

# Protected Disclosures Policy

## Purpose

This policy is to set out the appropriate procedure to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and provide protection from reprisal or victimisation for employees and other workers who report concerns in accordance with the provisions of the Protected Disclosures (Protection of Whistleblowers) Act 2022.

## Policy

This policy applies to current and former employees, Contractors, consultants, secondees and volunteers at Council.

This policy also applies to any persons concerned (or previously concerned) in the management of the Council, including elected or appointed members and Mayor.

The processes in this policy are intended only for situations involving allegations of serious wrongdoing where Council's usual reporting or complaints processes e.g. a grievance under the staff code of conduct, are not appropriate.

## Definitions

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

- Unlawful, corrupt or irregular use of public funds or public resources
- Conduct that poses a serious risk to public health, public safety, or the health and safety of any individual, or the environment or the maintenance of the law
- Any criminal offence
- A serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- Oppressive, unlawfully discriminatory, or grossly negligence or that is mismanagement by public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

### What is not serious wrongdoing?

Dissatisfaction with the leadership of an organisation, or more minor misconduct matters, may not amount to serious wrongdoing and therefore may not be covered by the Act.

The Act does not cover employment issues that are more properly covered by the Employment Relations Act 2000

## Protected Disclosure



# Protected Disclosures Policy

To be a protected disclosure and for the discloser to be entitled to protections under the Act, the discloser must:

- believe on reasonable grounds that there is, or has been, serious wrongdoing in or by the discloser's organisation, and
- discloses information about that in accordance with the Act, and
- Does not disclose it in bad faith.

## Internal Authority;

- Chief Executive
- Group Manager, Corporate Services

## Appropriate Authority; Examples attached as Appendix 1

An Appropriate Authority is a trusted external party who can be approached if a discloser is not confident about making the disclosure within their own organisation.

## Whistleblower service;

- Independently operated whistleblower service free call telephone number and email address, available 24 hours a day, 7 days a week.

Free call telephone number	0800 177 792 [0800 177 PWC]
Email address	pwcdisclose@pwc.com

## Procedures

### Escalation process or Internal Authority;

- In the first instance an employee is encouraged to make a disclosure with reference to the Councils escalation process.
- A line manager to whom a protected disclosure is made must refer the disclosure to an Internal Authority.
- Any current employee who prefers to make a disclosure to someone other than their line manager for any reason may make a protected disclosure by reporting it directly to an Internal Authority.
- A person to whom this policy applies who is not a current staff member may make a protected disclosure directly to an Internal

# Protected Disclosures Policy

Authority

## Appropriate Authority;

- A person may make a disclosure directly to an Appropriate Authority or the Whistleblower service at any time.
- Note though that Ministers or Members of Parliament are **not** Appropriate Authorities for this purpose.

Disclosures to the media are not protected under the Act.

A disclosure can be verbal or in writing, including by post or email.

## Investigation

Where a Protected Disclosure is received by one or more of Council's Internal Authorities, the Authority will, within 20 working days:

- Acknowledge receipt. Where the disclosure was made orally, this will include a summary of the Authorities understanding of the disclosure:
- Consider the disclosure and whether it warrants investigation or referral to another Appropriate Authority:
- Check with the discloser whether the disclosure has been made elsewhere (and any outcome);
- Deal with the matter by doing one or more of the following;
  - Investigate the disclosure
  - Address any serious wrongdoing by acting or recommending action
  - Referring the disclosure to an Appropriate Authority
  - Deciding that no action is required, and
  - Inform the discloser (with reasons) about what the Authority has done or is doing to deal with the matter.

Where it is impracticable to complete the steps above within 20 working days, the Authority will provide the discloser with an update as to how long the Authority expects to complete these steps.

## Further Disclosure

If a discloser has reasonable grounds that an Internal Authority has not acted as it should, or has not dealt with the matter, to address the serious wrongdoing, the discloser may make the disclosure to;

- An appropriate authority, including an Ombudsman (which the discloser can do at any time)
- A minister in accordance with section 13 of the act.

# Protected Disclosures Policy

The Ombudsman has a jurisdiction to refer, investigate or escalate certain protected disclosure complaints in accordance with Part 4 of the Act.

## Protections for those who make protected disclosures under the Act.

- An Internal Authority must use its best endeavours to keep confidential, information that identifies or may identify the person making a protected disclosure in accordance with the Act.  
Exceptions are if the discloser gives consent in writing that their identity may be disclosed or if there are reasonable grounds to believe that the release of the identifying information is essential;
- For the effective investigation of the disclosure; or
- To prevent a serious risk to public health, public safety, the health and safety of any individual, or the environment; or
- To comply with the principles of natural justice, or
- To an investigation by a law enforcement or regulatory agency for the purposes of law enforcement.

