

**SOLAS Speaking Up Policy**

**and**

**External Procedure for Making a Protected  
Disclosure**



**SOLAS**  
learning works

## About this document

Part 1 of this document sets out the SOLAS Speaking Up policy. The procedure for making a disclosure of wrongdoing is outlined in Part 2 of the document. Explanations of the key terms used throughout the policy and procedures are found in Part 3.

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<b>Document name:</b> SOLAS Speaking Up Policy and External Procedure for Making a Protected Disclosure to the SOLAS Prescribed Person	
<b>Version:</b> 1.1	
<b>Approved by:</b> Board of SOLAS	<b>Date:</b> 25 <sup>th</sup> April 2024
<b>Date due for review:</b> 25 <sup>th</sup> April 2027	

## **Part 1 - SOLAS Speaking Up Policy**

**Honesty, openness and accountability are valued principles within SOLAS. This aim of this policy is to ensure that all workers have the opportunity to report relevant wrongdoing and to assure those making such reports that they will not suffer any detriment for having made a report.**

## **1 Introduction**

Every organisation faces the risk that someone who works with or for that organisation may engage in conduct in relation to the organisation that violates the law, or otherwise amounts to serious wrongdoing.

SOLAS is obliged by the Protected Disclosures Act 2014-2023 (the "Act") to establish and maintain procedures for the making of protected disclosures by workers and for dealing with such disclosures.

SOLAS recognises that a successful protected disclosures management system ultimately protects the public interest and improves organisational culture and governance by encouraging and facilitating the reporting of wrongdoing. SOLAS' protected disclosures channels have been designed with this in mind, and with a commitment to providing a safe platform for workers to report wrongdoing, knowing they, and other persons involved, are fully supported and protected as provided for in the Act.

SOLAS will continue to promote a culture of openness, transparency, reliability, and ethical conduct within the organisation, in line with the core values of SOLAS.

There is a distinction between a protected disclosure as defined by the Act and an interpersonal grievance or a complaint which affects the worker exclusively. SOLAS' existing policies and procedures such as those in relation to grievances, bullying, harassment, disciplinary matters or other complaints continue to apply, and such matters will fall outside the scope of this policy.

SOLAS shall not penalise or threaten penalisation against any worker for having made a disclosure regarding a wrongdoing or irregularity as set out in this policy. Any attempt to penalise a disclosing worker will be dealt with under the SOLAS disciplinary or other relevant policy.

This policy is non-contractual and does not form part of terms and conditions of employment or engagement with SOLAS. SOLAS may amend, update, withdraw, or replace it at any time.

## **2 Scope of the Speaking Up Policy**

### **2.1 What is a protected disclosure?**

A "protected disclosure" is defined in the context of this policy as the communication of information (facts or circumstances) made by a "worker" about

a “relevant wrongdoing” that the person has been made aware of in a “work-related context”.

These terms are explained below in relation to the scope of disclosures protected under the Speaking Up policy.

## 2.2 Who can make a protected disclosure?

A “worker” can make a disclosure of wrongdoing under the protections of the Act. A “worker” means an individual who has acquired information on a relevant wrongdoing in a work-related context and who is or was any of the following:

- (a) An employee
- (b) An agency worker
- (c) A contractor
- (d) A person on work experience/trainee,
- (e) A shareholder
- (f) A board member (or member of the administrative, management or supervisory body of an undertaking, including non-executive members)
- (g) A volunteer
- (h) An individual who acquired the information during a recruitment process
- (i) An individual who acquired the information during pre-contractual negotiations (other than a recruitment process).

Non-workers or members of the general public cannot make protected disclosures under the protections of the Act. Reports of believed wrongdoing by non-workers can be made to [complaints@solas.ie](mailto:complaints@solas.ie), and such reports will be handled in accordance with relevant SOLAS procedures.

## 2.3 What is a “relevant wrongdoing”?

The following are set out by the Act as “relevant wrongdoings”:

- (a) that an offence has been, is being or is likely to be committed
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker’s contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur
- (d) that the health or safety of any individual has been, is being or is likely to be endangered
- (e) that the environment has been, is being or is likely to be damaged
- (f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur
- (g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement

- (h) that a breach of specified EU law set out in the Directive has occurred, is occurring or is likely to occur, or
- (i) that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

Provisions made in the Act are applicable whether or not the relevant wrongdoing is committed in Ireland.

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

A worker who reports information on a relevant wrongdoing in a work-related context in accordance with the Act is also known as a "reporting person".

#### 2.4 What is a "work related context"?

A "work related context" means current or past work activities through which the reporting person acquires information concerning a relevant wrongdoing, and within which the reporting person could suffer penalisation for reporting the information. A work-related context includes the work activities of employees and contractors, but may also include the work activities of service providers, trainees, volunteers and job candidates. It may also include activities related to work such as training, travel and employer arranged social events.

The information does not need to become known as part of the reporting person's own duties, or even relate to the reporting person's own employer/contractor, as long as the information comes to the attention of the reporting person in a work-related context. The possibility of penalisation of the reporting person for reporting information will be a factor in determining if the context is a work-related context.

#### 2.5 What is a "reasonable belief"?

A "reasonable belief" means a belief that is based on reasonable grounds. The belief does not have to be correct. In order to benefit from the protections provided by the Act, a reporting person must have a reasonable belief that the information disclosed shows, or tends to show, wrongdoing. Reporting persons are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds.

The reporting person is not obliged to find proof of their suspicion. No reporting person will be penalised for being mistaken, so long as they had a reasonable belief that the information disclosed showed, or tended to show, wrongdoing. A report made in the absence of reasonable belief is not a protected disclosure and can lead to the employer taking disciplinary action against the reporting



person. It is a criminal offence to make a report containing information known to be false.

## 2.6 Disclosure of information and requirements for protection

A "disclosure of information" means a communication of facts or circumstances. Disclosing information in relation to alleged wrongdoing in accordance with the Act is also referred to as "making a report" or "making a disclosure".

