



AGENDA

RĀRANGI TAKE

NOTICE OF AN ORDINARY MEETING OF

Audit and Risk Committee

to be held on Thursday 11 August commencing at 1:00pm in the Council Chambers, 36 Weld Street, Hokitika and via Zoom

Chairperson:	R. Dean – Independent Chair	
Members:	His Worship the Mayor	Deputy Mayor Carruthers
	Cr Hart	Cr Neale
	Kw Tumahai	Kw Madgwick



In accordance with clause 25B of Schedule 7 of the Local Government Act 2002, members may attend the meeting by audio or audio-visual link.

Council Vision:

We work with the people of Westland to grow and protect our communities, our economy and our unique natural environment.

Purpose:

The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:

- (a) To enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) To promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

1. NGĀ WHAKAPAAHA APOLOGIES

His Worship the Mayor
Kw Madgwick

2. WHAKAPUAKITANGA WHAIPĀNGA DECLARATIONS OF INTEREST

Members need to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to review the matters on the agenda and assess and identify where they may have a pecuniary or other conflict of interest, or where there may be a perception of a conflict of interest.

If a member feels they do have a conflict of interest, they should publicly declare that at the start of the meeting or of the relevant item of business and refrain from participating in the discussion or voting on that item. If a member thinks they may have a conflict of interest, they can seek advice from the Chief Executive or the Group Manager: Corporate Services (preferably before the meeting). It is noted that while members can seek advice the final decision as to whether a conflict exists rests with the member.

3. NGĀ TAKE WHAWHATI TATA KĀORE I TE RĀRANGI TAKE URGENT ITEMS NOT ON THE AGENDA

Section 46A of the Local Government Official Information and Meetings Act 1987 states:

- (7) An item that is not on the agenda for a meeting may be dealt with at the meeting if –
 - (a) the local authority by resolution so decides, and
 - (b) the presiding member explains at the meeting at a time when it is open to the public, -
 - (i) the reason why the item is not on the agenda; and
 - (ii) the reason why the discussion of the item cannot be delayed until a subsequent meeting.
- (7A) Where an item is not on the agenda for a meeting, -
 - (a) that item may be discussed at the meeting if –
 - (i) that item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the

public, that the item will be discussed at the meeting; but

(b) No resolution, decision, or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.

4. **NGĀ MENETI O TE HUI KAUNIHERA** **MINUTES OF MEETINGS**

The minutes of the previous meeting were circulated separately via Microsoft Teams.

- **Audit and Risk Committee Meeting Minutes – 12 May 2022**

5. **ACTION LIST**

Group Manager, Corporate Services, Lesley Crichton

(Page 6)

6. **NGĀ TĀPAETANGA** **PRESENTATIONS**

No Presentations

7. **PŪRONGO KAIMAHI** **STAFF REPORTS**

- **Workplan**

Group Manager, Corporate Services, Lesley Crichton

(Page 7)

- **Protected Disclosures Policy**

Group Manager, Corporate Services, Lesley Crichton

(Pages 8-32)

8. **KA MATATAPU TE WHAKATAUNGA I TE TŪMATANUI** **RESOLUTION TO GO INTO PUBLIC EXCLUDED**

(to consider and adopt confidential items)

Resolutions to exclude the public: Section 48, Local Government Official Information and Meetings Act 1987.

The general subject of the matters to be considered while the public are excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of the resolution are as follows:

Item No.	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
1.	Confidential Minutes – 12 May 2022	Good reason to withhold exist under Section 7	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists.

Section 48(1)(a)			
2.	Whistleblower Report	Good reason to withhold exist under Section 7	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)
3.	Risk Report	Good reason to withhold exist under Section 7	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)
4.	Health & Safety Initiatives Report	Good reason to withhold exist under Section 7	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)
5	ACFE Global Fraud Study	Good reason to withhold exist under Section 7	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)







This resolution is made in reliance on sections 48(1)(a) and (d) of the Local Government Official Information and Meetings Act 1987 and the particular interests or interests protected by section 7 of that Act, which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public are as follows:

Item No.	Interest
1,4	Protect the privacy of natural persons, including that of deceased natural persons (Schedule 7(2)(a))
1	Protect information where the making available of the information: <ul style="list-style-type: none"> (i) would disclose a trade secret; and (ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information (Schedule 7(2)(b)).
4	Avoid prejudice to measures protecting the health or safety of members of the public; (Schedule 7(2)(d))

