





PROTECTED DISCLOSURES PROCEDURAL GUIDELINES

“THESE PROCEDURES ARE TO OUTLINE THE SYSTEM THAT HAS BEEN ESTABLISHED FOR THE EMPLOYEES OF THE JAMAICA MORTGAGE BANK TO REPORT IMPROPER CONDUCT OR OCCUPATIONAL DETRIMENT”.

Approved:	Integrity Commission	
Endorsed By:	Board of Directors	
Effective Date:	April 1, 2023	

Contents


1. Statement of Support.....	1
2. Object of the Act	1
3. Purpose of the Procedures	1
4. Definitions of Terms	1
i. Designated Authority	1
ii. Designated Officer.....	
iii. Disclosure.....	2
iv. Employee.....	2
v. Employer.....	2
vi. Grievance and Disciplinary Panel	
2	
vii. Improper	
Conduct.....	2
viii. Occupational Detriment.....	2
ix. Prescribed Persons.....	3
5. Roles and Responsibilities	4
i. Employee.....	4
ii. Designated Officer.....	4
iii. Designated Authority	4
iv. Employer	5
v. Grievance and Disciplinary Panel	
5	
6. Appointment of a Designated Officer.....	5
7. The Reporting System	5
8. Receiving and Assessing.....	6
9. Investigation and Feedback	7
10. Actions to be taken after the Investigation.....	7
11. Preventing Detrimental Actions.....	8
12. Statement of Confidentiality	8
13. Immunity from Civil and Criminal Proceedings	8
14. Criminal Offences	8
15. Anonymous Disclosures	9
16. Collating and Publishing Statistics	10


APPENDICES

PROTECTED DISCLOSURES FORM.....	Appendix 1
PROTECTED DISCLOSURES LOG.....	Appendix 2
PROTECTED DISCLOSURES SUMMARY REPORT.....	Appendix 3

1. Statement of Support to Persons Making Protected Disclosures

The Directors and Management of the **Jamaica Mortgage Bank** are committed to the provisions of the Protected Disclosures Act, 2011 and have endorsed these procedures. We also pledge to encourage our employees to make disclosures of known or suspected incidences of improper conduct, to facilitate a fair and impartial investigation into each allegation and to take the necessary steps to implement the recommendations of any such investigation. We also give the assurance that all reasonable steps will be taken to protect employees who have made a protected disclosure from occupational detriment or fear of reprisals.


.....
for Chairman
JUNE 15, 2023
.....
Date


.....
On behalf of the Management Team
JUNE 15, 2023
.....
Date

2. Object of the Act - Section 3

The object of the Protected Disclosures Act, 2011 (the Act) is to encourage and facilitate the making by employees of specified disclosures of improper conduct in the public interest; to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct; to protect employees who make specified disclosures from being subjected to occupational detriment; to protect the confidentiality of the employee making the disclosure and any statement given, or document, information or thing provided; and to grant immunity from civil or criminal proceeding or any disciplinary proceeding to a person who makes a protected disclosure, or receives, investigates or otherwise deals with a protected disclosure.

3. Purpose of the Procedures – Section 6

These procedures are in compliance with the Protected Disclosures Act, 2011 and are to outline the system that has been established for the employees of **Jamaica Mortgage Bank** to report improper conduct or occupational detriment. These procedures also describe the timely and impartial investigating and reporting mechanism in place to deal with protected disclosures.

4. Definitions of Terms – Interpretation Section of the Act (Section 2)

i. Designated Authority

The Designated Authority is an individual or entity appointed by the Minister of Justice with the responsibility for monitoring compliance with the Act. The Minister has appointed the Integrity Commission as the Designated Authority by the Protected Disclosure (Designated Authority) Order, 2021.

ii. Designated Officer

The Designated Officer is the person(s) appointed by the employer and conferred with the requisite authority to receive, take steps to investigate or otherwise deal with disclosures. The Designated Officer is also responsible for keeping the employee updated on the status of the investigation of the disclosure.

iii. Disclosure

This means the giving of information, by an employee, regarding any conduct of an employer of that employee or another employee of the employer, where the employee has a reasonable belief that the information disclosed shows or tends to show that improper conduct has occurred, is occurring or is likely to occur, and "disclose" shall be construed similarly.