The worker making the disclosure must:

- have a reasonable belief that a relevant wrongdoing has or may have occurred, or is about to occur
- discover the information in a work-related context, i.e. in connection with their work activities with SOLAS
- disclose the information in the manner set out in the Act.

A disclosure will only be protected where the disclosing worker reasonably believes the information disclosed tends to show a relevant wrongdoing. A disclosure of information outside the scope as outlined above will not be a protected disclosure within the Act.

Workers are not required or entitled to investigate matters themselves to find proof of their suspicion and should not endeavour to do so. All workers need to do, and should do, is disclose the information that they have, based on a reasonable belief that it discloses a wrongdoing and, where the information relates to individuals, that it is necessary to disclose that information. The responsibility for investigating and addressing any wrongdoings lies with the public body or its Prescribed Person, not the reporting person.

## 3 Channels for making disclosures under the SOLAS Speaking Up Policy

The procedures for making disclosures differ depending on the channels used by the worker to make the disclosure.

### 3.1 Internal channels

A reporting person may make a disclosure of relevant wrongdoing to their employer under Section 6 of the Act. This is referred to as "internal reporting".

SOLAS workers are encouraged to make disclosures using the SOLAS internal channel. The procedure for making disclosures in this manner can be found in the document *SOLAS Speaking Up Policy and Internal Procedure for Making Protected Disclosures*. Workers who do not have access to this document, and who wish to make an internal disclosure to SOLAS should email [protecteddisclosures@solas.ie](mailto:protecteddisclosures@solas.ie) to request a copy of the document.

A disclosure which falls outside the categories outlined above may fall within the remit of another SOLAS policy or the Further Education and Training Act 2013-2022.

### 3.2 External channels

A reporting person may make a disclosure of relevant wrongdoing to a Prescribed Person under Section 7 of the Act. This is referred to as "external reporting".

The Chief Executive Officer of SOLAS is the person prescribed by the Minister of Public Expenditure and Reform to receive disclosures on ***all matters relating to the regulation, registration, employment and education of apprentices as provided for by the Industrial Training Act 1967 (No. 5 of 1967) and the funding of further education and training as provided for by the Further Education and Training Act 2013 (No. 25 of 2013).***

The procedure for making a disclosure to the SOLAS Prescribed Person can be found in Part 2 of this document.

A reporting person may also make a disclosure of relevant wrongdoing to the Office of the Protected Disclosures Commissioner which was created by the Act. The Commissioner's primary duty is to refer any reports received under the Act to the most appropriate Prescribed Person (or other suitable person, if a Prescribed Person cannot be identified).

Workers should note that there are different conditions that must be met for external disclosures to qualify as a protected disclosure under the Act, and that different standards may also apply, depending on to whom the worker makes the disclosure. These are outlined in Part 2 of this document.

## 4 Protection of identity of reporting person

Disclosures made under the Speaking Up Policy and these procedures will be received and investigated with the utmost regard to confidentiality. SOLAS expects all workers to be able to disclose concerns in confidence and without fear of reprisal. SOLAS will keep the identity of a disclosing worker, or any information that someone could use to deduce the disclosing worker's identity, as confidential as possible, and the recipient of the disclosure will take all reasonable steps to avoid disclosing the identity of the disclosing worker. However, SOLAS cannot guarantee total confidentiality. For example, it may be necessary to reveal the disclosing worker's identity as a matter of law, or to a member of a team involved in follow-up or investigating the disclosure. This can include another staff member who may have the necessary technical expertise to assist with the investigation of the disclosure.

Any person who receives and follows up on disclosures should always ensure that the identity of the reporting person is only ever shared on a “need to know” basis and only where it is necessary to carry out proper follow-up of a disclosure.

A worker who makes a disclosure, and any other worker involved in an investigation of a disclosure made, in accordance with this policy and related procedures must keep the existence of the disclosure and any information relating to the investigation of the disclosure in the strictest confidence. A breach of confidentiality is a disciplinary offence and may be referred to the SOLAS disciplinary procedure.

#### 4.1 Measures in place to protect identity

All records of disclosures will be maintained securely by SOLAS in order to comply with the requirements of confidentiality under the Act. SOLAS has put in place measures to protect the identity of disclosing persons, which include:

- Systems for the receipt of disclosures consisting of dedicated email and postal addresses, and a secure voicemail. Access to these are limited to the designated person/designated officer/Prescribed Person (see explanations of these in Part 3) as applicable
- Redaction of identifiable information prior to any investigation where appropriate
- Password protection on documentation shared with any other authorised members of staff
- Storage and retention of disclosures within a secure digital filing system held by the designated person(s).

#### 4.2 Exceptions and when identity can be disclosed

The Act provides that the identity of the reporting person can be disclosed in certain prescribed circumstances even where the reporting person does not consent to their identity being disclosed.

These circumstances are:

- (a) The person to whom the disclosure was made or transmitted shows that he/she took all reasonable steps to avoid such disclosure of the identity, but the identity has been revealed in some manner, for example through an unforeseeable error or other unavoidable occurrence
- (b) 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
- (c) Where the divulgence is otherwise required by law
- (d) Where the divulgence is a necessary and proportionate obligation imposed by EU law or the law Irish law in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of

defence of the person concerned. This relates to a statutory or criminal investigation or judicial proceedings and not to internal investigations conducted by SOLAS or the Prescribed Person.

Where it is necessary to divulge the identity of the reporting person or other information that may or will reveal their identity, the reporting person will be informed of this decision in advance, and the reasons for the divulgence, unless the notification would jeopardise:

- The effective investigation of the relevant wrongdoing
- The prevention of serious risk to the security of the State, public health, public safety or the environment, or
- The prevention of crime or prosecution of a criminal offence.

A reporting person may request an internal review in respect of a decision to divulge their identity. Such a request must be made without any delay. SOLAS will inform the reporting person of the internal review process.

Workers who are concerned that their identity is not being protected are advised to notify a relevant SOLAS employee (such as a member of the People Team, a designated person or the manager of a designated person), or the Prescribed Person, in an appropriate manner. Such notifications will be assessed/investigated, and appropriate action will be taken where necessary.

