

POLICY 18

Name of organisation:

Protected Disclosures Policy

Commitment to Te Tiriti o Waitangi

(insert name of organisation) recognises Te Tiriti o Waitangi as Aotearoa New Zealand's founding document.

(insert name of organisation) is committed to upholding the mana of Te Tiriti o Waitangi and the principles of Partnership, Protection and Participation.

Values

(insert name of organisation) is committed to uncovering serious wrongdoing in or by

(insert name of organisation) and taking appropriate steps to address it.

All employees of

(insert name of organisation) have a responsibility to maintain high standards of behaviour in their roles and interactions with

(insert name of organisation).



Purpose

The Protected Disclosures (Protection of Whistleblowers) Act 2022 and this policy provide protections for employees who follow the approach set out in this policy to disclose information about serious wrongdoing within

(insert name of organisation).

The Act provides an employee immunity from civil and criminal proceedings where they have made a protected disclosure, or referred concerns about serious wrongdoing to an appropriate authority for investigation, unless the information is legally privileged. Employees who do so are also protected from retaliation or victimisation.

The purpose of this policy is to:

- comply with the Protected Disclosures (Protection of Whistleblowers) Act 2022
- provide a procedure for making and dealing with protected disclosures.

Application

A disclosure of information will be a protected disclosure if:

- the information is about a serious wrongdoing in or by

(insert name of organisation)

- the employee believes on reasonable grounds that the information is true or likely to be true
- the employee wishes to disclose the information so that the serious wrongdoing can be investigated
- the employee wishes the disclosure to be protected.

This policy applies to all employees (also referred to as Disclosers) of

(insert name of organisation).

Any other employee of

(insert name of organisation) who voluntarily provides supporting information to the Discloser, or anyone involved in investigating it, will be provided with the same protections.

If the issue relates to conduct in the workplace, this should be raised in accordance with

(insert name of organisation)'s [e.g. Bullying and Harassment, Complaints] policies. If

(insert name of organisation) fails to take appropriate action in relation to an employment issue, this may give rise to a personal grievance.

If an employee raises a protected disclosure and employment issues, the employment issues will be dealt with through the relevant process, separate from the protected disclosure process. They may be dealt with at the same time.

Definitions

Appropriate authority

An appropriate authority is any of the following:

- Commissioner of Police
- Controller and Auditor-General

- Director of the Serious Fraud Office
- Inspector-General of Intelligence and Security
- Ombudsman
- Parliamentary Commissioner for the Environment
- Independent Police Conduct Authority
- Solicitor-General
- State Services Commissioner
- Health and Disability Commissioner
- head of any public sector organisation
- a private sector body comprising members of a particular profession or calling, having the power to discipline its members.

Ministers of the Crown, Members of Parliament (MPs) or media organisations are not an 'appropriate authority' for the purposes of a disclosure. A disclosure made to an MP or to the media can never be a protected disclosure.

Employee

For the purposes of the Act and this policy, an 'employee' includes:

- a current or former employee of

(insert name of organisation)

- a home worker
- a person seconded to

(insert name of organisation)

- an individual engaged or contracted under a contract for services to do work for

(insert name of organisation)

- a person concerned in the management of

- **(insert name of organisation)** (including a member of a Board or governing body) or
- a person who is engaged by

(insert name of organisation) as a volunteer.

Receiver

Receiver means the person receiving an internal protected disclosure, being the Chief Executive Officer or the Protected Disclosures Officer.

Retaliation

Retaliation means suffering some adverse decision or action by any person on behalf of

(insert name of organisation) because an employee has made or intends to make a disclosure.

Employees of

(insert name of organisation) who experience retaliation will have grounds for a personal grievance under the Employment Relations Act 2000.

Serious wrongdoing

Serious wrongdoing includes an act, omission or course of conduct that is:

- an offence
- a serious risk to public health or public safety or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences or the right to a fair trial
- an unlawful, corrupt or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent, or constitutes gross mismanagement by persons discharging public powers or functions.

