



The Health Insurance Authority Protected Disclosure and “Whistleblowing” Policy

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1 Introduction

- 1.1 The Health Insurance Authority in compliance with both the Protected Disclosure Act 2014 and the Code of Practice for the Governance of State Bodies 2016, (Section 5.9) has put in place procedures where employees of the Health Insurance Authority (HIA) and other stakeholders (person(s) with an interest or concern in the private health insurance industry), may, in confidence, raise concern about possible irregularities in financial reporting or other significant matters or wrongdoings and ensure meaningful follow-up of matters raised in this way.
- 1.2 The term ‘whistleblowing’ is used in national standards to describe the actions of employees, past or present, who draw attention to bad practice where they work. The aim of this policy is to develop procedures that allow confidential and protected disclosure of financial or other bad practice or wrongdoings to the HIA management or to the Board of the Authority (“the Authority”) in relation to the HIA itself or in respect of a provider of health insurance in Ireland.
- 1.3 Employees are often the first to realise that there may be something seriously wrong in their place of work. Normally, employees are expected to raise any concerns initially with their manager. However, employees may not express their concerns because they fear harassment, victimisation, or have concerns that management are themselves involved.
- 1.4 The HIA is committed to the highest possible standards of openness, probity and accountability. In line with this commitment the HIA expects employees who have serious concerns about any aspect of the HIA’s work, or those who work for the HIA, to come forward and voice their concerns. In order to facilitate this, confidential procedures are in place to allow employees bring concerns directly to the management of the HIA or the Authority where it is appropriate to bypass normal management channels.
- 1.5 The Chief Executive of the Health Insurance Authority is a “prescribed person” under the Protected Disclosure Act 2014. The Chief Executive / Registrar is therein prescribed as a recipient of disclosures of relevant wrongdoings falling within the description of all matters relating to the monitoring of the operation of the Health Insurance Acts 1994 to 2013, the carrying on of a health insurance business in the State, operation of the Risk Equalisation Fund and the provision of advice and information to consumers. A person can make a disclosure in good faith to the Health Insurance Authority or one of its employees, and if the person making the disclosure has reasonable grounds for believing that the disclosure will show that there has been a breach of, or offence under, health insurance legislation or the concealment or destruction of evidence relating to such an offence or breach and provides their name, the disclosure is a protected disclosure.

Anonymous disclosures can be submitted to the Authority. Such disclosures can be treated as a protected disclosure under the Protected Disclosures Act 2014.

- 1.6 This policy document makes it clear that employees and other stakeholders can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. This Protected Disclosure and “Whistleblowing” Policy is intended to encourage and enable

employees and other stakeholders to raise concerns with the management of the HIA or the Authority rather than overlooking a problem.

- 1.7 This policy applies to all employees both past and present. Where this document refers to employees it should be understood that the term applies to both staff of the HIA, Authority Members, those working for the HIA but who are not direct employees and to staff or stakeholders of a health insurance provider.
- 1.8 These procedures are in addition to the HIA's complaints procedures. The HIA is responsible for making employees and other stakeholders aware of the existence of these procedures.
- 1.9 The HIA is aware of its responsibilities in relation to The Protected Disclosures Act, 2014 (the "Whistleblowing" Act). The Act provides a robust statutory framework within which workers can raise concerns regarding potential wrongdoing that come to their attention in the workplace in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for doing so.

2 Aims and Scope of the Policy

- 2.1 This policy aims to:
 - Encourage and support employees and other stakeholders to feel confident in raising serious concerns and to question and act upon concerns about practice;
 - Provide an avenue to employees and other stakeholders to raise those concerns and receive feedback on any action taken;
 - Ensure employees and stakeholders receive a response to concerns raised and that they are aware of how to proceed if they are not satisfied; and
 - Reassure employees and stakeholders that they will be protected under the Protected Disclosure Act where management or the Authority has a reasonable belief that they have made a disclosure in good faith.
- 2.2 The Protected Disclosure and "Whistleblowing" Policy is intended to cover major concerns that cannot for whatever reason be addressed using normal procedures. These include:

Concerns in relation to the HIA

- Conduct which is an offence or a breach of the law
- Health and safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of funds
- Possible fraud and corruption
- Sexual, physical or other abuse
- Unethical conduct

Concerns in relation to a Health Insurance Provider

- Conduct which is an offence or a breach of health insurance legislation
- Matters relating to the monitoring of the operation of the Health Insurance Acts 1994 to 2013
- Matters, including fraud, corruption or unethical conduct, in relation to the carrying on of a health insurance business in the State
- Matters relating to the operation of the Risk Equalisation Fund
- Matters relating to the provision of advice and information to consumers

It is important to note there is a Grievance Procedure in place to enable employees to lodge a grievance relating to their own employment, see HIA or other relevant Employee Handbooks.