1	Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (Schedule 7(2)(i))
2	Maintain the effective conduct of public affairs through – (ii) The protection of such members, officers, employees and persons from improper pressure or harassment; or (Schedule 7(2)(f)).
2,3,5	Maintain legal professional privilege; or (Schedule 7(2)(g))
2,3,4,5	Enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; or (Schedule 7(2)(h))

**LAST AUDIT & RISK MEETING OF THE TRIENNIUM
COUNCIL CHAMBERS, 36 WELD STREET, HOKITIKA AND VIA ZOOM**

11.08.22 – AUDIT AND RISK COMMITTEE – ACTION LISTING

	Date	COMPLETED IN PROGRESS OVERDUE	Item	Action Required	Status	Lead Officer
1	10.08.21		Insurance review of the Airport.	This assets value will need to be reviewed and amendment once the renovations are completed.	Destination Westland (DW) need to take the lead on this. The Chief Executive has advised he will follow up with DW on this.	CE
2	09.11.21		Workshop: Evaluation of the performance of the Committee	Workshop to be scheduled with the first meeting of 2022.		Chair
3	09.11.21		WDC Policy Review on Police Vetting	To be actioned	Draft brought to Feb 2022 Audit and Risk Committee Policy to be reviewed in the confidential meeting.	People and Capability Manager
4	12.05.22		WDC Staff working from Home / Risk	To check policy around privacy and the risk of working from home	The ICT acceptable use policy contains information around working from home and leaving WDC equipment unattended. It also contains a section on not allowing family/friends to use WDC equipment	Group Manager: Corporate Services
5.	12.05.22		Reporting to Council by Chair of A&R Committee	The Chair of A&R presents the top 10 risks, and new risks and any changing risks to the first full Council meeting after the Audit and Risk Committee meeting is held.	Next presentation to be at the 23 June 2022 Council Meeting The risk report was taken to the July Council meeting.	Chair
6.	12.05.22		Reporting to Council by Chair of A&R Committee	The Chair of A&R provides an annual report to full Council on the Audit and Risk Committee work undertaken at each August Council meeting.	Next Annual Report to be presented at the 25 August 2022 Council Meeting	Chair

AUDIT AND RISK COMMITTEE ROLLING WORK PLAN

Item	Aug-22 Final committee meeting of triennium
External Audit	<p>Interim Audit report (dependant on EY) – Not received.</p> <p>Interim audit was carried out in July. Final audit scheduled for mid-October through to mid-November.</p> <p>Note that deadlines for Councils to adopt Annual Reports is currently 31 December 2022</p>
Financial Reporting	No financial report due to Annual Report preparation.
Insurance	Insurance renewals – will not be received until September/October
Risk Management Framework	<p>Review Risk Register – Full register</p> <p>Health & Safety Report</p>
Internal Control Framework	PwC quarterly Whistleblower Report
Policy review	Updated Whistleblower policy to reflect new act “Protected Disclosures (Protection for Whistleblowers) 2022”

Report to Committee



DATE: 11 August 2022
TO: Audit and Risk Committee
FROM: Group Manager, Corporate Services

Protected Disclosures Policy

1. Summary

- 1.1. The purpose of this report is to provide an update to the Audit and Risk Committee on the required changes to Protected Disclosures policy and request the Audit and Risk Committee (A&R Committee) review the updated Policy.
- 1.1. This issue arises due to the replacement of the Protected Disclosures Act 2000 with the Protected Disclosures (Protection of Whistleblowers) Act 2022.
- 1.2. Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by the Council in June 2021, which are set out in the Long Term Plan 2021 - 31. Refer page 2 of the agenda.
- 1.3. This report concludes by recommending that Audit and Risk Committee receive this report, review the updated policy recommending any changes if necessary, and approve to widely publish the policy.

2. Background

- 2.1 The reason the report has come before the Committee is due to the replacement of the Protected Disclosures Act 2000 with the new Protected Disclosures (Protection of Whistleblowers) Act 2022 as of 1 July 2022.
- 2.2 Public and private sector organisations have responsibilities under the Act as receivers of protected disclosures, including sometimes as appropriate authorities.
- 2.3 Public sector organisations must have appropriate internal procedures for protected disclosures and must publicise these procedures.
- 2.4 Under the terms of reference adopted by Council, the Audit and Risk Committee have delegated authority to review policy and make recommendations.

3. Current Situation

- 3.1. There are key changes in the 2022 Act;
 - 3.1.1. Extending the definition of serious wrongdoing to cover private sector use of public funds and authority and to cover behaviour that is a serious risk to the health and safety of any individual.