SOLAS personnel who have received or who are participating in the follow up of a disclosure and who are unaware of the identity of the reporting person should not make any attempt to identify the reporting person. Any such attempts, whether successful or not, will be dealt with under SOLAS's disciplinary process.

Any complaint made of penalisation contrary to the Act will be dealt with having regard to the continued obligation to protect the identity of the reporting person under the Act.

#### 4.3 Identity of persons concerned

A named person alleged to be involved in or otherwise connected with the wrongdoing reported in a disclosure made under the Act is known as a "person concerned". The identity of a person concerned will also be protected by the Prescribed Person or Commissioner under the Act for as long as any investigation triggered by the disclosure is ongoing, unless disclosure of the identity is necessary for the purposes of the Act or is otherwise required by law.

## 5 Anonymous disclosures

An "anonymous disclosure" is made when a reporting person withholds their identity. This is distinct from a "confidential disclosure" where the identity of the

reporting person is protected by the recipient. Anonymous disclosures will be acted upon to the extent that is possible. However, investigations into the reported matter may be restricted if the reporting person has withheld their identity.

SOLAS encourages reporting persons to identify themselves, as this will assist in acquiring any additional information required to deal with the disclosure effectively. Furthermore, SOLAS will be able to provide its internal and statutory protection mechanisms to protect the worker from penalisation, and also keep the worker informed of the investigation.

Where the anonymous disclosure contains enough information to allow SOLAS to conduct an initial assessment to determine there is prima facie evidence that a relevant wrongdoing has occurred, SOLAS will take follow-up action to the extent that is possible from the information provided. Prima facie means "based on what seems to be the truth when first seen or heard". Where it is possible to communicate with the reporting person (e.g. they have made their disclosure via an anonymous email account), SOLAS may seek further information from the reporting person in order to make a better initial assessment or as part of further follow-up action.

While SOLAS will afford all appropriate considerations to an anonymous disclosure, it should be noted that important elements of these procedures such as keeping the reporting person informed, protecting a reporting person from penalisation, or other appropriate elements, may be difficult or impossible to apply unless the reporting person discloses their identity.

A reporting person cannot obtain redress under the Act without identifying themselves as part of the process of seeking redress. Workers are advised to seek independent advice before and during making a disclosure.

A record of receipt of anonymous disclosures shall be maintained including all relevant details of that disclosure including date, manner in which the report was made, details of the report, all relevant information relating to the assessment and investigation of the report, as deemed appropriate so as to have the information in the event that an anonymous reporting person is subsequently identified and penalised for having made the disclosure.

## **6 Penalisation**

SOLAS is committed to its obligation not to penalise or threaten to penalise against a reporting person and will not tolerate penalisation.

"Penalisation" is defined in section 3 of the Act, and means any direct or indirect act or omission occurring in a work-related context, due to the making of a disclosure, and which causes (or may cause) an unjustified detriment to a worker. Examples of penalisation include:

- suspension, lay-off or dismissal
- demotion, loss of opportunity for promotion, or withholding of promotion
- transfer of duties, change of location of place of work, reduction in wages or change in working hours
- the imposition or administering of any discipline, reprimand or other penalty (including a financial penalty)
- coercion, intimidation, harassment or ostracism
- discrimination, disadvantage or unfair treatment
- injury, damage or loss
- threat of reprisal
- withholding of training
- a negative performance assessment or employment reference
- failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment
- failure to renew or early termination of a temporary employment contract
- harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income
- blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry
- early termination or cancellation of a contract for goods or services
- cancellation of a licence or permit, and
- psychiatric or medical referrals.

This list is not exhaustive. Any form of penalisation is prohibited and the fact that a type of behaviour or penalisation is not specifically referenced in the Act does not mean that it cannot be considered penalisation under the Act.

When a protected disclosure report is received, a risk assessment will be carried out as part of the initial assessment process to consider the potential exposure of the reporting person to penalisation. This is addressed in section 17.2 of this document.

### 6.1 Role of SOLAS Board and senior leadership team

SOLAS Board members and the senior leadership team are expected to encourage workers to raise concerns of perceived wrongdoing in accordance with the Act, and to reassure workers that by doing so they will not only be protected from penalisation but will also be contributing to SOLAS' culture of openness and the SOLAS core values (Transparent, Respectful, Innovative, Brave, Effective),

## 6.2 Complaints of penalisation

SOLAS is committed to addressing complaints of penalisation made by reporting persons. A failure to investigate a complaint of penalisation may constitute further penalisation.

Complaints of penalisation should be treated separately to the actual disclosure itself. Complaints of penalisation can be made to the Director, People Team and will be handled by the People Team function of SOLAS, unless this is inappropriate in the circumstances. SOLAS is committed to assessing/investigating such notifications promptly and taking appropriate action. Any attempt to penalise a worker for having made a disclosure in accordance with the Act will be dealt with in accordance with the SOLAS disciplinary procedures.

## 6.3 Redress available

Workers who believe they have been penalised for making a protected disclosure can initiate the following:

- A claim of penalisation to the Workplace Relations Commission. This must be submitted to the within six months of the alleged penalisation. In such claims, the alleged penalisation shall be deemed to have been as a result of the reporting person having made a protected disclosure, unless the employer proves that the act or omission was justified on other grounds.
- A claim for injunctive relief to the Circuit Court. This must be submitted within 21 days of the last instance of penalisation.

Any claim of penalisation in the Workplace Relations Commission, or Circuit Court injunction proceedings regarding penalisation, will be brought against the employer rather than the individual employees responsible.

## 6.4 Protection from civil and criminal liability

With the exception of a defamation action, civil legal action cannot be taken against a worker for making a protected disclosure. Workers can be sued for defamation but are entitled to a defence of "qualified privilege". This means that it should be very difficult for a defamation case against a worker to succeed if the worker can show they made a protected disclosure in accordance with the Act and did not act maliciously. There is no other basis under which a worker can be sued if they have made a protected disclosure in accordance with the Act.