iv. Employee

- (a) any person who:
 - (i) works or has worked for another person; and
 - (ii) receives, has received, or is entitled to receive, any remuneration for work done;
- (b) any person who in any manner assists or has assisted in the carrying on or conduct of the business of an employer, without any entitlement to receive remuneration or reward; or
- (c) any person who is, or was engaged or contracted under a contract for services to do work for another person, or any agent of the person.

v. Employer

Employer means any person or entity who-

- (a) Employs or has employed another person to carry out work or provide services and who remunerates, or expressly or tacitly undertakes to remunerate, that other person for the work carried out or services provided; or
- (b) Permits or has permitted another person to assist in any manner in the carrying on or conduct of the business of that person, without any obligation to provide remuneration or reward to that other person.
- (c) References to the Audit Committee means, the Audit Committee appointed by the Board of Directors of the Jamaica Mortgage Bank in keeping with the Public Bodies (Management & Accountability) Act.

vi. Grievance and Disciplinary Panel

Panel recognized and established by an organization to address grievance, staff related and disciplinary issues. In respect of the Jamaica Mortgage Bank, this is the body established virtue of paragraph 8.7 of the Jamaica Mortgage Bank's HR Manual and section 6.1 of the Disciplinary Code for Public Bodies (as amended).

vii. Improper Conduct

- (a) criminal offence;
- (b) failure to carry out a legal obligation;
- (c) conduct that is likely to result in a miscarriage of justice;

- (d) conduct that is likely to threaten the health or safety of a person;
- (e) conduct that is likely to threaten or damage the environment;
- (f) conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds;
- (g) act of reprisal against or victimization of an employee;
- (h) conduct that tends to show unfair discrimination on the basis of gender, race, place of origin, social class, colour, religion or political opinion; or
- (i) wilful concealment of any act described in (a) to (h) above.

viii. Occupational Detriment

Any act or omission that results in an employee, in relation to his employment, being:

- (a) subject to disciplinary action;
- (b) dismissed, suspended, or demoted;
- (c) harassed, intimidated or victimized;
- (d) transferred against his will;
- (e) refused transfer or promotion;
- (f) subject to a term or condition of employment or retirement from employment, that is altered to his disadvantage;
- (g) provided with an adverse reference;
- (h) denied appointment to any employment, profession or office;
- (i) threatened with any of the actions specified in (a) to (h); or
- (j) otherwise adversely affected in respect of his employment, profession or office, including employment opportunities and job security.

ix. Prescribed Persons

1. Auditor-General
2. Bank of Jamaica
3. Bureau of Standards
4. Children's Advocate
5. Commissioner of Police
6. Director of Public Prosecutions
7. Electoral Commission of Jamaica
8. Fair Trading Commission
9. Financial Services Commission
10. Independent Commission of Investigations
11. Integrity Commission
12. Tax Administration Jamaica
13. National Environment and Planning Agency
14. Office of Utilities Regulation
15. Political Ombudsman
16. Public Defender

5. Roles and Responsibilities

i. Employee

Employees are encouraged to disclose known or suspected incidences of improper conduct or detrimental action in good faith and in the public's interest in accordance with the Act. Employees should also support those who have made a legitimate disclosure and should refrain from activities that could be perceived as victimization, harassment or reveal the identity of the persons who have made disclosures.

ii. Designated Officer – Section 13, 14, 18, 19 & 24

The Designated Officer shall have the authority to:

- (a) make the necessary arrangements for a disclosure to be made privately and discretely and if necessary, away from the workplace;
- (b) be the contact point for general advice about the operation of the **Protected Disclosures Act, 2011 and these procedures**;
- (c) put in writing any disclosure received orally within twenty-four hours of its receipt;
- (d) take all steps to ensure that the identity of the person who makes a disclosure is kept confidential;
- (e) In consultation with the Designated Authority, where appropriate, determine whether a disclosure meets the criteria of a protected disclosure under the Act and conducting an impartial investigation into the allegation;
- (f) recommend the referral of disclosures based on the subject matter, the seriousness of its nature or if it prejudices national security, defence or international relations to the appropriate authority;
- (g) give an update to the person who made the disclosure within thirty (30) days and in intervals of thirty (30) days thereafter;
- (h) forward an investigation report and all evidence gathered to the **Audit Committee, General Manager or Designated Authority, where appropriate**, for action; and
- (i) make monthly reports to the Designated Authority on the status of the investigations into disclosures received;
- (j) ensure that employees are aware of these procedures;
- (k) ensuring that persons who have made a disclosure, as well as the Designated Authority, are kept up-to-date with the progress of the investigations, findings, recommendations and any subsequent actions taken.

