if needed.

The Swim Ireland DP is the Swim Ireland HR Manager (currently Carol O'Reilly). Protected disclosures may be made in writing by email to the DP at protecteddisclosure@swimireland.ie

4 Purpose

The purpose of the policy is to:

- encourage the reporting by workers of suspected Relevant Wrongdoing as soon as possible in the knowledge that reports will be taken seriously and investigated as appropriate;
- provide guidance as to how to raise those concerns and how those concerns will be dealt with in a clear, formal and secure manner;
- reassure workers that genuine concerns can and should be raised, even if they turn out to be mistaken, without fear of penalisation;
- ensure early detection and remediation of potential Relevant Wrongdoing; and
- ensure compliance by Swim Ireland with its legal obligations and applicable laws.

Employees should note that this policy does not form part of any contract of employment and may be amended by Swim Ireland from time to time.

5 What is in scope?

A protected disclosure is a disclosure of information which, in the reasonable belief of the individual making the disclosure, tends to show one or more of the following wrongdoings has been, is being, or is likely to be, committed and this came to the attention of the worker in a work-related context (**Relevant Wrongdoing**):

(a) a criminal offence;

(b) a failure to comply with any legal obligation other than one arising under the contract of employment of the person making the disclosure;

(c) a miscarriage of justice;

(d) the endangering of the health and safety of any individual;

(e) damage to the environment;

(f) unlawful or improper use of funds or resources of a public body;

(g) an act or omission by or on behalf of a public body which is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement;

(h) an act or omission that is unlawful or that defeats the object or purpose of certain rules of the European Union in the following areas:

(i) public procurement;

(ii) financial services, products and markets, and the prevention of money laundering and terrorist financing;

(iii) product safety and compliance;

(iv) transport safety;

(v) protection of the environment;

(vi) radiation protection and nuclear safety;

(vii) food and feed safety and animal health and welfare;

(viii) public health;

(ix) consumer protection;

(x) protection of privacy and personal data, and security of network and information systems;

(xi) affects the financial interests of the European Union or the internal market; or

(i) the deliberate concealment of any of the above matters.

6 What is not in scope?

As mentioned above, the policy does not apply to:

- interpersonal grievances; or
- a concern or complaint by an employee about their employment, which affects the employee exclusively.

In such circumstances, it would be more appropriate that the matter be dealt with through the Grievance Policy and Procedure, the Anti-Bullying Policy and/or the Complaints and Disciplinary Policy, where appropriate.

This policy is not designed to be used to re-open any matters which have been addressed under the policies listed above, nor should it be viewed as an alternative to those procedures in respect of matters which would more appropriately be considered under them. Action arising from the implementation of this policy may lead to the invocation of those procedures.

If a worker is uncertain whether something is within the scope of this policy, they should seek advice from the DP. Where it is not appropriate for a worker to discuss matters with the DP (e.g. if the complaint concerns this person), the worker may seek advice from the CEO or their line manager.

It is important to note that this policy does not replace any legal reporting or disclosure requirements. Where statutory reporting requirements and procedures exist, these must be complied with fully as appropriate.

Volunteers

Swim Ireland recognise and greatly appreciate the valuable time and immense effort given by members that volunteer at every level of the sport, which is vital to the effective running of our sport, with one of our core values to empower an effective culture with engaged staff and volunteers.

For the purposes of this policy, a "volunteer" means a person who volunteers their services directly to Swim Ireland or any of its regions (such as Board members, officers, committee members, or persons assisting at Swim Ireland events or programmes). It does not include persons who volunteer their services to Swim Ireland member clubs (such as club coaches, club officers, club committee members, or parents assisting with club activities). Such club volunteers have a work relationship with their respective club, not with Swim Ireland, and any information they obtain while performing club duties arises from that club relationship.

Persons who volunteer at club level and who have a concern about wrongdoing at their club should raise that concern with their club in the first instance. If a club volunteer becomes aware of information concerning Relevant Wrongdoing at Swim Ireland level (as distinct from club level), they may report that concern to Swim Ireland, and Swim Ireland will consider such reports on their merits.

7 Safeguards and Prohibition of Penalisation

Protection will be given to any worker who makes a protected disclosure and has a reasonable belief of wrongdoing within the meaning of this policy, to ensure that they are not the victim of any penalisation by any party, even if the concerns or disclosure turn out to be unfounded.