If a worker is prosecuted for disclosing prohibited or restricted information it is a defence for the worker to show that they reasonably believed that they were making a protected disclosure at the time they disclosed the information.

In accordance with the Act, SOLAS does not permit clauses in agreements that:



- prohibit or restrict the making of a protected disclosure
- exclude or limit any provision of the Act
- preclude a person from taking any proceedings under or by virtue of the Act, and/or
- preclude a person from bringing proceedings for breach of contract in respect of anything done in consequence of the making of a protected disclosure.

## 7 Support and advice

SOLAS encourages workers to seek independent advice before and during the process of making a protected disclosure.

Transparency International Ireland ([www.transparency.ie](http://www.transparency.ie)) provides support and confidential advice, which may include referral to legal advice, for any workers considering making a protected disclosure. The Speak Up Helpline can be contacted by Freephone 1800 844 866, or securely online at <https://www.transparency.ie/helpline>.

A guide to making a protected disclosure is available at:  
[https://www.transparency.ie/sites/default/files/20.01\\_speak\\_up\\_safely.pdf](https://www.transparency.ie/sites/default/files/20.01_speak_up_safely.pdf)

Some trade unions offer free legal advice services on employment-related matters, including protected disclosures, to workers who are trade union members. Workers should contact their own trade union to find out more about these services.

Information for workers who are considering making a protected disclosure is also provided by Citizens Information and is available at:  
<https://www.citizensinformation.ie/en/employment/enforcement-and-redress/protection-for-whistleblowers>.

Information in relation to making a complaint of penalisation to the Workplace Relations Commission can be found at <https://www.workplacerelations.ie>.

## 8 Withdrawal of a protected disclosure

Once a protected disclosure has been made in accordance with the Act, it is not possible to withdraw the disclosure. Reporting persons are required under the Act to co-operate with a designated officer, designated person, Prescribed Person, the Commissioner or a person to whom a disclosure is transmitted to such extent as may reasonably and lawfully be required for the purposes of the Act.

Where co-operation is withdrawn or the reporting person seeks to withdraw a protected disclosure, SOLAS and the Prescribed Person are still required to comply with the provisions of the Act, to the greatest extent possible. If the



reporting person ceases to co-operate with the protected disclosure process, this may make follow-up, including any investigation, more difficult.

## 9 Annual report

SOLAS is required to provide an annual report to the Minister for Public Expenditure and Reform under Section 22 of the Act. This will be provided by 1<sup>st</sup> March in each year and will include information in respect of the preceding calendar year. The information will be provided in such a way that it does not enable the identification of reporting persons or persons concerned.

The following information will be included in the annual report:

- (a) the number of protected disclosure reports made to SOLAS or the Prescribed Person
- (b) the number of protected disclosure reports transmitted to SOLAS or the Prescribed Person under sections 7, 10B, 10C and 10D of the Act
- (c) in respect of each report referred to in paragraphs (a) and (b), whether the relevant wrongdoing concerned was a breach
- (d) the number of investigations and proceedings opened by SOLAS or the Prescribed Person in relation to the relevant wrongdoings concerned as a result of the disclosures referred to in paragraphs (a) and (b)
- (e) the number of investigations and proceedings opened, in the year preceding the year in respect of which the report is being made, by SOLAS or the Prescribed Person, in relation to the relevant wrongdoings concerned that remain open
- (f) the number of investigations and proceedings closed by SOLAS or the Prescribed Person in relation to the relevant wrongdoings concerned as a result of the reports referred to in paragraphs (a) and (b)
- (g) in respect of each closed investigation or proceedings referred to in paragraph (f), the outcome of the investigation or proceedings and the decision taken by SOLAS or the Prescribed Person
- (h) where relevant and in so far as it can be ascertained, the estimated financial damage and the amounts recovered following any investigation and proceedings referred to in paragraph (f)
- (i) such other information relating to the performance of the functions of SOLAS or the Prescribed Person as the case may be under this Act, as may be requested by the Minister.

SOLAS will also publish a report by 31<sup>st</sup> March each year in respect of the previous calendar year on the SOLAS website ([www.solas.ie](http://www.solas.ie)). This will contain the same information as required above, as well as a statement confirming that external reporting channels and procedures for the external reporting of protected disclosures are in place as required.

## 10 Promotion of the policy and training

This policy and associated procedures will be promoted among SOLAS workers and workers within the remit of the SOLAS Prescribed Person. Workers will be made aware, and reminded regularly, of the existence of this policy, and will be encouraged to contribute to SOLAS's culture of openness and ethical conduct by reporting relevant wrongdoing. Workers will be informed if and when changes are made to the policy and associated procedures.

Designated persons and all other persons who will be involved in the receipt, investigation and assessment of protected disclosures will engage in specific training regarding the requirements of the Act, the obligations of the employer and designated person, and the conduct of assessments and investigations.

## 11 Review of policy and procedures

This policy and its associated procedures have been developed in line with the requirements of the Act, and with due regard to the Department of Public Expenditure and Reform (DPER) guidance document *Protected Disclosures Act Statutory Guidance for Public Bodies and Prescribed Persons – November 2023*.

This policy and procedures will be reviewed every three years at a minimum. Reviews may also occur more frequently as and when required.

Day-to-day responsibility for the implementation, monitoring and ongoing review of the policy and its associated procedures rests with the Assistant Chief Executive Officer, Support, in conjunction with the Audit and Risk Committee (ARC). Oversight of the policy and its associated procedures rests with the SOLAS Board.

## 12 Data collection

SOLAS will only collect and process personal data and information from workers through this policy as necessary to comply with its statutory obligation to establish and maintain procedures for the making of protected disclosures by workers and for the purposes of investigating and appropriately following up on a disclosure made in line with procedures.

Such personal data will at all times be processed in accordance with the General Data Protection Regulation and any applicable national data protection legislation (as amended from time to time) (the "Data Protection Legislation").