In all cases Council will consult with the discloser.

Where a person is considering making an anonymous disclosure, the Ombudsman can provide advice.

The release of information that might identify a discloser in breach of these provisions means a complaint may be made under the Privacy Act 2020.

The Authority will refuse any request for information if that information might identify the discloser of a protected disclosure including under the Office Information Act 1982 or the Local Government Official Information and Meetings Act 1987.

- Council must not retaliate or threaten to retaliate, nor treat or threaten to treat less favourably, Council Staff or Former Council Staff who make or intend to make a Protected Disclosure (or their relatives and associates).
- Both Council Staff, Former Council Staff, and persons who disclose information in support of, or relating to a protected disclosure, are protected under the Act from victimisation in respect of Protected Disclosures.
- No civil, criminal, or disciplinary proceedings can be taken against a person for making a protected disclosure in accordance with the Act, or for referring one to an appropriate authority.



# Protected Disclosures Policy

- Council Staff and Former Staff should note that disclosures known to be false, or made in bad faith, or the information being disclosed is protected by legal professional privilege, may lose the protections under the Act.

Council must publish widely (and republish at regular intervals) information about the existence of the internal procedure; including adequate information on how to use the procedures.

External information and guidance may also be sought at any time from the Office of the Ombudsman. The Ombudsman is required to provide persons with relevant information, including what sorts of disclosures are protected under the Act and how and to whom to make disclosures.

## Related Policies and law

- Protected Disclosures (Protection of Whistleblowers) Act 2022
- Local Government Official Information and Meetings Act 1987
- Elected Members and Staff Code of Conduct
- Sensitive Expenditure Policy
- Fraud Policy
- Fraud Control Framework
- Escalation process
- Sensitive expenditure policy
- Staff Conflict of Interest Policy
- Staff Gifts and Hospitality Policy
- Procurement Policy
- Asset Disposal Policy
- Privacy Act 2020
- Sections 99, 105, 105A of the Crimes Act 1961
- The Secret Commissions Act 1910
- Local Authority (Members Interests) Act 1968
- Fraud Risk Register
- Delegation Manual

# Protected Disclosures Policy

## Schedule 2

### Examples of concerns and examples of appropriate authorities

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Nature of concerns	Appropriate authority
Anticompetitive conduct	Commerce Commission
Banks (registered banks)	Reserve Bank of New Zealand
Bullying or harassment, including sexual harassment	WorkSafe New Zealand (where work-related)
	Human Rights Commission
Charities	Department of Internal Affairs
	Solicitor-General
Child welfare and child protection	Oranga Tamariki—Ministry for Children
	Ombudsman
Consumer protection	Commerce Commission
Crime	Commissioner of Police
	Director of the Serious Fraud Office
Discrimination	Human Rights Commission
Education service	Ministry of Education
	Education Review Office
Energy safety	WorkSafe New Zealand (where work-related)
Environment	Ministry for the Environment
	Department of Conservation
Financial reporting (private sector—issuers and large companies)	Financial Markets Authority
Financial reporting (public sector)	Controller and Auditor-General
Financial service providers' conduct	Financial Markets Authority
Health	Ministry of Health
	Health and Disability Commissioner
Health and safety (work-related)	Ministry of Business, Innovation, and Employment
	WorkSafe New Zealand
Housing	Ministry of Housing and Urban Development
	Ombudsman
Insurers (licensed insurers)	Reserve Bank of New Zealand
Intelligence and security or classified information	Inspector-General of Intelligence and Security only ( <i>see</i> section 27)
	Ombudsman only ( <i>see</i> section 28)
International relations	Ombudsman
Local Government	Controller and Auditor-General
	Department of Internal Affairs
Police	Commissioner of Police
	Independent Police Conduct Authority



# Protected Disclosures Policy

## Nature of concerns

Privacy of individuals or security of personal information  
Professional or trade conduct

Prosecutions  
Public sector

Public service

Racism  
Sector regulation  
Social support or benefits  
State services

Transport and transport safety issues  
Whistleblowing and protected disclosures

## Appropriate authority

Privacy Commissioner  
Ministry of Business, Innovation, and  
Employment  
Solicitor-General  
Ombudsman  
Controller and Auditor-General  
Public Service Commission  
Human Rights Commission  
Commerce Commission  
Ombudsman  
Public Service Commission  
The Treasury (for State-owned  
enterprises, Crown companies, and  
organisations named or described in  
Schedule 4 of the Public Finance Act  
1989)  
Ministry of Transport  
Ombudsman