3 Protected Disclosure

3.1 A protected disclosure is deemed to be a disclosure of relevant information which:

- “in the reasonable belief of the worker, tends to show one or more relevant wrongdoings; and
- it came to the attention of the worker in connection with the worker’s employment.”

This policy deals with disclosures that relate to ‘relevant wrongdoings’. These correspond to the relevant wrongdoings in the Protected Disclosure Act 2014 (section 5 subsections 3(a) to (h)) and in summary these are:

- a) Offences that are or are likely to be committed;
- b) Failing to comply with legal obligations;
- c) Miscarriage of justice;
- d) Health and safety risks, including risks to the public as well as other workers;
- e) Damage to the environment;
- f) The unauthorised use of public funds or resources;
- g) Oppressive, discriminatory or grossly negligent action or inaction by a public body;
- h) Information in respect of any category above that has been, is being or is likely to be concealed or destroyed.

3.2 A ‘protected disclosure’ under this policy may be about a relevant wrongdoing

- that is happening now
- took place in the past
- that is about to happen

4 Who is covered by this Policy?

- 4.1 This policy applies to the current Members and Staff of the HIA.
- 4.2 This policy applies to former Members and Staff of the HIA
- 4.3 This policy applies to agency workers, self-employed persons acting on our behalf, and in certain circumstances the workers of companies that supply the HIA with goods and services.
- 4.4 This policy applies to current and former Directors and Staff of Registered Undertakings.
- 4.5 The Protected Disclosures Act 2014 (“2014 Act”) provides that a worker may make a protected disclosure in certain circumstances to a “prescribed person” under the 2014 Act. The Health Insurance Authority is such a “prescribed person”. A worker may make a protected disclosure if he or she reasonably believes that a relevant wrongdoing which relates to the following has occurred:

“All matters relating to the monitoring of the operation of the Health Insurance Acts 1994 to 2013, the carrying on of a health insurance business in the State, operation of the Risk Equalisation Fund and the provision of advice and information to consumers.”

5 Safeguards - Harassment or Victimisation

- 5.1 The Authority is committed to good practice and high standards and wants to be supportive of employees.
- 5.2 The Authority recognises that the decision to report a concern can be a difficult one to make especially for employees who are new to the organisation. Employees who, in good faith and with reasonable suspicions raise a concern, will have nothing to fear because they will be doing their duty to the HIA.
- 5.3 The Authority will not tolerate or allow any form of harassment, victimisation or discrimination (including informal pressures) and will take appropriate action to protect employees when they raise a concern in good faith. If there are any intimidatory threats or instances of harassment/victimisation/discrimination against a ‘whistleblower’ the HIA will take appropriate disciplinary action against the individual(s) concerned.
- 5.4 The HIA is subject to The Protected Disclosures Act, which provides for a comprehensive suite of employment and other protections to whistleblowers that are penalised by their employer or suffer a detriment from a third party on account of raising concerns regarding possible wrongdoing in their workplace.

- 5.5 The Protected Disclosure Act 2014 provides the same protection to those making protected disclosures to a prescribed person, in this case the HIA.
- 5.6 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary procedures that already affect the employee.

6 Confidentiality

- 6.1 All concerns will be treated, as far as possible, in the strictest confidence and every effort will be made not to reveal the employees identity, if desired. However, if concerns require any further action, the employee may at some future date have to act as a witness and/or provide evidence.