The following types of personal data may be processed by SOLAS in accordance with this policy:

- personal data (e.g. name(s), contact details, expressions of opinion, records of incidents involving workers or other parties)
- special categories of personal data (e.g. data relating to racial/ethnic origin, religious or philosophical beliefs, trade union membership, data concerning health, sex life or sexual orientation)
- personal data relating to criminal convictions and offences.

SOLAS may need to share or disclose personal data it obtains, in connection with a disclosure, with internal parties or external parties (such as An Garda Síochána) on a strictly necessary basis in order to investigate and appropriately follow up on a disclosure in accordance with this Policy.

The Data Protection Legislation requires that personal data are deleted as soon as the data are not required for the purpose for which the data has been collected. Personal data collected and processed in accordance with these procedures will be deleted without delay after an investigation has been concluded or, if the investigation leads to disciplinary procedures or other action, until the information is no longer required for this purpose.

Any questions, comments and requests may be referred to the SOLAS Data Protection Officer regarding rights of access, rectification or restriction under the Data Protection Legislation, SOLAS's data processing practices.

Anyone whose personal data are processed in connection with a disclosure, has a right to request a copy of their personal data.

If necessary, complaints regarding the processing of their personal data by SOLAS may be made to the Office of the Data Protection Commissioner.

### **13 Freedom of Information**

The Freedom of Information Act 2014 (the "FOI Act") has been amended by the Protected Disclosures Act 2014-2022. As a result, the FOI Act does not apply to records relating to a disclosure made under the Act. However, records concerning SOLAS's general administration of its functions under the Act are subject to FOI.

## **Part 2 – External Procedure for Making a Protected Disclosure to the SOLAS Prescribed Person**

## 14 Introduction

This section of the document sets out reporting procedures for workers who wish to make a disclosure of relevant wrongdoing to the SOLAS Prescribed Person (the SOLAS Chief Executive Officer) in accordance with the Protected Disclosures Act 2014-2023 (the "Act").

These procedures specify how a worker can make a disclosure, the information that should be included in a disclosure, and what a worker can expect to happen once a disclosure has been made. These procedures should be read in conjunction with Part 1 of this document - SOLAS Speaking Up Policy (the "policy"). Explanations of key terms used throughout the policy and these procedures are found in Part 3 of this document.

The policy provides relevant information to workers on the scope of disclosures which are protected by the Act, how the identity of workers who make such disclosures will be protected, and further relevant information on supports for workers who make disclosures of relevant wrongdoings.

Workers are assured that reports made in accordance with the Act will be received and investigated with the utmost regard to confidentiality.

SOLAS workers are encouraged to make disclosures internally to SOLAS. The procedure for this is outlined in the document *SOLAS Speaking Up Policy and Internal Procedure for Making a Protected Disclosure*. Workers who do not have access to this document, and who wish to make an internal disclosure to SOLAS should email [protecteddisclosures@solas.ie](mailto:protecteddisclosures@solas.ie) to request a copy of the procedure.

## 15 How do I report a protected disclosure using external channels?

A worker must make a disclosure in the manner set out in the Act to ensure the protections of the Act. There are a number of different ways set out below in which a worker can make a disclosure. Different standards apply depending on the person or body to whom the worker makes a disclosure.

### 15.1 Disclosure to the Prescribed Person

A reporting person may make a protected disclosure to the SOLAS Prescribed Person if the relevant wrongdoing relates to ***any matter relating to the regulation, registration, employment and education of apprentices as provided for by the Industrial Training Act 1967 (No. 5 of 1967) and the funding of further education and training as provided for by the Further Education and Training Act 2013 (No. 25 of 2013)***.

The following conditions must be met for a disclosure of relevant information made to the Prescribed Person to qualify as a protected disclosure under the Act:

- (a) The reporting person meets the criteria of a "worker" as defined in Section 2.2 of this document
- (b) The relevant information came to the worker's attention in a work-related context
- (c) The worker has a reasonable belief that the information tends to show a relevant wrongdoing
- (d) The worker has a reasonable belief that the information disclosed, and any allegation contained in it, are substantially true
- (e) The worker has a reasonable belief that the information disclosed falls within the scope of matters for which the Prescribed Person has responsibility (as outlined above).

Protected disclosures can be made to the SOLAS Prescribed Person by emailing [protecteddisclosures@solas.ie](mailto:protecteddisclosures@solas.ie), by leaving a message on (01) 5332595, or by post to:

Chief Executive Officer  
**Prescribed Person**  
SOLAS  
Block 1  
Castleforbes House  
Castleforbes Road  
Dublin 1  
D01 A8N0

The Prescribed Person will designate an impartial person, known as the "designated person" to provide information on the procedures for making a protected disclosure, receive and follow up on reports, maintain communication with the reporting person and where necessary, request further information from and provide feedback to the reporting person.

The designated person will, on request, facilitate a physical meeting with the reporting person for the purpose of making the report. Where a physical meeting is requested, the meeting place used will ensure the privacy and protection of the identity of the reporting person.

When a disclosure is made in this manner, or orally, it will be documented by the designated person, either by way of a digital recording with the reporting person's consent in advance, or by way of accurate minutes. Where practicable, the discloser will be asked to check and confirm by way of signature the contents of the minutes or transcript of the information provided to ensure that they are accurate.

Any worker who acquires information in the course of their work activities giving rise to a reasonable belief that a relevant wrongdoing has, or may have, occurred in an organisation other than SOLAS can also make a report to the relevant

Prescribed Person. Workers should identify the Prescribed Person with responsibility or oversight of the relevant organisation. The list of Prescribed Persons is available at <https://www.gov.ie/prescribed-persons>.

A reporting person will not breach their duty of confidentiality when making a report to the SOLAS Prescribed Person in line with this procedure.

## 15.2 Disclosure to a Minister

A worker who is or was employed in a public body may make a disclosure of relevant information to a relevant Minister. The relevant Minister with responsibility for SOLAS is the Minister for Further and Higher Education, Research, Innovation and Skills ([www.gov.ie/dfheris](http://www.gov.ie/dfheris)).