Victimisation

Victimisation means the Discloser has suffered disadvantage or been threatened with suffering disadvantage either in the workplace or access to services provided by

(insert name of organisation) because they have made, intend to make, or have assisted the making of a disclosure under this policy.

Any person who experiences victimisation in these circumstances can make a claim of victimisation under the Human Rights Act 1993.

Alternative reporting procedures

If an employee's concern does not fall within the definition of 'serious wrongdoing', or they do not want the protections, or to follow this process, the employee may have other options for bringing the information to

(insert name of organisation)'s attention.

(insert name of organisation) has other policies and procedures which may apply, for example [e.g. Bullying and Harassment Policy, Complaints Policy].

Procedure for protected disclosures

Making a protected disclosure

If an employee reasonably and genuinely believes there has been serious wrongdoing by or within

(insert name of organisation), they should immediately report it. The sooner something of serious concern is raised and investigated, the better.

Protected disclosures should be made in writing using the Reporting Form towards the end of this document and must be provided to:

- the Protected Disclosures Officer [link to contact details] or
- if the Protected Disclosures Officer is or may be involved in the serious wrongdoing or is close to the people involved in the serious wrongdoing, the Chief Executive.

Confidentiality

(insert name of organisation) will use its best efforts to keep the Discloser's identity confidential, unless:

- the Discloser consents in writing to their identity being disclosed
-

(insert name of organisation) reasonably believes disclosing the Discloser's identity:

- a) is essential to the investigation by it, law enforcement or regulatory agencies, of the allegations in the protected disclosure
- b) is essential to prevent serious risk to public health or public safety or the health or safety of any individual or the environment
- c) is required for a fair process to be followed.

Receiving a protected disclosure

Whichever Receiver is approached, the same process will be followed.

If the disclosure is not made using the Reporting Form, the Receiver will discuss the information with the Discloser (face-to-face, by phone or email) and record it in writing. The information will then be checked with the Discloser to ensure its accuracy.

A Record of Protected Disclosure Form (at the end of this document) will be completed and logged in

(insert name of organisation)'s Protected Disclosures Register.

Acknowledgement and assessment

Within twenty working days of receiving a Reporting Form, the Receiver will write to the Discloser to:

- acknowledge receipt and the date of receipt
- consider whether the disclosure warrants investigation
- check with the Discloser whether the disclosure has been made elsewhere (and any outcome).

The Receiver will also make best endeavours to deal with the matter within those twenty days by doing any one or more of the following:

- investigating the disclosure
- taking or recommending action to address a serious wrongdoing
- seek the Discloser's views on referral of the disclosure to another organisation
- decide that no action is required, giving reasons
- advise the Discloser of any other process or policy which may apply.

If, after twenty days, the Receiver is unable to complete dealing with the disclosure, the receiver will at that point inform the discloser how long they expect to take and thereafter keep the Discloser appropriately updated and informed of the selected course of action and reasons.

If a complaint is not a protected disclosure,

(insert name of organisation) will not retaliate against any person who raises a genuine concern and reasonably believes the information to be true.

If the Chief Executive has not been approached by the Discloser, the Protected Disclosures Officer must tell the Chief Executive they have received a protected disclosure.

When doing so, the Protected Disclosures Officer should maintain confidentiality.

The Protected Disclosures Officer is also responsible (in consultation with other people as necessary) for initiating any urgent action required to deal with any immediate risk to employees of

(insert name of organisation), public safety or other public interest arising out of the allegations.

Investigating a disclosure

Where a protected disclosure warrants investigation, the process will vary, depending on: the nature of the serious wrongdoing alleged; the information provided by the Discloser; the particular circumstances of the allegation and the people involved.