Examples of penalisation relevant to employees include the following acts and omissions:

(a) suspension, lay-off or dismissal,

(b) demotion, loss of opportunity for promotion or withholding of promotion,

(c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,

(d) the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty),

(e) coercion, intimidation, harassment or ostracism,

(f) discrimination, disadvantage or unfair treatment,

(g) injury, damage or loss,

(h) threat of reprisal,

(i) withholding of training,

(j) a negative performance assessment or employment reference,

(k) failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment,

(l) failure to renew or early termination of a temporary employment contract,

(m) harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income,

(n) 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,

(o) early termination or cancellation of a contract for goods or services,

(p) post-termination victimisation such as refusal to provide a reference;

(q) cancellation of a licence or permit, and

(r) psychiatric or medical referrals.

The above list is not intended to be exhaustive.

If a worker believes that they have suffered any form of penalisation as a result of making a disclosure under this policy, they should notify the CEO immediately. Where it is not appropriate for a worker to notify the CEO (e.g. if the complaint concerns this person/s), the worker should notify the chair of the Board.

Any person who is shown to have penalised against a worker that has made a protected disclosure under this policy will be subject to disciplinary action in accordance with the Disciplinary Policy and Procedure and/or the rules of Swim Ireland as applicable.

Workers are not expected to prove the truth of an allegation. However, they must have reasonable belief that there are grounds for their concern. It should be noted that appropriate disciplinary action may be taken against any worker who is found to have raised a concern or raised a disclosure with malicious intent. If guilty, the worker may also be liable to sanctions as provided for under the Act.

Under the Act, Swim Ireland is prohibited from taking or threatening any form of penalisation against a worker who makes a protected disclosure. This prohibition extends to persons connected with the reporting person, such as colleagues or relatives.

8 Confidentiality

Swim Ireland is committed to protecting the identity of any worker who makes a protected disclosure and shall ensure that relevant disclosures are treated in confidence in so far as possible. The focus will be on the alleged Relevant Wrongdoing rather than the person making the disclosure. However, there are circumstances, as outlined in the Act, where confidentiality cannot be maintained, particularly in a situation where the worker is participating in an investigation into the matter being disclosed. Should such a situation arise, we will make every effort to inform the worker that their identity may be disclosed. Any person who breaches this duty of confidentiality may be subject to disciplinary action and/or liable to criminal sanctions where necessary, as provided for under the Act.

The DP should always ensure that the identity of the worker is only ever shared on a "need to know" basis and only where it is necessary to carry out proper follow-up of a report. However, there are certain circumstances where the identity of a worker may need to be disclosed, for example:

- The person to whom the disclosure was made or transmitted shows that they took all reasonable steps to avoid such disclosure;
- The person to whom the disclosure was made or transmitted had a 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;
- Where the disclosure is otherwise required by law;
- Where the disclosure is a necessary and proportionate obligation imposed by European Union law or the law of the State or other legal requirement in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned.

9 Making a Disclosure Anonymously

A concern may be raised anonymously and all reasonable steps shall be taken to protect the identity of the worker. However, on a practical level it may be difficult to investigate such a concern.

Internal disclosures

Workers should be aware that there is no obligation on Swim Ireland to accept and follow up on anonymous reports made under this policy unless the recipient of the report considers it appropriate to do so.

External disclosures

The same procedures shall apply to those who make anonymous disclosures externally as to those who make identified reports.

10 Protected Disclosure Procedure Making a Report

Who should you raise your concern with?

As a first step, all disclosures by workers should be made in writing by email to the DP at protecteddisclosure@swimireland.ie However, should you not wish to use this route, for example if the disclosure concerns the DP, you may contact the CEO, your immediate manager, their superior or a senior member of management who will take appropriate steps to address your concerns.

How to raise a concern

Concerns may be raised verbally, in writing, or in person. Should you raise a concern verbally, we will keep a written record of our conversation and provide you with a copy after our meeting. Should you raise a concern in writing, we would ask you to give the background and history of the concern, giving relevant details, insofar as is possible, such as dates, sequence of events and description of circumstances.

The earlier you express the concern, the easier it will be for us to deal with the matter quickly.