In order to make a disclosure to a relevant Minister, the worker must reasonably believe that the information disclosed tends to show one or more relevant wrongdoings; and one or more of the following must also apply:

- (a) The worker has previously made a disclosure of substantially the same information to their employer, other responsible person, Prescribed Person, or relevant Minister, as the case may be, but no feedback has been provided to the worker in response to the disclosure within the period allowed, or, where feedback has been provided, the reporting person reasonably believes that there has been no follow-up or that there has been inadequate follow-up
- (b) The worker reasonably believes the head of the public body concerned is complicit in the relevant wrongdoing reported
- (c) The worker reasonably believes that the disclosure contains information about a relevant wrongdoing that may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage.

To ensure that the relevant Minister is aware of the worker's intention, it is recommended that the worker specifies when making a disclosure under this channel that it is a disclosure to the named Minister under Section 8 of the Protected Disclosures Act 2014. Ministers are required to forward disclosures to the Protected Disclosures Commissioner.

### 15.3 Disclosure to the Protected Disclosures Commissioner

The Office of the Protected Disclosures Commissioner was created by the Act. The Commissioner's primary duty is to refer any reports received under the Act to the most appropriate Prescribed Person (or other suitable person, if a Prescribed Person cannot be identified). The Commissioner will directly follow-up on a report only as a last resort.

The Commissioner may receive disclosures by means of external reporting channels, which must meet the same criteria as the external reporting channels for Prescribed Persons. The Commissioner may also receive disclosures which have been transmitted onwards from Government Ministers. Details on making a disclosure to the Commissioner can be found at <https://www.opdc.ie>.

### 15.4 Disclosure to institutions of the European Union (EU)

A reporting person may make a protected disclosure to a relevant institution, body, office or agency of the EU if the relevant wrongdoing concerns a breach of EU law as set out in EU Directive 2019/1937. The reporting person must reasonably believe:

- (a) That the information they wish to report concerns breaches of EU law that falls within the scope of the Directive and
- (b) That the information on breaches was true at the time of reporting.

Information on making such protected disclosures is available by contacting the relevant institution, body, office or agency of the EU.

### 15.5 Disclosure to a legal advisor

The Act allows a protected disclosure to be made by a worker in the course of obtaining legal advice from a barrister, solicitor, trade union official or official of an excepted body (an excepted body is a body which negotiates pay and conditions with an employer but is not a trade union as defined in section 6 of the Trade Union Act 1941).

### 15.6 Alternative external disclosures

It is preferable in most circumstances for a SOLAS worker to make a disclosure to SOLAS in the first instance or to use one of the disclosure options as set out above if appropriate. It will rarely be appropriate to make an alternative external disclosure where the disclosure could be dealt with through one of the options above.

However, a protected disclosure can be made in alternative circumstances if the worker reasonably believes that the information disclosed, and any allegation



contained in it, are substantially true, and at least one of the following additional conditions are met:

- (a) the worker has previously made a disclosure of substantially the same information to the employer, another responsible person, a Prescribed Person or a Minister, but no appropriate action was taken in response to the disclosure within the period specified by the Act, or
- (b) the worker reasonably believes that the relevant wrongdoing concerned may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage, or
- (c) the worker reasonably believes that she/he would be penalised if he/she made the disclosure to a Prescribed Person or a Minister, or
- (d) the worker reasonably believes if she/he were to make a disclosure to a Prescribed Person or a Minister that there is a low prospect of the relevant wrongdoing being effectively addressed, due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where a Prescribed Person may be in collusion with the perpetrator of the wrongdoing or involved in the wrongdoing.

## **16 What information should be included in a report?**

Workers are encouraged to make reports in writing, to include at a minimum the information outlined below, and to email or post the report to the relevant addresses given above.

Reports should include the following:

- (a) that the report is a protected disclosure and is being made under these procedures
- (b) the reporting person's name, working relationship with SOLAS (i.e. how they qualify as a "worker"), place of work and contact details – see Part 1 of this document regarding anonymous disclosures
- (c) the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified
- (d) whether or not the alleged wrongdoing is still ongoing
- (e) whether the alleged wrongdoing has already been disclosed and if so, to whom, when, and what action was taken
- (f) information in respect of the alleged wrongdoing (what is occurring/has occurred and how) and any supporting information
- (g) the name of any person(s) allegedly involved in the alleged wrongdoing (if any name is known and the worker considers that naming an individual is necessary to report the wrongdoing disclosed), and
- (h) any other relevant information.

## 17 What happens after a protected disclosure is made to the Prescribed Person?

The Prescribed Person will in the first instance assign the report to a “designated person”. A designated person is an impartial person (or persons) designated by the Prescribed Person to handle any reports received. The designated person is responsible for providing information on making an external disclosure, receiving and following up on reports, maintaining communication with the reporting person and where necessary, requesting further information from and providing feedback to the reporting person.

### 17.1 Acknowledgement

The designated person will acknowledge the report within seven calendar days unless no acknowledgement has been specifically requested, or if acknowledgement could jeopardise protection of identity.

Initial acknowledgement will provide the following:

- (a) Further information about the protected disclosures process and a copy of, or link to, the Speaking Up policy, and these procedures which will apply to the handling of the report
- (b) Assurance to the reporting person that the report will be dealt with and in confidence
- (c) An indication of the expectation of what will happen once the report is made
- (d) An indication of response timelines
- (e) Information in relation to the protection of the identity of the reporting person and protection from penalisation
- (f) Information in relation to the type of feedback that will be provided, as well as the type of feedback that will not be provided, and that the reporting person may request in writing further feedback at three month intervals
- (g) Information in relation to advice and/or support services available to workers making a protected disclosure.

### 17.2 Initial assessment

The designated person will conduct an initial assessment, or screening process, to determine:

- (a) If the report should be treated as a protected disclosure, having regard to the provisions of the Act
- (b) if the report falls within the scope of the matters for which the SOLAS Prescribed Person has responsibility
- (c) if there is prima facie evidence that a relevant wrongdoing may have occurred having regard to the provisions of the Act.