7 Anonymous Allegations

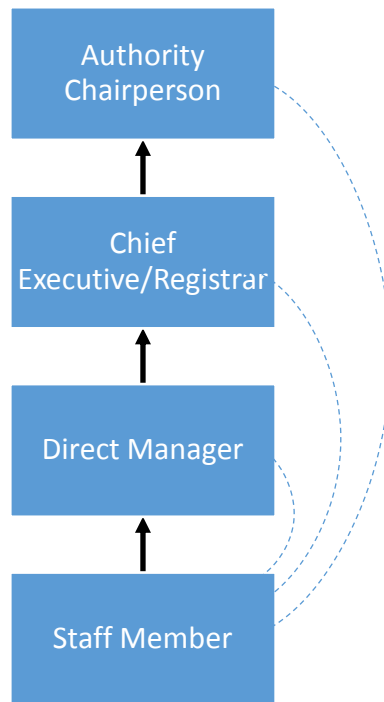
- 7.1 This policy encourages those making a protected disclosure to put their name to allegations whenever possible.
- 7.2 Concerns expressed anonymously are much less powerful but will, nevertheless, be considered fully.
- 7.3 Anonymous allegations will be considered using the following criteria:
- The seriousness of the issues raised;
 - The credibility of the concern; and
 - The likelihood of confirming the allegation from attributable sources.

8 Untrue Allegations

- 8.1 If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken. If, however, an employee makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken.

9 How to Raise a Concern under Internal Disclosure

- 9.1 As a first step, you should normally raise concerns with your immediate manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the employee believes that a manager is involved, they should approach the Chief Executive/Registrar; if however they believe the Chief Executive/Registrar may be involved, or aware but not acting upon the malpractice, the employee should approach the Authority.



- 9.2** Concerns should be raised in writing. Employees who wish to make a written report are invited to use the attached form at **Appendix A** which enables them to identify:
- The background and history of the concern (giving relevant dates); and
 - The reason why you are particularly concerned about the situation.
- 9.3** The completed form, and any additional or supporting documentation, should be sent in confidence to the Chief Executive/Registrar or the Chairperson of the Authority at protecteddisclosure@hia.ie or write directly to either marking the letter Private and Confidential.
- 9.4** The earlier the employee expresses the concern the easier it is to take action.
- 9.5** Although the employee making an allegation is not expected to prove beyond doubt the truth of an allegation, the employee will need to demonstrate to management or the Authority that there are reasonable grounds for their concern.
- 9.6** The employee may wish to consider discussing their concern with a colleague or trade union representative initially in order to assess if their suspicions are grounded.
- 9.7** The employee may invite a trade union official, or another person to be present during any meetings or interviews in connection with the concerns raised.

10 Making a Disclosure to the HIA in its Role as a Prescribed Person

10.1 The Protected Disclosure Act 2014 provides for external reporting of wrong-doing to appropriate authorities in circumstances where:

- a) The worker reasonably believes that the information disclosed and any allegations contained are substantially true; and
- b) The wrong-doing falls within matters in respect of which there is a 'Prescribed Person'.

10.2 A 'Prescribed Person' is the external authority as prescribed by Ministerial Order (under section 7 of the Protected Disclosures act 2014). Prescribed Persons are normally the Regulating or Supervising Authority or Inspectorate with responsibility for dealing with any 'relevant wrong-doing' falling within the scope of the Protected Disclosure Act 2014.

10.3 Workers from outside of the HIA working for a registered undertaking, service providers or suppliers who become aware of a 'relevant wrong-doing' as part of their work and wish to make a disclosure are invited to do so directly to their employer through internal Whistleblowing procedures, and if this is not possible or directly to the HIA using the guidelines below.

Concerns should be raised in writing. Workers/Individuals who wish to make a written report are invited to use the attached form at **Appendix A** which enables them to identify and:

- State that you are making the disclosure under Section 7 of the Protected Disclosures Act 2014;
- The background and history of the 'relevant wrong-doing' (giving relevant dates) and why it falls within the HIA's area of responsibility;
- The reason why you are particularly concerned about the situation;
- Include any information relating to your raising (or not raising) the concern under the internal procedure or your employer;
- Date the disclosure;
- Give your preferred contact details;
- Make it clear (i) that you expect confidentiality or (ii) that you want your name associated with the disclosure; and
- The completed form, and any additional or supporting documentation, should be sent in confidence to the Chief Executive/Registrar at or the Chairperson of the Authority, at protecteddisclosure@hia.ie or write directly to either marking the letter Private or Confidential.

10.4 Although workers are not expected to prove the truth of the facts in the disclosure they must have 'reasonable belief' that the information and any allegation are substantially true. This is a higher standard than when making the internal disclosure.

11 Making a disclosure to ‘other persons’

11.1 The Protected disclosure Act 2014 provides for external reporting to other persons. There is no definitive list of who can be or who cannot be an ‘Other Person’.