iii. Designated Authority – Section 10

The Designated Authority has the responsibility:

- (a) To ascertain that disclosures are acted upon in accordance with the Protected Disclosures Act and that these are satisfactorily concluded, and where applicable, recommendations acted upon;
- (b) Of ensuring that the Designated Officers are accessible and have the requisite training necessary to carry out their functions under the Act;
- (c) For receiving the referral of disclosures based on the subject matter, the seriousness of their nature or if they prejudice national security, defence or international relations.

iv. Employer (Audit Committee or General Manager)

The **Audit Committee or the General Manager** has the responsibility of ensuring that employees are aware of these procedures and that the Designated Officers are accessible and have the requisite training to carry out their function(s). The **Audit Committee or the General Manager** is responsible to approve and monitor the investigation plan and investigation into allegations of improper conduct; however, he/she may delegate this task to a senior officer or assign a nominee. The **Audit Committee or the General Manager** is responsible for ensuring that persons who have made a disclosure and the Designated Authority are kept up-to-date with the progress of the investigations, the findings, recommendations and any subsequent actions taken.

v. Grievance and Disciplinary Panel

The Disciplinary Panel of **The Jamaica Mortgage Bank** which has as its members the Head of Department for Human Resource and Administration, Head of Department, Legal Officer, and an independent employee nominated by the Head of Department for Human Resource and Administration, has the responsibility to review the findings of the Designated Officer and approve the actions necessary to correct the improper conduct reported.

6. Appointment of a Designated Officer – Section 13

The following Officers have been appointed as Designated Officers in compliance with the **Protected Disclosures Act, 2011**. They have been given the responsibility and authority to receive and investigate disclosures of improper conduct made by the employees of the **Jamaica Mortgage Bank**:

Title: The Legal Officer
The Jamaica Mortgage Bank
33 Tobago Avenue
Kingston 5
Tel.: 876-929-8218
Cell:
Email:

Title: The Human Resource Manager
The Jamaica Mortgage Bank
33 Tobago Avenue
Kingston 5
Tel.: 876-929-6350
Cell:
Email:

7. The Reporting System – Section 6

At the **Jamaica Mortgage Bank** all disclosures of improper conduct must be made confidentially to the Designated Officers outlined above. Where possible the disclosure should be made on the Protected Disclosures Form (PDA1 – Appendix 1) which is available in each department of the entity and on the entity's website. Disclosures made orally will be recorded on the same form, PDA1, within twenty-four (24) hours of receipt by the Designated Officer.

Alternatives to Disclosing to the Employer

- (a) A disclosure can be made to a Minister if the employer of the person making the disclosure was appointed under a law by the Minister or is a public body whose members were appointed by the Minister. **Section 8**
- (b) A disclosure can also be made to a Prescribed Person (defined in Section 4) if:
 - (i) the employee believes that the subject matter of the improper conduct disclosed falls within their portfolio; **Section 9** or
 - (ii) the employee made an internal disclosure in accordance with section of the Act and more than thirty (30) days have elapsed and the employer has failed to deal with the disclosure as provided herein. **Section 14**
- (c) A disclosure can be made to the Designated Authority (defined in Section 4) if:
 - (i) there is a reasonable fear of occupational detriment if the disclosure is made to the employer;
 - (ii) there is reason to believe that or that the evidence of the improper conduct will be destroyed;
 - (iii) a previous disclosure was made by the employee to his employer or to a prescribed person and no action was taken within thirty (30) days of the disclosure being made. **Section 10**
- (d) Disclosures on matters that prejudice national security, defence or international relations must be made to the Minister with portfolio responsibility or the Prime Minister or to both.
- (e) A protected disclosure can be made to an Attorney-at-law for the objective of obtaining legal advice. **Section 12**
- (f) Where a disclosure to be made is against one of the named "Designated Officer", disclosure may be made to the other Designated Officer or directly to the Designated Authority.
- (g) Where an employee is not satisfied with the handling of a disclosure, the employee may refer the matter to another Prescribed Person of the Designated Authority