The designated person may seek further information from the reporting person if required as part of this process.

The report will be assessed to determine the nature of the information disclosed and the procedure or procedures that is/are most appropriate to be used to investigate the individual elements of the allegation.

A risk assessment to determine the potential exposure of the reporting person to penalisation will also be conducted as part of the initial assessment, and continuous monitoring will be carried out to determine if any risk factors identified have arisen.

The risk assessment should be carried out in consultation with the reporting person and will take into account factors such as:

- whether the reporting person is concerned/anxious about penalisation
- the nature of the wrongdoing alleged, such as the seriousness/nature of the allegations, the seniority or status of alleged wrongdoers, who will be impacted by any follow-up actions, etc.
- specific vulnerabilities of the reporting person, such as their employment status (e.g. if they are on probation or on an agency contract etc.), protected characteristics, immigration status, etc.
- past history of the reporting person, such as previous issues the reporting person has had in the organisation, such as grievances or disciplinary action as well as previous protected disclosures
- past history of handling (or mishandling) of protected disclosures and/or penalisation complaints in the organisation
- the degree to which it is possible to protect the reporting person's identity, having regard to the nature and subject of the allegations reported; and
- any issues identified by the reporting person (e.g. threats made against them or specific types of penalisation they are concerned about) and any suggestions or requests the reporting person might have to assist in their protection.

If it is unclear whether the report qualifies as a protected disclosure, the designated person will treat the report as a protected disclosure and protect the identity of the reporting person and any persons concerned until satisfied that the report is not a protected disclosure.

### 17.3 Potential outcomes of the initial assessment and options open to SOLAS

- (a) If the initial assessment shows there is prima facie evidence that a relevant wrongdoing may have occurred, an investigation will commence as outlined below.
- (b) If the report is deemed to relate solely to a complaint exclusively affecting the worker, then the reporting person will be encouraged to utilise other processes so that the complaint can be dealt with in an appropriate

manner, and will be informed that the report will not be considered under the protected disclosures procedure.

- (c) If the report comprises a mix of different issues (some involving a protected disclosure, some involving a complaint exclusively affecting the worker) then an appropriate process/processes should be applied to deal with each of the issues. The process applied may differ from case to case.
- (d) If it is determined that there is no prima facie evidence that a relevant wrongdoing may have occurred, the matter can be closed.
- (e) If it is determined that there is a relevant wrongdoing but that it is clearly minor and does not require further follow up, the matter can be closed.
- (f) If the initial assessment shows that the report does not contain any meaningful new information about a relevant wrongdoing compared to a past report where the procedures have been concluded, unless new legal or factual circumstances justify a different follow up, the matter can be closed.
- (g) Some matters may be of such seriousness that the investigation will more appropriately be carried out externally or by professional experts in a particular area. In some cases the matter may need to be reported to, and investigated by, An Garda Síochána or another body with the statutory power and function of investigation of particular matters.
- (h) Where a report concerns a breach of EU law, as provided for in the Act, the Prescribed Persons must send the information to the relevant EU bodies as soon as practicable, where this is provided for under EU or Irish law.
- (i) If the initial assessment shows that the report concerns matters which are not within the scope for which the SOLAS Prescribed Person has responsibility, the report must be transmitted to the relevant Prescribed Person, or where there is no such other Prescribed Person, the Commissioner. The report will be transmitted to the designated person in the other organisation, or the Commissioner, in a secure manner that will not compromise the security and confidentiality of the report. The SOLAS designated person will inform the recipient of the date the report was originally acknowledged.

Note: this list is not exhaustive. Other outcomes may arise.

The reporting person will be informed, as soon as practicable, if any of these outcomes arise and the reason for the decision.

#### 17.4 Follow -up and investigation

"Follow-up" is defined in the Act as meaning any action taken by the recipient of a report, or a person to whom the report is transmitted, to assess the accuracy of the information and, where relevant, to address the wrongdoing reported. Therefore, follow-up includes the initial assessment and investigation of the report of a disclosure and actions taken to address the wrongdoing.

Where prima facie evidence of relevant wrongdoing is found following initial assessment, SOLAS will take steps to fully determine the accuracy of the

information reported, and to address any wrongdoing found. Follow-up can include a range of actions such as an internal inquiry, an investigation, internal audit review or an action for recovery of funds. SOLAS will have regard to the nature and seriousness of the relevant wrongdoing, and its own statutory powers provided under the Further Education and Training Act 2013 when determining the appropriate action to take. The precise form of follow-up will be appropriate to each individual report and may vary depending on the nature, complexity and seriousness of the report.

SOLAS will inform its Audit and Risk Committee (ARC), Head of Internal Audit, or other appropriate bodies in the event that there is prima facie evidence that a relevant wrongdoing has occurred, while protecting the identity of the reporting person.

In the event that prima facie evidence indicates that the CEO has potential involvement in the alleged wrongdoing, the matter can be referred to the Board Secretary for follow-up, with oversight by the Chair of the Board.

SOLAS will conduct all follow-up and/or investigative actions with the utmost of regard for the integrity and confidentiality of the reporting person and all persons concerned.

The Prescribed Person is permitted to prioritise reports of disclosures of serious relevant wrongdoing, if necessary and appropriate, having regard to the number of reports received. Timelines for the provision of feedback remain the same for the reports which have not been prioritised.

## **18 What happens after the follow-up action/investigation?**

Feedback will be provided to the reporting person within three months of acknowledgement of receipt of the disclosure, or if no acknowledgement was sent, within three months of receipt of the disclosure. This can be extended to six months after acknowledgement of the report, where it is justified due to the particular complexity of the report concerned. The reporting person will be informed of the decision to extend the time from three months to six months as soon as practicable.