- 3.1.2. Allowing people to report serious wrongdoing directly to an appropriate authority at any time, while clarifying the ability of the appropriate authority to decline or refer the disclosure.
- 3.1.3. Strengthening protections for disclosers by specifying what a receiver of a disclosure should do.
- 3.1.4. Clarifying internal procedure requirements for public sector organisations and requiring them to state how they will provide support to disclosers.
- 3.1.5. Clarifying the potential forms of adverse conduct disclosers may face.

3.2. The Protected Disclosures Policy Attached as **Appendix 1**, has been updated to ensure that these changes are addressed in the policy, and is brought to the Audit and Risk Committee to review and recommend changes if necessary.

3.3. As there are significant changes to this policy a clean version without the tracked changes is attached as **Appendix 2**.

3.4. A summary of the guidance for the Protected Disclosures (Protection of Whistleblowers) Act 2022 is attached as **Appendix 3**.

4. Options

4.1. Option 1: That committee review the updated policy and approve to widely publish.

4.2. Option 2: That Committee recommend changes.

5. Risk Analysis

5.1. Risk has been considered and the following risks have been identified;

5.1.1. Compliance risk due to Council not having a fit for purpose policy and process to manage protected disclosures as per the act.

5.1.2. Financial risk where a discloser has cause for recompense due to non-compliance with the act.

5.1.3. Reputational risk.

6. Health and Safety

6.1. Health and Safety has been considered and the following items have been identified;

6.1.1. Health and wellbeing of staff or other disclosers from fear of retaliation or unfair treatment.

7. Significance and Engagement

7.1. The level of significance has been assessed as being moderate, as the report and approval of a policy is administrative in nature, however the content is of interest to the Community.

7.2. No public consultation is considered necessary, as this policy is for staff, former staff and others that have been employed or part of the governance structure of Council. Members of the public have other means to bring their concerns.

8. Assessment of Options (including Financial Considerations)

8.1. Option 1 – That the Committee review the updated policy and approve to be widely published.

This option ensures that the committee is carrying out due diligence under the Terms of Reference (ToR).

The policy has been written in line with the guidelines as produced by the New Zealand Government.

The policy provides the protections for disclosers as required under the Act and details the process that must be undertaken to investigate a disclosure.

8.2. There are no financial implications to this option.

9. Preferred Option(s) and Reasons

9.1. The preferred option is Option 1, That Committee review the updated policy and approve to be widely published.

9.2. The reason that Option 1 has been identified as the preferred option is as in 8.1 above.

10. Recommendation(s)

10.1. That the report be received.

10.2. That the Protected Disclosures Policy be reviewed and approved to be widely published.

Lesley Crichton
Group Manager, Corporate Services

Appendix 1: Draft Protected Disclosures Policy
Appendix 2: Draft Protected Disclosures Policy - Clean
Appendix 3: Protected Disclosures Act 2022 Summary of Guidance



Appendix 1

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.

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

Version: 3

Developed by: GMCS

Authorised by: A&R Committee

Date Authorised: Last Reviewed: July 2022 Next Review: June 2025



Appendix 1

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 Authority

Version: 3

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Appendix 1

Protected Disclosures Policy

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.

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

Appendix 1

Protected Disclosures Policy

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 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.



Appendix 1

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



Appendix 1

Protected Disclosures Policy

Purpose

This policy is to set out the appropriate procedure to facilitate the disclosure and investigation for receiving and dealing with information about 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~~00~~.

Policy

This policy applies to current and former employees, ~~current and former members of the Council and~~ 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.

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 ~~of Westland District Council~~
- 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 ~~Gross~~ 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~~officials~~

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.

Version: ~~32~~ — Developed by: GMCS Authorized by: A&R Committee
Date Authorised: ~~11 May 2021~~ Last Reviewed: ~~July~~ ~~May~~ 2022~~1~~ Next Review: ~~June~~ ~~May~~ -2025~~4~~

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Appendix 1

Protected Disclosures Policy

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

Protected Disclosure

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.

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Internal Authority;

- Chief Executive
- Group Manager, Corporate Services

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External 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.

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- ~~• One of the various officials and organisations included in the definition of “appropriate authority” in the Protected Disclosures Act 2000~~

- ~~○ Ombudsman~~
- ~~○ Commissioner of Police~~
- ~~○ Controller and Auditor General~~
- ~~○ Director of the Serious Fraud Office~~
- ~~○ Inspector General of Intelligence and Security~~
- ~~○ Parliamentary Commissioner for the Environment~~
- ~~○ Independent Police Conduct Authority~~
- ~~○ Solicitor General~~
- ~~○ State Services Commissioner~~
- ~~○ Health and Disability Commissioner~~

Whistleblower service;

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

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

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Appendix 1

Protected Disclosures Policy

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 Authority

External Appropriate Authority

A person may make a disclosure directly to an External 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.