As such, a worker may seek to make a disclosure to other persons/bodies where:

- They have previously made a similar disclosure to one of the bodies outlined above;
- They reasonably believe they may be penalised by their employer for making the disclosure;
- They reasonably believe that it is likely that evidence of the wrongdoing will be concealed or destroyed; and
- The wrongdoing is of an exceptionally serious nature.

12 How the Authority will respond

12.1 The Authority will respond to all concerns raised.

12.2 The Chief Executive/Registrar and/or Chairperson of the Authority is responsible for ensuring that any and all concerns received are appropriately assessed, and if required investigated, and for communication with the individual raising the concern. The Chief Executive/Registrar or Chairperson may, at their own discretion, appoint an investigator to assess and investigate any allegations and report to the Chief Executive/Registrar or Chairperson.

12.3 Where appropriate, the matters raised may:

- Be investigated by appropriate management representatives, internal audit or through the disciplinary process
- Be referred to An Garda Síochána
- The Minister for Health
- Be referred to an external auditor
- Form the subject of an independent inquiry
- Or a combination of the above

12.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Authority will have in mind is the public interest.

12.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

12.5 Within ten working days of a concern being raised, the Chief Executive/Registrar or Chairperson or a nominated person from the Authority will communicate to the employee in confidence:

- Acknowledge that the concern has been received;
- Indicate how it is proposed to deal with the matter;
- Give an estimate of how long it will take to provide a final response;
- Inform the employee of any initial enquiries that have been made; and
- Inform the individual making the disclosure whether further investigation will take place and if not, why not.

Every effort will be made to ensure that concerns are dealt with as speedily as possible and the individual making the disclosure is kept informed of progress made.

12.6 The amount of contact between the personnel considering the issues and the individual making the disclosure will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Authority representative will seek further information from the individual making the disclosure.

12.7 Where any meeting is arranged, off site if appropriate, the individual making the disclosure can be accompanied by a trade union representative, legal representative or another person.

12.8 The Authority will take steps to minimise any difficulties which the individual making the disclosure may experience as a result of raising a concern. For instance, if the employee is required to give evidence in criminal or disciplinary proceedings the Authority will arrange for the individual making the disclosure to receive advice and support throughout the procedure.

12.9 The Authority accepts that the individual making the disclosure needs to be assured that the matter raised has been properly addressed. Thus, subject to legal constraints, the Authority will inform the individual making the disclosure of the outcome of any investigation.

13 The Responsible Officer

13.1 The Chairperson has overall responsibility for the maintenance and operation of this policy. He/she will maintain a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the Authority.

14 How the Matter can be Taken Further

14.1 This policy is intended to provide an avenue, both internally and externally, to raise concerns. The Authority hopes individuals making a disclosure will be satisfied with any action taken. If the individual making the disclosure is not satisfied and feels it is right to take the matter outside the HIA, the following are possible contact points, (this list is not exhaustive):

- The Department of Health, Private Health Insurance Unit
- An Garda Síochána
- The Central Bank of Ireland

14.2 If an employee does take the matter outside the HIA, the employee must ensure that confidential information is not disclosed.

15 Whistleblowing Do's and Don'ts

Do:

- Keep calm
- Be aware that disclosures are taken seriously and the process should not be misused
- Remember you are a witness, not a complainant
- Seek advice

Don't:

- Forget there may be an innocent or good explanation
- Become a private detective
- Use a Confidential Disclosure “whistleblowing” procedure to pursue a personal grievance

Appendix A

The Health Insurance Authority Protected Disclosure and “Whistleblowing” Policy Report Form

I WISH TO MAKE A DISCLOSURE UNDER SECTION 7 OF THE
PROTECTED DISCLOSURES ACT 2014 (delete as appropriate)

Yes / No

WHAT CONCERN(S) DO YOU WISH TO RAISE?

(In your own words describe your concern(s), include date(s), time(s), persons involved,
including any witnesses, location, the length of time you have been concerned and why it
falls within the HIA’s area of responsibility)

WHY ARE YOU CONCERNED ABOUT THE ISSUE(S)?

HAVE YOU DISCUSSED THE ISSUE(S) WITH ANYONE ELSE
INCLUDING YOUR EMPLOYER? (delete as appropriate)

Yes / No

IF SO, who with _____ WHEN (date) _____