Where the reporting person requests in writing that they wish to receive further feedback after the initial three month (or six month) period, SOLAS as Prescribed Person will do so at intervals of three months until the procedure relating to the report is closed

Where a report is transmitted by the Commissioner to a Prescribed Person or a report is transmitted by a Prescribed Person to another Prescribed Person (or the Commissioner), the three month or six month timeframe starts from the date the report was first acknowledged, not the date of transmission.

## 18.1 Content of feedback

The Act defines “feedback” as the provision to the reporting person of information on the action envisaged or taken as follow-up and the reasons for such follow-up.

The extent of the feedback will depend on the disclosure itself. If there is no relevant wrongdoing identified, this can be communicated in the feedback. If an alleged relevant wrongdoing is identified, this can be noted in the feedback, as well as identifying actions that have been taken, or are intended to be taken, to address the wrongdoing, and the reasons for these actions.

Any feedback given is provided in confidence as part of the reporting process. The feedback should not be disclosed further by the reporting person, other than to their legal advisor or trade union representative, or unless the information forms part of a further protected disclosure being made via another channel.

## 18.2 Final outcome

The designated person will communicate in writing to the reporting person the final outcome of any investigations triggered by their disclosure, subject confidentiality, legal privilege, privacy and data protection or any other legal obligation.

SOLAS has no obligation to inform the reporting person of the commencement, or progress, or outcome, of any disciplinary process involving another worker which may arise on foot of an investigation occasioned by a protected disclosure. In such a situation, a reporting person will be informed that appropriate action has been taken but is not entitled to know what that action was.

SOLAS will not communicate information that could prejudice the outcome of the investigation or any action that ensues (e.g. disciplinary, or other legal action, including prosecution) for example, by undermining the right to fair procedures enjoyed by the person against whom a report or allegation is made.

The reporting person is not entitled to receive a copy of the report generated during the consideration and investigation of the disclosure.

## **Part 3 - Explanation of key terms used in the policy and procedures**

### **Anonymous disclosure**

An anonymous disclosure is made when a reporting person withholds their identity.

### **Confidential disclosure**

A confidential disclosure is where the identity of the reporting person is protected by the recipient.

### **Designated officer**

The designated officer is the person designated to receive disclosures of relevant wrongdoing through the internal reporting channel. The SOLAS Designated Officer is the Manager, Legal and Audit Services and is responsible for providing information on making an internal disclosure, receiving and following up on internal reports, maintaining communication with the reporting person and where necessary, requesting further information from and providing feedback to the reporting person.

### **Designated person**

A designated person is an impartial person (or persons) designated by the Prescribed Person to handle any reports received. The designated person is responsible for providing information on making an external disclosure, receiving and following up on reports, maintaining communication with the reporting person and where necessary, requesting further information from and providing feedback to the reporting person.

### **Disclosure of information**

A disclosure of information means a communication of facts or circumstances. Disclosing information in relation to alleged wrongdoing in accordance with the Act is also referred to as "making a report" or "making a disclosure".

### **External channels**

This refers to the external communication methods available to workers whereby workers can report a relevant wrongdoing. These include dedicated email and postal addresses, and a secure voicemail.

### **External reporting**

A reporting person may make a disclosure of relevant wrongdoing to a Prescribed Person or the Commissioner under Section 7 of the Act. This is referred to as external reporting.

### **Feedback**

The Act defines feedback as the provision to the reporting person of information on the action envisaged or taken as follow-up and the reasons for such follow-up.



### **Follow-up**

Follow-up is defined as meaning any action taken by the recipient of a report, or a person to whom the report is transmitted, to assess the accuracy of the information and, where relevant, to address the wrongdoing reported.

### **Internal channel**

This refers to the internal communication methods available to workers whereby workers can report a relevant wrongdoing.

### **Internal reporting**

A reporting person may make a disclosure of relevant wrongdoing to their employer under Section 6 of the Act. This is referred to as internal reporting.

### **Penalisation**

Penalisation as defined in section 3 of the Act, means any direct or indirect act or omission occurring in a work-related context, due to the making of a disclosure, and which causes (or may cause) an unjustified detriment to a worker.

### **Person concerned**

A named person alleged to be involved in or otherwise connected with the wrongdoing reported in a disclosure made under the Act is known as a "person concerned".

### **Prescribed Person**

Prescribed Persons are persons who are prescribed by the Minister for Public Expenditure and Reform to receive protected disclosures made through external reporting channels. For SOLAS, this is the Chief Executive Officer.

### **Prima facie**

Prima facie means "based on what seems to be the truth when first seen or heard".

### **Protected disclosure**

A protected disclosure is defined in the context of this policy and associated procedures as the communication of information (facts or circumstances) made by a worker about a relevant wrongdoing.

### **Protected Disclosures Commissioner**

The Office of the Protected Disclosures Commissioner was created by the Act. The Commissioner's primary duty is to refer any reports received under the Act to the most appropriate Prescribed Person (or other suitable person, if a Prescribed Person cannot be identified).

### **Reasonable belief**

This means a belief that is based on reasonable grounds.

### **Relevant wrongdoing**

The following are set out by the Act as relevant wrongdoings:

- (a) that an offence has been, is being or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged,
- (f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur,
- (g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement,
- (h) that a breach of specified EU law set out in the Directive has occurred, is occurring or is likely to occur, or
- (i) that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

### **Reporting person**

A worker who reports information on a relevant wrongdoing in a work-related context in accordance with the Act is known as a "reporting person".

### **Work-related context**

A work-related context means current or past work activities through which the reporting person acquires information concerning a relevant wrongdoing, and within which the reporting person could suffer penalisation for reporting the information.

### **Worker**

As defined in the Act a "worker" means an individual who has acquired information on a relevant wrongdoing in a work-related context and who is or was any of the following:

- (a) An employee
- (b) An agency worker
- (c) A contractor
- (d) A person on work experience/trainee,
- (e) A shareholder
- (f) A board member (or member of the administrative, management or supervisory body of an undertaking, including non-executive members)

- (g) A volunteer
- (h) An individual who acquired the information during a recruitment process
- (i) An individual who acquired the information during pre-contractual negotiations (other than a recruitment process).