~~only if the person making the disclosure believes on reasonable grounds that;~~

~~• The Chief Executive is or may be involved in the serious wrong doing, or~~

~~• Reference to an External Authority is justified by reason of the urgency of the matter which the disclosure relates, or some other exceptional circumstance, or~~

~~• You have made disclosure in accordance with these internal procedures, but no action or recommended action has been taken within 20 days.~~

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

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JuneMay -2025

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Appendix 1

Protected Disclosures Policy

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.

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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.

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

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Protections for those who make protected disclosures under the Act.

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- An Internal Authority must ~~make all reasonable efforts~~ use its best endeavours to keep confidential, information that identifies or may identify the person making a protected disclosure in accordance with

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Appendix 1

Protected Disclosures Policy

~~the Act to protect the identity of a person making a disclosure under this policy.~~

~~Exceptions are if the unless that person 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.~~
- ~~• The Protected Disclosures Act 2000 sets out additional protections that will be extended in some cases to those making a disclosure;~~
- ~~• 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.~~
- ~~• Council Staff and Former Staff should note that disclosures known to be false, or made in bad faith, or the information being disclosed is~~

Version: ~~32~~ — Developed by: GMCS Authorized by: A&R Committee
Date Authorised: ~~11 May 2021~~ Last Reviewed: ~~July~~ ~~May~~ 2022 ~~1~~ Next Review:
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Appendix 1

Protected Disclosures Policy

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.

- a) ~~provided that the disclosure is made in good faith and is not frivolous, vexatious or trivial, and~~
- b) ~~An employee who suffers retaliatory action or unjustified disadvantage by their employer for making a protected disclosure can take personal grievance proceedings~~
- c) ~~Protection from victimisation for having made the disclosure.~~

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Obligations of those making a ~~protected~~ disclosure

- ~~Allegations made should be made in good faith, are truthful, and can be substantiated.~~
- ~~An allegation should include enough information about the incident or situation to allow the company to investigate it properly.~~
- ~~A person may make an anonymous disclosure.~~

Commented [LC2]: Now in definition section above with wording from the Act.

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~~
- ~~Protected Disclosures Act 2000~~

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Appendix 1

Protected Disclosures Policy

- 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

Version: ~~32~~ Developed by: GMCS Authorised by: A&R Committee
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~~June~~ ~~May~~ -2025~~4~~



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.

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

Version: 3

Developed by: GMCS

Authorised by: A&R Committee

Date Authorised: Last Reviewed: July 2022

Next Review: June 2025

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

Appendix 1:

Protected Disclosures (Protection of Whistleblowers) Act 2022

Schedule 2

2022 No 20

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)
International relations	Ombudsman only (<i>see</i> section 28)
Local Government	Ombudsman
	Controller and Auditor-General
	Department of Internal Affairs
Police	Commissioner of Police
	Independent Police Conduct Authority

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Nature of concerns	Appropriate authority
Privacy of individuals or security of personal information	Privacy Commissioner
Professional or trade conduct	Ministry of Business, Innovation, and Employment
Prosecutions	Solicitor-General
Public sector	Ombudsman
Public service	Controller and Auditor-General
Racism	Public Service Commission
Sector regulation	Human Rights Commission
Social support or benefits	Commerce Commission
State services	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)
Transport and transport safety issues	Ministry of Transport
Whistleblowing and protected disclosures	Ombudsman



Te Ture Whakahaumarū i te Whākinga 2022

Protected Disclosures (Protection of Whistleblowers) Act 2022

WHAKARĀPOPOTOTANGA O NGĀ KUPU ĀRAHI | SUMMARY OF GUIDANCE

This summary provides an overview of the Protected Disclosures (Protection of Whistleblowers) Act 2022. For further guidance, see the companion document *Guidance: Protected Disclosures (Protection of Whistleblowers) Act 2022*.

Mō te Ture | About the Act

The Protected Disclosures (Protection of Whistleblowers) Act 2022 replaces the Protected Disclosures Act 2000. The new Act comes into force on 1 July 2022. It continues the 2000 Act's purpose – to facilitate the disclosure and investigation of serious wrongdoing in the workplace (also known as whistleblowing), and provide protection for employees/workers who report concerns.