8. Receiving and Assessing Protected Disclosures

- (a) Upon the receipt of a disclosure under section 7 of these Procedures, the Designated Officer may consult with the Designated Authority to make an assessment as to whether the subject matter of the disclosure meets the criteria established as being a protected disclosure under the Act. **Section 18**
- (b) All disclosures received must be entered into a Protected Disclosures Log (Form PDA2 – Appendix 2) which is to be kept by the Designated Officer.
- (c) If the subject matter disclosed is found to be better dealt with by another person/entity, frivolous, of a nature not sufficiently important or the circumstance has changed, and it is decided that no investigation is warranted, the Designated Officer should convey the decision taken, in writing, within fifteen (15) days to the person who made the disclosure. **Section 19**
- (d) If the Designated Officer has determined that the subject matter of the disclosure meets the criteria of a protected disclosure under the Act, and should therefore be investigated, then an investigation should be undertaken in accordance with section 9 of these Procedures.

9. Investigation and Feedback

Upon deciding that an investigation is warranted, the following steps should be taken:

- (a) the Designated Officer should prepare an Investigation Plan detailing:
 - (i) the Terms of Reference;
 - (ii) the steps to be taken in the investigation;
 - (iii) witnesses who may have to be interviewed; and
 - (iv) resources required.
- (b) The Investigation Plan, without substantive information for the disclosure, should be forwarded to the **Audit Committee, General Manager or the Designated Authority (as appropriate)** for approval.
- (c) On approval of the Investigation Plan, the Designated Officer should commence the investigation forthwith.
- (d) The investigation should be done fairly and the rights of the person who made the disclosure and other witness protected.
- (e) The employee who made the disclosure should be updated on the status of the investigation within thirty (30) days of receipt of the disclosure and at intervals of thirty (30) days thereafter.
- (f) A Protected Disclosures Summary Report (PDA3 – Appendix 3) should be completed at the end of each month and forwarded in print and electronically to the Designated Authority.
- (g) On completion of the investigation, the Designated Officer should forward to the Audit Committee, General Manager of Designated Authority, a report containing the:
 - (i) allegation disclosed;
 - (ii) findings of the investigation;
 - (iii) conclusion; and
 - (iv) recommendations of the steps to be taken to correct the improper conduct. All evidence gathered during the investigation should be documented and included in the report.

10. Actions to be taken after the Investigation

The **Audit Committee** or **General Manager** on receipt of the completed report from the Designated Officer should at the earliest time convene a meeting of the Grievance and Disciplinary Panel to review the findings and recommendations of the investigation. The Grievance and Disciplinary Panel must agree on the course of action to be taken which may include:

- a) Preventing the improper conduct from continuing or recurring in the future;
- b) Bringing disciplinary proceedings against the person responsible for the improper conduct or referring the matter to the appropriate person/authority for further consideration; and
- c) Reporting any action taken to the employee who made the disclosure and to the Designated Authority.

The Grievance and Disciplinary Panel in arriving at its determination should ensure that the rules of natural justice as indicated in Section 22(1)(a)(b)(c) and (d) of the Labour Relations Code are adhered to.

11. Preventing Detrimental Actions

The **Jamaica Mortgage Bank** is committed to the protection of the person who makes a protected disclosure from detrimental actions or reprisals for having made the disclosure. This agency believes that the best way to empower our employees who are considering or who have made disclosures is to endorse their rights that are guaranteed under the Protected Disclosure Act, 2011. Under the Act the employee has the following rights:

- (a) An employee shall not be subjected to any occupational detriment on the basis that the employee seeks to make, has made, or intends to make, a protected disclosure;
- (b) An employee who is dismissed as a consequence of seeking to make, making or intending to make a protected disclosure shall be treated as being unjustifiably dismissed; and
- (c) Where an employee suffers occupational detriment at or about the same time that he makes a protected disclosure, the occupational detriment shall be presumed to be a consequence of the protected disclosure, unless the employer shows that the act that constitutes the occupational detriment is otherwise justified. **Sections 16 & 17**

12. Statement of Confidentiality

- (a) The **Jamaica Mortgage Bank** will take all reasonable steps to protect the identity of an employee who has made a disclosure and to treat all such disclosures, statements given, information or thing provided to the Designated Officer as being secret and confidential. The Jamaica Mortgage Bank recognizes that maintaining confidentiality is crucial in ensuring that reprisals are not made against the person(s) who have made disclosures under the Act.
- (b) Designated Officers may however, disclose any statement given, or document, information or thing provided in the furtherance of an investigation or any legal or disciplinary proceedings. However, the identity of the person who made the disclosure may not be disclosed.