The worker will need to be able to demonstrate and support the reasons for their concerns and provide evidence of their concerns where such evidence is available. Any reports setting out an individual's concerns should be factual (to the best of their knowledge) and should address the following key points to the extent that such information is known to the individual in relation to a wrongdoing that has occurred, is occurring, or is likely to occur:

(a) that the report is a protected disclosure and is being made under the Protected Disclosure procedure;

(b) the date(s) of the alleged wrongdoing (if known) or the date(s) that the alleged wrongdoing commenced or was identified;

(c) whether or not the alleged wrongdoing is still ongoing;

(d) whether the alleged wrongdoing has already been disclosed and, if so, to whom, when, and what action was taken;

(e) information in respect of the alleged wrongdoing (what is occurring / has occurred and how) and any supporting information;

(f) the name of any person(s) allegedly involved in the alleged wrongdoing; and

(g) any other relevant information.

How we will deal with your disclosure

The DP will acknowledge receipt of a reported concern(s) within seven days after receipt of it. The DP shall follow-up on your concern and give feedback on same within 3 months.

The earlier that a worker raises a concern, the easier it will be for Swim Ireland to deal with the matter quickly and effectively. However, a worker is not required or entitled to investigate matters themselves to find proof of their suspicions and should not endeavour to do so.

Initial Assessment

Once a concern is raised by a worker, the DP will carry out an initial assessment to determine whether the reported concern(s) falls within the scope of the Protected Disclosure Policy and if so, whether there is evidence that a Relevant Wrongdoing may have occurred. If necessary to make an initial assessment, the DP will seek further information from the worker. The DP is responsible for the assessment of all disclosures in a timely and appropriate manner. For the avoidance of doubt, the DP shall be entitled to obtain advice and to seek any specialist expertise required.

If, having carried out the initial assessment, the DP decides that there is no evidence that a Relevant Wrongdoing may have occurred, the DP may close this procedure or, if it is clear that the concern falls more appropriately within a different policy/procedure of Swim Ireland, the DP will inform the worker that it should progress the matter in accordance with that procedure. The DP will inform the worker, in writing, as soon as practicable, of the decision and the reason(s) for it.

The DP may seek to meet with the worker in person to discuss the matter with them on a strictly confidential basis. We will need to clarify at this point if the concern is appropriate to be dealt with under this procedure, or, if it is a matter more appropriately dealt with under our other procedures, for example, the Grievance Policy & Procedure, the Complaints and Disciplinary Policy or the anti-bullying policy. The worker can choose whether or not they want to be accompanied by a colleague. In regard to confidentiality, it is important that there should be awareness of respective sensitive Swim Ireland information which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

Investigation

If, having carried out an initial assessment or having met with the worker in regard to their concern, the DP decides that there is evidence that a relevant wrongdoing may have occurred, the DP, in consultation with the CEO, will take appropriate action to address the relevant wrongdoing whilst having regard to the nature and seriousness of the matter concerned. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.

If, on foot of the initial assessment, the DP concludes that there are grounds for concern that cannot be dealt with at this point, we will appoint such person or persons (either internal or external to Swim Ireland), who is or are most appropriately placed to investigate the particular disclosure in question (the **Investigator(s)**). Any such investigation shall be carried out fairly and objectively. The form and scope of the investigation will depend on the subject matter of the disclosure.

Disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the appropriate authorities. Likewise, if urgent action is required (for example to remove a health and safety hazard), this action will be taken.

The scope and terms of reference of any investigation will be determined by the CEO on behalf of Swim Ireland prior to the investigation being carried out provided they are not the subject of the disclosure. The worker may be invited to attend meeting(s) in order to provide further information. The worker is entitled to be accompanied by a work colleague or a member of their club at any meeting(s) if they so wish. The Investigator(s) will draft a report on the investigation (the **Report**).

The Report will be sent to the DP, who will determine what (if any) action should be taken by Swim Ireland. Such action could include (but is not limited to) changes to the way Swim Ireland conducts its operations, referring a person for disciplinary action under the Disciplinary Policy and Procedure, referral of the matter for consideration under a specific Swim Ireland policy or procedure, or a report to an appropriate third party, such as the relevant public authority.

