



## PROTECTED DISCLOSURES PROCEDURE

### Outcome

To provide information to employees of Te Pākihi o Maru who wish to report serious wrongdoing within the school.

### Definitions

#### 1. A definition of a protected disclosure

- a. A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred.
- b. 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.

#### 2. Definition of Serious Wrongdoing

- a. Serious wrongdoing includes any serious wrongdoing of any of the following types:
  - i) an unlawful, corrupt, or irregular use of funds or resources of a public sector organisation; or
  - ii) an act of omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
  - iii) 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
  - iv) an act, omission, or course of conduct that constitutes an offence; or
  - v) an act, omission, or course of conduct 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 this act.

### Procedures

#### 1. Conditions for Disclosure

Before making a disclosure the employee should be sure the following conditions are met;

- a. the information is about serious wrongdoing in or by the school
- b. the employee believes on reasonable grounds the information to be true or is likely to be true
- c. the employee wishes the wrongdoing to be investigated; and
- d. the employee wishes the disclosure to be protected.

#### 2. Who can make a disclosure:

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

- a. current employees and principal
- b. former employees and principals'; and
- c. contractors supplying services to the school.

### **3. Protection of employees making disclosures:**

- a. An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:
  - i) may bring a personal grievance in respect of retaliatory action from their employers;
  - ii) may access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers;
  - iii) 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
  - iv) will, subject to Clause 5 of the Procedure, have their disclosure treated with the utmost confidentiality.
- b. 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.

## **D. Making a protected disclosure**

### **1. Any employee who wishes to make a protected disclosure should do so as follows:**

- a. if on reasonable grounds you believe you have information that a serious wrongdoing is occurring [or may occur] within the school and you wish to disclose that information so it can be investigated you can make a protected disclosure to the principal. This must be done in writing.
- b. you should identify that the disclosure is being made under the Protected Disclosures Act and is following the board procedure, provide detail of the complaint [disclosure], and who the complaint is against.

### **2. The disclosure should contain detailed information including the following:**

- a. the nature of the serious wrongdoing;
- b. the name or names of the people involved; and
- c. surrounding facts including details relating to the time and/or place of the wrongdoing (if known or relevant.)

### **3. Submitting the disclosure:**

- a. A disclosure must be sent in writing to the principal who has been nominated by the Board of Te Pākihi o Maru under the provision of Section 11 of the Protected Disclosures Act 2000 for this purpose.  
OR
- b. If you believe that the principal is involved in the wrong-doing 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 Presiding Member of the Board.

### **4. Decision to investigate:**

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

### **5. Protection of disclosing employee's name:**

- a. All disclosures will be treated with the utmost confidence.
- b. When undertaking an investigation, and when writing the report, the principal 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;
  - i) to ensure an effective investigation
  - ii) to prevent serious risk to public health or public safety or the environment

iii) to have regard to the principles of natural justice

**6. Report of investigation:**

a. 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.

**7. Disclosure to an appropriate authority in certain circumstances:**

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

- i) the last resort person in the school responsible for handling the complaint is or may be involved in the wrongdoing; or
- ii) immediate reference to another authority is justified by urgency or exceptional circumstances; or
- iii) there has been no action or recommended action within 20 working days of the date of disclosure.

**8. Appropriate Authorities include (but are not limited to)**

- i) Commissioner of Police
- ii) Controller and Auditor General
- iii) Director of the Serious Fraud Office
- iv) Inspector General of Intelligence and Security
- v) Ombudsman
- vi) Parliamentary Commissioner for the Environment
- vii) Police Complaints Authority
- viii) Solicitor General
- ix) State Service Commissioner
- x) Health and Disability Commissioner
- xi) The head of every public sector organisation.

**9. Disclosure to Ministers and Ombudsman:**

a. A disclosure may be made to a Minister or an Ombudsman if the employee making the disclosure

- i) has made the same disclosure according to the internal procedures and clauses of this policy
- ii) 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
  - continues to believe on reasonable grounds that the information disclosed is true or is likely to be true.

**E. Where can people find out more information?**

If you notify the Office of the Ombudsman verbally or in writing, that you have disclosed or are considering a disclosure under this Act, they must provide information and guidance on a number of matters including those discussed here and the protections and remedies available under the Human Rights Act 1993 if the disclosure leads to victimisation.

A copy of the Protected Disclosures Act 2022 can be found on the internet at Legislation on Line at:

<https://www.publicservice.govt.nz/publications/protected-disclosures-act-2022>