The following principles will apply to an investigation:

- Confidentiality will be maintained to the fullest extent possible.
- The process will be undertaken and completed as soon as possible.
- A fair, reasonable and respectful approach will be taken in relation to the Discloser, the person(s) the disclosure relates to, and any person involved in the process as a witness.
- The investigation will be as thorough as necessary to determine the truth of the disclosure.
- The process will involve only those most likely to have information relevant to determining the truth of the disclosure.
- Full written records will be kept.
- The person investigating the disclosure will have access to all relevant documents and information held by

(insert name of organisation)

- All people involved may rely on a family/whānau support person to represent or assist them.
- A thorough report will be prepared, setting out the process, findings and conclusions. The report must state:
 - a) serious wrongdoing has been established; or
 - b) serious wrongdoing has not been established; or
 - c) the investigation has identified less serious matters of concern, with recommendations for appropriate action by

(insert name of organisation).

The report will be given to the Chief Executive who will decide on the appropriate next steps.

Dealing with serious wrongdoing

If serious wrongdoing is found to have occurred, whether or not an investigation is required, further processes may be started, which can include disciplinary action, internal or external audit, or a complaint to the Police.

Where less serious matters of concern are identified, appropriate action may include: disciplinary action, counselling, or training in order to decrease the likelihood of the issue occurring again.

Disclosure to an appropriate authority

An employee may make a disclosure to an appropriate authority at any time including where a protected disclosure has already been made to

(insert name of organisation) yet there has been no action or recommended action.

Advice from Ombudsman

Either an employee or

(insert name of organisation) may seek an Ombudsman's advice about their rights or obligations in relation to protected disclosures at any stage.

More information

Employees who want to know more about reporting serious wrongdoing within

(insert name of organisation) can get information from any of the following sources:

- e.g. any manager of

(insert name of organisation)

- the Protected Disclosures Officer [[link to contact details](#)]
- the Office of the Ombudsman (www.ombudsman.parliament.nz/ / info@ombudsman.parliament.nz/)
- a union or lawyer
- Te Kawa Mataaho Public Service Commission (commission@publicservice.govt.nz)

APPENDIX 6

Name of organisation:

Protected Disclosure Reporting Form

Disclosure of Serious Wrongdoing

To: [Protected Disclosures Officer] [Chief Executive] [delete one]

Describe the nature of the wrongdoing

This includes the nature of the wrongdoing, the names of persons involved, the area and location of the wrongdoing and any other relevant information. Continue on a separate sheet if necessary.

Do you have any supporting evidence of the wrongdoing?

List any attachments or evidence you consider needs to be considered, names of witnesses, why they could assist and contact details, continuing on another sheet if necessary.

Declaration

I believe that the information I am providing is true and that serious wrongdoing has occurred. I am acting in good faith.

I acknowledge that while the Receiver will take all practicable steps to protect my identity, in the interests of giving the person the disclosure relates to a reasonable opportunity to respond, it may be necessary after consulting me for the Receiver to disclose my identity and the information contained in this form.

Signed:

Print name:

Date:

APPENDIX 7

Name of organisation:

Record of Protected Disclosure Form

For Completion by Protected Disclosures Officer/Chief Executive

Date disclosure received: _____ 20 working days ends: _____

Date receipt of disclosure acknowledged: _____

Serious wrongdoing - Yes / No / Not sure [delete one] _____

Reasons supporting this assessment : _____

Investigation required [delete three]:

Yes - information insufficient to ascertain whether serious wrongdoing has occurred

Yes - serious wrongdoing has occurred but need to understand full extent of the issue

No - serious wrongdoing has occurred and course of action is clear

No - No serious wrongdoing has occurred

Detail on investigation - who, timing _____

Recommended action or process (specifying where urgent): _____

Whether confidentiality can be maintained, if not why not and if not, discloser's views _____

Consideration of immediate support needs of employee and/or others involved: _____

Persons consulted, if applicable and whether discloser confidentiality maintained: _____

Decision made by: Protected Disclosures Officer/Chief Executive [delete one] _____



Level 1, Harbour City Centre
29 Brandon Street
Wellington 6011, New Zealand
PO Box 2251 Wellington 6140
Phone: +64 4 472 8058
sportnz.org.nz

Te Kāwanatanga o Aotearoa
New Zealand Government