It is important that the worker feels assured that a disclosure made by them under this policy is taken seriously and that they are kept informed of steps being taken by Swim Ireland. The DP will provide feedback to the worker within a reasonable time, being not more than 3 months from the date the acknowledgement of receipt of the report was sent to the worker. Feedback should include information on the progress of the investigation and its likely timescale. However, as a result of the need for confidentiality and in order to comply with the General Data Protection Regulation (GDPR), the Data Protection Act 2018 and other legal requirements, Swim Ireland may be prevented from giving the worker specific details of the investigation, personal information relating to another person, or any action taken as a result. The worker should treat any information about the investigation as strictly confidential and it should not be disclosed further. Any breach of this confidentiality may result in disciplinary action.

Where a concern is raised or disclosure is made in accordance with this policy, but the allegation is subsequently not upheld by an investigation, no action will be taken against the worker making the disclosure and the worker will be protected against any penalisation. However, if the Investigator(s) conclude(s) that the worker has made a malicious complaint, then disciplinary action may be taken in accordance with the Complaints and Disciplinary Policy and criminal sanctions may be imposed as provided under the Act.

11 Protected Disclosure outside of Swim Ireland

The aim of this policy is to provide a clear and effective reporting procedure within the workplace to deal with concerns in relation to wrongdoing. Swim Ireland is confident that issues can be dealt with “in house” in accordance with Swim Ireland’s policies and procedures and workers are encouraged to report concerns internally.

The law recognises that in some circumstances it may be appropriate for workers to report concerns to an external body such as a regulator and the Act provide for a number of avenues in this regard. We strongly encourage workers to seek advice before reporting a concern to anyone external to Swim Ireland.

Workers may make external disclosures to a “prescribed person” (typically a regulatory body relevant to the subject matter of the disclosure), to a Minister of the Government, or to a legal adviser. The Office of the Protected Disclosures Commissioner was established under the 2022 Amendment Act and can receive disclosures where a worker believes that the matter has not been adequately addressed internally. A full list of prescribed persons is available on the Department of Public Expenditure, NDP Delivery and Reform website.

It is important to note however that while workers need to only have a reasonable belief as to wrongdoing to make a disclosure internally, if you are considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made.

12 Review of policy

This policy does not form part of any employee's contract of employment. Swim Ireland reserves the right to review and make any changes and amendments to this policy that it considers necessary at its sole discretion. Swim Ireland may also vary this policy, as appropriate in any case.
END

Appendix 1

Protected Disclosure Reporting - Pre-Engagement Questionnaire

The Act can provide certain protections where you report wrongdoing in the workplace. To qualify for the protections under the Act, you must meet certain conditions. In general, these conditions are that you must be a worker* reporting information you obtained in a work-related context that you reasonably believe tends to show relevant wrongdoing. Additional conditions apply depending on to whom you are making your report.

A report is assumed to be a protected disclosure until it is established that it is not.

Before you make your report we would recommend that you consider the questions below and you should be able to answer yes to all the following questions before you make your report.

The word worker includes individuals who are employees, workers, independent contractors, agency workers, volunteers, unpaid trainees, board members, members of administrative, management or supervisory bodies and job applicants, who acquire information on relevant wrongdoings in a work-related context.

1 Are you a worker*?

Yes

No

2 Did the information you are reporting come to your attention in connection with your employment or in a work-related context?

Yes

No

3 Do you genuinely believe that the information tends to show one or more relevant wrongdoings?

Yes

No

4 Is the matter exclusively personal to you (see below for information on personal grievances)?

Yes[1]

No

[1] Concerns about terms and conditions of employment, personal circumstances or interpersonal grievances in the workplace, should be dealt with by way of Swim Ireland's Grievance Policy & Procedure.

Appendix 2

Report Of Relevant Wrongdoing

Personal Details:

1 Name:

_____

2 Address:

_____

_____

_____

3 Telephone No:

_____

4 Email address:

_____

5 Name of your club:

_____

6 Position in club (member, management committee, officer, coach etc):

_____

Details of the Relevant Wrongdoing :

7 Date of Relevant Wrongdoing:

_____

8 Is the relevant wrongdoing still occurring:

_____

9 If the relevant wrongdoing has not occurred, please explain how it is likely to occur?

_____

_____

_____

10 Please outline the information relating to a relevant wrongdoing that you wish to report.

11 Please outline the name and position of any person or persons allegedly involved in the relevant wrongdoing (if known)?

12 If you consider that there is a risk that evidence relating to the relevant wrongdoing will be concealed or destroyed, please set out the details and the nature of the risk.

Please send this form by email to protecteddisclosure@swimireland.ie