

POLICY ON PROTECTED DISCLOSURES – “WHISTLEBLOWING”

Purpose

This policy is to be followed to ensure that actions are consistent and in accordance with the Protected Disclosures Act (2000). This policy is specifically for ‘whistle blowing’ and is not intended to replace other policies and processes related to staffing/management issues.

Policy

The Board supports disclosure of information about serious wrongdoing within the Board. Serious wrongdoing includes any act, omission, or course of conduct that constitutes:

- an unlawful, corrupt, or irregular use of public funds or public resources; or
- a serious risk to public health or public safety or the environment; or
- a serious health risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial; and
- an act that is committed by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement, whether the wrongdoing occurs before or after the commencement of the Protected Disclosures Act 2000.

The procedures for the disclosure of information are outlined below. Adherence to these procedures will ensure that:

- the identity of the employee¹ making the disclosure is protected;
- an investigation of the alleged serious wrongdoing is encouraged; and
- the employee is protected from disciplinary action, victimisation or civil or criminal proceeding by the Board in accordance with the Protected Disclosures Act 2000.

Making a protected disclosure

Employees may disclose information in this process if:

- the information is about serious wrongdoing in or by the Board; and
- the employee believes, on reasonable grounds, that the information is true or likely to be true; and
- the employee wishes to disclose the information so that the serious wrong doing can be investigated; and
- the employee wishes the disclosure to be protected.

An employee who makes an allegation known to that employee to be false or otherwise acts in bad faith will not be entitled to this protection. Similarly, an employee who makes a disclosure of information in breach of this policy or procedure, the employee's contract of employment, or the Protected Disclosures Act 2000, will also not be entitled to this protection.

Disclosure by an employee may be done in person, by telephone, letter or email. The information that the employee will need to disclose is:

- their identity;
- the identity of the person or persons believed to be involved in the serious wrongdoing;
- specifics of the nature of the wrongdoing; and
- reasons for believing that there is a wrongdoing.

The employee should make the disclosure about the wrongdoing to the Registrar or the Board Chair. After making a protected disclosure to the Registrar or Chair, an employee may make a further protected disclosure to the full Board, if the employee is dissatisfied with the response or action, or there is no action or recommended action on the matter within 20 working days of the disclosure.

An employee may make a protected disclosure to the Board directly if they believe on reasonable grounds that the Chair and/or Registrar:

- is or may be involved in the serious wrong doing alleged in the protected disclosure; and/or
- is not a person to whom it is appropriate to make the disclosure, because of a relationship or association with a person who is or may be involved in the serious wrong doing alleged in the disclosure.

If the Board or Registrar is believed to be involved in the wrongdoing, then disclosure may be made to an appropriate authority as specified in the Protected Disclosures Act 2000.

Receiving a protected disclosure

The person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the person who made the disclosure unless:

- that person consents in writing to the disclosure of that information;
- the person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information is essential to the effective investigation of the allegations in the protected disclosure; or to prevent serious risk to public health or public safety or the environment; or having regard to the principles of natural justice.

For a protected disclosure to be investigated, an employee who makes a protected disclosure shall either:

- consent in writing to his/her name being disclosed; or
- consent in writing to the disclosure of identifying information only in those circumstances referred to in the previous paragraph.

The person informed of the disclosure will assess the information and decide on the type of investigation to be pursued. The type of investigation must comply with the principles of natural justice. Action or recommended action must be made within 20 working days after the date on which the disclosure was made.

Following disclosure, if the employee continues to believe that the information disclosed is true or likely to be true and believes that no proper investigation or action has been taken, or no action has occurred within 20 working days of the disclosure of information, they may disclose the information to a further authority or a Minister of the Crown or Ombudsman as laid down in the Protected Disclosure Act 2000.

Protection

Where an employee who makes a protected disclosure of information under the Protected Disclosure Act 2000 claims to have suffered retaliatory action in relation to the disclosure, the employee may have a personal grievance because of a claim of:

- unjustified dismissal
- the employee's conditions of employment have been affected to the employee's disadvantage by some unjustifiable action by the Board
- discrimination
- sexual harassment
- racial harassment
- duress in relation to membership or non membership of a union or employee's organisation.

Approved by the Board: January 2011
Reviewed by the Board: August 2017
Date of next review: August 2020

ⁱ Section 3 of the Protected Disclosures Act 2000 identifies an employee as any of the following:

- a former employee:
- a homemaker within the meaning of section 5 of the Employment Relations Act 2000:
- a person seconded to the organisation:
- an individual who is engaged or contracted under a contract for services to do work for the organisation:
- a person concerned in the management of the organisation (including a person who is a member of the board or governing body of the organisation):
- in relation to the New Zealand Defence Force, a member of the Armed Forces:
- a person who works for the organisation as a volunteer without reward or expectation of reward for that work