



Protected Disclosures Policy

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1 Purpose

Tararua District Council (Council) promotes integrity, accountability, and ethical operating practices. Council has zero tolerance of any dishonest behaviour and supports the reporting of wrongdoing.

The purpose of this Policy is to describe Council's responsibilities based on the Protected Disclosures (Protection of Whistleblowers) Act 2022 ("PD (PofW) 2022 Act" or "the Act") and it supersedes the Protected Disclosures Policy of August 2021.

The purpose of the Act is to promote the public interest:

- by facilitating the disclosure and timely investigation of serious wrongdoing in or by an organisation; and
- by protecting the people who disclose in accordance with this Act.

2 Background

Protections accorded to the discloser by the PD (PofW) Act 2022 apply to disclosures made after the commencement of this act (1 July 2022) whether the wrongdoing occurred before or after then.

If substantially the same disclosure was also made under the Protected Disclosures Act 2000, sections 11 to 15 in the PD (PofW) Act 2022 apply with all the necessary modifications.

Protections provided to the discloser by the Protected Disclosures Act 2000 continue to apply to a disclosure made under that Act before the commencement of the PD (PofW) Act 2022.

Not all wrongdoing needs to be dealt with under this Act or the procedures for this policy. Also refer to Council's other policies, listed at the end of this document.

3 Scope

This policy applies to all current and past Council employees, elected members, secondees, contractors, and volunteers of Council, at all work sites and events, whether they are a discloser or receiver of a protected disclosure.

4 Objectives

Make employees, elected members, secondees, contractors, management, and volunteers of Council aware of:

- the Act.
- Council's procedure for disclosing serious wrongdoing under the Act.
- Council's support of the discloser.
- Council's intolerance of any form of wrongdoing
- Council's encouragement to report wrongdoing.

5 Implementation

5.1 Protections under the Act

Protections under the Act are given to the discloser, and anyone providing supporting information about a disclosure, when it is made about their organisation/workplace to their organisation in accordance with any internal procedures, or to an appropriate authority, at any time.

A discloser is protected if the discloser:

- Believes 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.

5.1.1 Confidentiality

The receiver is obliged to keep the discloser's identity confidential. It cannot be released under the Official Information Act 1982 or the local Government Official Information and Meetings Act 1987.

There are specific circumstances, listed in the Act, that allow the release of the discloser's identity. These are where it is essential in order to conduct an investigation. This decision is not made lightly and the discloser will be told.

5.1.2 No Retaliation

A person must not treat another less favourably because of a protected disclosure. And employers must not retaliate or threaten to retaliate against a discloser who is an employee.

5.1.3 No Victimisation

No person shall be victimised by anyone because they (or a relative or associate)

- have made, or intend to make, a protected disclosure,
- have encouraged another person to make a protected disclosure, or
- has given information in support of, or relating to, a protected disclosure, or
- intends to do any of the above.

5.1.4 No Contracting Out

The Act applies despite any agreement, contract, or internal procedure.

5.1.5 Supporting Information

Another discloser who discloses information in support of, or relating to, a protected disclosure is also entitled to protection under the Act if the discloser:

- Discloses in good faith
- Discloses as described in the guidelines for this policy.

5.2 Advising Employees

Council will publish widely and regularly information about this policy and the procedures for protected disclosures.

5.3 Anonymous Disclosure

An Ombudsman may provide information and guidance to organisations and disclosers about the circumstances in which anonymous protected disclosures may be made.

5.3.1 Right of Access

Any internal investigator who has been delegated this responsibility by the CE will be accorded free and unrestricted access to all Council records and premises, and the authority to examine, copy and/or remove all or any portion of the contents of files, desks, cabinets and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities, when it is within the scope of the investigation.

6 Roles and Responsibilities

6.1 Discloser

It is important that you follow the procedure in the guidelines to this policy.