The 2022 Act extends the definition of serious wrongdoing, enables a discloser to report serious wrongdoing to an appropriate authority at any time rather than having to go to their organisation first, specifies what a receiver of a disclosure should do and clarifies the potential forms of adverse conduct disclosers may face.

He aha te whākinga e whakahaumarutia ana?

What is a protected disclosure?

A protected disclosure is when the discloser believes on reasonable grounds that there is, or has been, serious wrongdoing in or by their organisation, they disclose in accordance with the Act and they do not disclose in bad faith.

Ko wai tētahi kaiwhāki?

Who is a discloser?

A discloser is a person who has an employment type relationship with the organisation they are disclosing about. This includes current and former employees, homeworkers, secondees, contractors, volunteers and board members.

He aha te takahanga nui?

What is serious wrongdoing?

Serious wrongdoing is an act, omission, or course of conduct		
Type of serious wrongdoing	Does it apply to the public sector?	Does it apply to the private sector?
An offence	Yes	Yes
A serious risk to public health, or public safety, or the health or safety of any individual, or to the environment	Yes	Yes
A serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial	Yes	Yes
An unlawful, corrupt or irregular use of public funds or public resources	Yes	Yes, but does not include the use of private sector funds or resources
Oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a 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	Yes	Yes, but does not include the use of private sector powers

Ehara te aha i te takahanga nui?

What is not serious wrongdoing?

Things like dissatisfaction with the leadership of an organisation or more minor misconduct matters may not amount to serious wrongdoing and thus may not be covered by the Act. The Act does not cover employment issues that are more properly covered by the Employment Relations Act.

Ka pūrongo te kaiwhāki i te takahanga nui ki a wai?

Who does a discloser report serious wrongdoing to?

A discloser may make a protected disclosure to their organisation or to an appropriate authority (see below) at any time.

He aha te āhua o te whakahaumarū i te tangata e pūrongo ana i te takahanga nui?

What protections are there for a person reporting serious wrongdoing?

A discloser is entitled to protection for a protected disclosure made in accordance with the Act, even if they are mistaken and there is no serious wrongdoing. The protections a discloser is entitled to are confidentiality, not retaliated against or treated less favourably, and immunity from civil, criminal and disciplinary proceedings. These protections extend to people who volunteer supporting information for the disclosure.

Me aha ngā whakahaere o te rāngai tūmatanui me te rāngai tūmataiti hei kaiwhiwhi o te whākinga e whakahaumarutia ana?

What must public and private sector organisations do as the receiver of a protected disclosure?

Within 20 working days of receiving a protected disclosure, the receiver (the organisation or an appropriate authority) should acknowledge to the discloser the receipt of the disclosure, consider whether it warrants investigation, and deal with the matter by doing one or more of:

- investigating the disclosure
- addressing any serious wrongdoing by acting or recommending action
- referring the disclosure to an (or another) appropriate authority
- deciding that no action is required.

The receiver should then inform the discloser about what they have done or are doing to deal with the matter. If the receiver is unable to complete these actions within 20 working days, they should begin the process and inform the discloser how long it may take.

He aha ngā tukanga me whai e ngā whakahaere katoa o te rāngai tūmatanui mō ngā whākinga e whakahaumarutia ana?

What procedures must organisations have?

Every public sector organisation must have appropriate internal procedures that set out a process for the organisation to follow as the receiver of a protected disclosure, identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act and how the organisation will provide practical assistance and advice to disclosers.

Private sector organisations are not required by the Act to establish internal procedures for protected disclosures.

Ko wai tētahi manatū e tika ana, ā, ka aha rātau?

Who is an appropriate authority and what do they do?

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. A discloser may report serious misconduct to an appropriate authority at any time, rather than having to go through their organisation first. An appropriate authority includes: the head of any public sector organisation; any officer of Parliament (the Ombudsman, Controller and Auditor-General, Parliamentary Commissioner for the Environment); as examples the persons or bodies listed in [Schedule 2 of the Act](#); and the membership body of a particular profession, trade, or calling with the power to discipline its members. Appropriate authorities, as receivers of protected disclosures, should handle a protected disclosure in accordance with the requirements in the Act.

Special provisions limit who the appropriate authorities are for disclosures relating to intelligence and security or international relations information.

He aha te wāhi ki Te Kaitiaki Manga Tangata?

What is the role of the Ombudsman?

As well as being an appropriate authority, the Ombudsman has a wide role supporting the operation of the Act. For example, the Ombudsman can provide information and guidance to disclosers who approach it about how to make a disclosure and the protections under the Act, or to organisations who are unsure what to do about a disclosure.