



# Policy -Protected Disclosures

Policy to support NAG 4 Health & Safety

## Outcome statement

In accordance with the Protected Disclosures Act 2000. All members of the Pukekohe Hill School community will be provided guidance on the protections available and procedures for making a Protected Disclosure under the Protected Disclosures Act 2000 ('the Act')

## Scoping

This policy applies to trustees, employees, former employees, contractors, persons concerned with the management of Pukekohe Hill School and volunteers, who raise concerns about serious wrongdoing at or by Pukekohe Hill under the Act. It should be read in conjunction with other policies which relate to complaints and disputes of a less serious nature.

## Delegations

The Pukekohe Hill School Board has ultimate responsibility for ensuring that all disclosures are dealt with in a professional and promptly. The Board delegates authority to the Principal as the professional leader of the school, to ensure all staff are aware of the process for making a disclosure and that the Board is informed of any disclosures made.

## Definitions

**Protected Disclosure** is a declaration made by an employee where they believe serious wrongdoing has occurred. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

**Complainant** means a current or former employee contractor or volunteer of the school.

**Serious wrongdoing** is defined in the Act as being any of the following:

- a. An unlawful, corrupt, or irregular use of public funds or public resources; or
- b. an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- c. an act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial; or
- d. an act, omission, or course of conduct that constitutes an offence; or
- e. an act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

**Protection** in this context can include any of the following:

- a. Confidentiality
- b. Immunity from civil criminal or disciplinary proceedings for making or referring the disclosure
- c. The right to not suffer retaliatory action by their employer

## Expectations and limitations

### Conditions for disclosure

Before making a disclosure the employee should be sure all of the following conditions are met:

- The information is about serious wrongdoing in or by the School.
- The employee believes on reasonable grounds the information to be true or likely to be true.
- The employee wishes the wrongdoing to be investigated.
- The employee wishes the disclosure to be protected.

## Who can make a disclosure?

Any employee of the school can make a disclosure. For the purposes of this policy an employee includes:

- current employees and Principal
- former employees and Principals, and
- contractors supplying services to the school.

*Please Note: The Act does not apply to parents or board of trustees members unless they are staff members of Pukekohe Hill School. It is for the protection of employees. For the purposes of this Act the board of trustees is the employer*

## Protection of employees making disclosures

An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:

- may bring a personal grievance in respect of retaliatory action from their employers
- may access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers
- are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure, and
- will, (*subject to paragraph Protection of disclosing employee's name*) in the procedure, have their disclosure treated with the utmost confidentiality.

The protections provided in this section will not be available to employees making allegations they know to be false or where they have acted in bad faith.

## Procedure

Any employee of the School who wishes to make a protected disclosure should do so using the following procedure.

### How to submit a disclosure

The employee should submit the disclosure in writing.

### Information to be contained

The disclosure should contain detailed information including:

- the nature of the serious wrongdoing
- the name or names of the people involved, and
- surrounding facts including details relating to the time and/or place of the wrongdoing if known or relevant.

### Where to send disclosures

A disclosure must be sent in writing to the Principal who has been nominated by the Board under the provision of section 11 of the Protected Disclosures Act 2000 for this purpose.

If you believe that the Principal is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the Board Chairperson.

### Decision to investigate

On receipt of a disclosure, the Principal or Board Chairperson must within 20 working days examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted. If warranted, a full investigation will be undertaken by the Principal or Board Chairperson or arranged by him/her as quickly as practically possible, through an appropriate authority.

### Protection of disclosing employee's name

All disclosures will be treated with the utmost confidence. When undertaking an investigation, and when writing the report, the Principal or Board Chairperson will make every endeavour possible not to reveal information that can identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential:

- to ensure an effective investigation, or
- to prevent serious risk to public health or public safety or the environment.

### Report of investigation

At the conclusion of the investigation, the Principal will prepare a report of the investigation with recommendations for action if appropriate, which will be sent to the Board Chairperson.

### Disclosure to an appropriate authority in certain circumstances

A disclosure may be made to an appropriate authority (including those listed below) if the employee making the disclosure has reasonable grounds to believe:

- the Board Chairperson is or may be involved in the wrongdoing
- immediate reference to another authority is justified by urgency or exceptional circumstances, or
- there has been no action or recommended action within 20 working days of the date of the disclosure.

Appropriate authorities include (but are not limited to):

- 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
- Police Complaints Authority
- Solicitor General
- State Service Commissioner
- the head of any public sector organisation.

### **Disclosure to Ministers and Ombudsman**

A disclosure may be made to a Minister or an Ombudsman if the employee making the disclosure has made the same disclosure according to the internal procedures and clauses of this Policy and reasonably believes that the person or authority to whom the disclosure was made:

- has decided not to investigate, or
- has decided to investigate but not made progress with the investigation within reasonable time, or
- has investigated but has not taken or recommended any action, and
- the employee continues to believe on reasonable grounds that the information disclosed is true or is likely to be true.

## **Procedures/supporting documentation**

Staff Induction process

Complaints Procedure

## **Monitoring**

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## **Legislative compliance**

Protected Disclosure Act: <http://www.legislation.govt.nz/act/public/2000/0007/latest/DLM53466.html>

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