

# REPRISAL RISK ASSESSMENT TOOL

## Reprisal risk assessment tool for DO Use

Discloser	
Designated Officer:	
Date:	

The DO will assess the risk of reprisal to the discloser and/or those cooperating with the investigation as soon as is practical after receiving a disclosure. The DO will exercise their discretion to revisit the assessment and note any changes before beginning an investigation, before notifying witnesses or respondent and conducting interviews and before sharing the results of an investigation, even in draft form.

### Step 1. Identify the risk

#### Is the nature of the disclosure particularly egregious?

- Yes *Has the alleged wrongdoing taken place over a significant period of time? Is there more than one alleged wrongdoer?*
- No
- N/A

#### Is the discloser's identity known in the workplace?

- Yes *If yes, how did the identity of the discloser come to be known? Is this a cause for concern?*
- No
- Unknown

#### If "No" or "Unknown", could the discloser's identity become known?

- Yes *Has the discloser told anyone else that they were making a disclosure? Have they raised their concerns to others? Is the nature of the disclosure such that they may easily be identified? Is it possible to confidentially investigate the disclosure?*
- No

#### Is the discloser in a vulnerable position?

- Yes *Has the discloser expressed fear of reprisal? Does the respondent have seniority over the discloser or can they easily affect the discloser's working conditions? Is the discloser being performance managed? Are there effective supervisory arrangements to monitor the conduct of the respondent(s)? Is the discloser on contract or part-time?*
- No

#### Will the respondent(s) have motivation to commit reprisal?

- Yes *Has the discloser told anyone else that t*
- No *Will the respondent suffer any adverse consequences as a result of an investigation? Will their identity remain confidential during the investigation? Will the respondent be removed from the workplace during the investigation?*
- Unknown

#### Are there any other dynamics suggesting the potential for reprisal?

- Yes *Does the discloser have a support network in the organization? How closely connected is the discloser with the respondent(s)? Do the discloser and respondent(s) socialize outside of work? Is there a history of conflict in the workplace involving the discloser or respondent(s) and management or colleagues?*
- No
- N/A

If yes, describe

### **Step 2. Risk analysis and evaluation**

Using the information from the previous page, analyze the risk to assess the nature and likelihood of reprisal taking place.

#### **Reprisal measures**

##### **Given any risks identified, what form could reprisal potentially take?**

*Some examples: discrimination, disadvantage or adverse treatment to the employee's career, a workplace transfer, damage to reputation, threats, bullying, harassment or torment, ostracism, significant undermining of the employee's authority, heavier scrutiny of work, unsafe or humiliating work, injury, or any other action which has a negative impact on employment or working conditions*

#### **Likelihood**

##### **What is the likelihood of reprisal occurring?**

- *Which factors make reprisal more or less possible?*
- *The most significant indicators of high risk are:*
  - *past experiences of conflict, threats or reprisal in the workplace;*
  - *the likelihood that the confidentiality or anonymity of the discloser will not be maintained;*
  - *the significance of the wrongdoing, the number of people involved, and/or the status of the alleged wrongdoers; and*
  - *the vulnerability of the discloser in the workplace given their seniority, proximity to the alleged wrongdoer(s), or how physically isolated they may be.*

### Controls

**What measures or protective factors are already in place to protect the discloser and mitigate or prevent the risk?**

- *How effective are the measures likely to be?*
- *Are those measures sufficient to protect the discloser? If not, why and what else needs to be addressed?*

### Risk evaluation

DOs should select a risk rating based on a consideration of all the available information assessed above. Risk factors may be given more or less weight in the assessment depending on the circumstances. Some examples which may support the corresponding risk are below:

#### Low risk

Confidentiality of the discloser can be maintained – The discloser has not raised concerns about reprisal – No concerns about historical conduct of parties involved – The discloser is not in a vulnerable position in the workplace – The discloser is not currently employed by the organization

#### Medium risk

The discloser's anonymity may not be maintained – There is a potential for low level reprisal against the discloser such as workplace conflict, isolation – There are minor concerns about the historical conduct of the parties – There is a power imbalance between the parties – The discloser does not have significant social support in the workplace

#### High risk

The discloser's identity is known or is likely to be known – Previous retaliatory threats may have occurred – There have been previous incidents of concern relating to the conduct of the parties – The discloser is vulnerable in the workplace – The matter of wrongdoing involves more than one party and/or is egregious – There is a strong motivation for reprisal given the ramifications to the respondent(s) in a finding of wrongdoing

### **Step 3. Risk management plan**

Develop strategies to eliminate or minimize any risks posed. What actions will be taken? Who is responsible for the actions? What is the timing of such actions?

Possible strategies:

- Keep the identity of the discloser confidential.
- Counsel the discloser on ways they can maintain confidentiality.
- Develop a support strategy for the discloser and respondent(s).
- Communicate with the discloser and respondent(s) at regular intervals.
- If conducting interviews in the workplace, interview all employees in a work unit so that neither the discloser nor other witnesses stand out or become easily identifiable as the source of information.
- Be proactive by reinforcing the Act's prohibitions against reprisal with the respondent(s) and any person cooperating with an investigation.
- If risk is high, consider consultation with legal counsel or the Office of the Ombudsperson regarding any additional means of protection at the employer's disposal.
- Delay notification to the respondent(s) where natural justice permits.
- Ensure the disclosure is dealt with in an appropriate timeframe.

**Plan:**