13. Immunity from Civil and Criminal Proceedings – Section 15

A person who makes a protected disclosure, or receives, investigates or otherwise deals with a protected disclosure, shall not be liable in any civil or criminal proceeding or to any disciplinary proceeding by reason of having made, received, investigated or other dealt with such disclosures.

14. Criminal Offences – Section 23

- 1) A person commits an offence if he:
 - (a) prevents, restrains or restricts any employee from making a protected disclosure;
 - (b) intimidates any employee who has made or intends to make a protected disclosure;
 - (c) induces any person by threats, promises or otherwise to contravene the Act; or
 - (d) being an employer-
 - i. subjects an employee or former employee of that person to occupational detriment as a consequence of the employee or former employee making a protected disclosure;

- ii. refuses, in bad faith, to receive a disclosure or carry out an investigation in relation to a disclosure;
 - (e) being an employee, purports to make a disclosure under the Act knowing that it contains a statement that is false or misleading, or reckless as to whether the statement is false or misleading; and
 - (f) aids, abets, procures or conspires with any other person to contravene the Act.
- 2) Persons who commit the above offences shall be liable upon:
- (a) summary conviction in a Parish Court to a fine not exceeding Two Million Dollars (\$2,000,000.00) or to imprisonment for a term not exceeding two year or to both such fine and imprisonment.
 - (b) conviction on indictment in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.
- 3) A person who, without reasonable excuse, fails to comply with a requirement imposed by the Designated Authority in the lawful exercise of the functions of the Authority under this Act, commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding Two Hundred and Fifty Thousand Dollars (\$250,000.00) or to imprisonment for a term not exceeding three months.
- 4) Every person receiving, investigating or otherwise dealing with a disclosure under the Act shall regard and deal with as secret and confidential:
- (a) the identity of the employee making the disclosure and any disclosure made; and
 - (b) any statement given, or document, information or thing provided, to the person in the carrying out of an investigation, except that any statement given, or document, information or thing provided, given in furtherance of an investigation or any legal or disciplinary proceedings shall not be regarded as being inconsistent with the obligation for secrecy and confidentiality.
5. A person who contravenes the confidentiality requirement as noted above commits an offence and is liable upon summary conviction in a Parish Court to a fine not exceeding Two Million Dollars (\$2,000,000.00) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

15. Anonymous Disclosures

Nothing in these procedures prevents any person from making an anonymous disclosure of improper conduct. In the case of anonymous disclosures basic information such as the name of the person making the disclosure may not be known. This information would be necessary to guarantee that the person making the protected disclosure is protected by the Act. The subject matter of the disclosure should however be examined.

Anonymous disclosures are not covered under these procedures.

16. Collating and Publishing Statistics

- 1) The Designated Officer should maintain a secure log of the disclosures received (Protected Disclosures Log, PDA2 – Appendix 2). This log records the following:
 - (a) Date the disclosure was received.
 - (b) Disclosure Number - This number for instance could be arrived at by first using the abbreviation of the entity, followed by the last two numerals of the year and then three digits for numerical count. For example, the first case for **Jamaica Mortgage Bank** in the year **2022** would be numbered as **JMB22001**. The second case for the year 2022 would be **JMB22002** and so on.
 - (c) Summary of the improper conduct disclosed.
 - (d) Date referred where applicable.
 - (e) Date of completion of the report which on that date should be forwarded by the Designated Officer to **the Audit Committee or General Manager**.
 - (f) The decision taken as a result of the recommendations made by the designated officer.
- 2) The Designated Officer must make monthly reports to the Designated Authority of the status of the disclosures received (Protected Disclosure Summary Report PDA3 – Appendix 3).

The report includes the:

- (a) Entity's Name;
 - (b) Date of the report;
 - (c) Date the disclosure was received;
 - (d) Summary of the improper conduct;
 - (e) Summary of the action taken during the period;
 - (f) Number of days since an update was given to the person who made the disclosure (the discloser);
 - (g) Date and name of entity to which referral made where applicable;
 - (h) Date of completion of the investigation report; and
 - (i) Decision taken as a result of the recommendations of the Designated Officer.
- 3) Statistics from the records/data may be published; however, no information must be published that would lead to the identification of the person who made the disclosure.