You may seek advice from the Ombudsman. [Contact the Ombudsman | Ombudsman New Zealand](https://www.ombudsman.parliament.nz)
info@ombudsman.parliament.nz P O Box 10152, Wellington 6143, 0800 802 602

When you are sure:

- that a serious wrongdoing has happened, and
- you are wanting to report it in good faith, and
- you want the protection of the Act

you may write to or speak with your Group Manager or the CE. If the disclosure is about the CE or the Mayor, you may write to or speak with the Chair of the Audit and Risk Committee.

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If you believe, on reasonable grounds,

- that the person you would have reported to inside Council is involved in the wrongdoing, or
- that it's not appropriate to report to the above role because of your relationship or association with the alleged wrongdoer,

you may make your report to an appropriate authority. See Definitions, below.

6.2 Receiver

It is important that you follow the procedure in the guidelines to this policy.

Advise the discloser:

- the procedure that will now be undertaken.
- what Council will do to maintain the discloser's confidentiality.
- what will happen if potentially identifying information is to be released.
- of the EAP or other service they may access for support.
- who the discloser may escalate any concerns to.

6.2.1 Receiver may decide no action is required

In this case the discloser should be advised, with reasons, why no action will be taken.

6.2.2 Receiver may refer disclosure

Council may refer the matter to an appropriate authority.

6.3 Ombudsman

The Ombudsman may give advice to a discloser, investigate a disclosure either independently or alongside a public sector organisation, may review an investigation by a public sector organisation, and may provide advice to a discloser upon request.

7 Related Internal Policies, Processes and Documents

- Code of Conduct
- IT Acceptable Use Policy
- Health and Safety Policy
- Disciplinary Policy
- Sensitive Expenditure Policy
- Fraud, Corruption and Dishonesty Policy
- Conflict of Interest Policy

8 References

Protected Disclosures (Protection of Whistleblowers) Act 2022

[Protected Disclosures \(Protection of Whistleblowers\) Act 2022 No 20, Public Act Contents – New Zealand Legislation](#)

Employment Relations Act 2000

[Employment Relations Act 2000 No 24 \(as at 01 July 2022\), Public Act Contents – New Zealand Legislation](#)

Human Rights Act 1993

[Human Rights Act 1993 No 82 \(as at 10 May 2022\), Public Act Contents – New Zealand Legislation](#)

9 Definitions

Appropriate authority: includes:

- the head of any public sector organisation; and
- any officer of Parliament (not a Minister or member of Parliament); and
- (as examples) the persons or bodies listed in the second column of [Schedule 2](#); and
- includes the membership body of a particular profession, trade, or calling with the power to discipline its members.

Refer to Appendix One: Schedule 2 Examples of concerns and the appropriate authorities to report to.

Refer to S30 Role of Ombudsmen in providing information and guidance. [Protected Disclosures \(Protection of Whistleblowers\) Act 2022 No 20, Public Act Subpart 4—Ombudsmen’s role – New Zealand Legislation](#)

Discloser: In the PD(PoW) Act, discloser, in relation to an organisation, means an individual who is (or was formerly) –

- a) an employee;
- b) a secondee to the organisation;
- c) engaged or contracted under a contract for services to do work for the organisation;
- d) concerned in the management of the organisation (including, for example, a person who is or was a member of the board or governing body of the organisation);
- e) a volunteer working for the organisation without reward or expectation of reward for that work.

Receiver: means the receiver of a protected disclosure who is either –

- a) the organisation concerned; or
- b) an appropriate authority.

Retaliate: means –

- a) doing any of the following:
 - (i) dismissing the employee:
 - (ii) refusing or omitting to offer or afford to the employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available to other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances:
 - (iii) subjecting the employee to any detriment or disadvantage (including any detrimental or disadvantageous effect on the employee’s employment, job performance, or job satisfaction) in circumstances in which other employees employed by the employer in work of that description are not or would not be subjected to such detriment or disadvantage:
 - (iv) retiring the employee, or requiring or causing the employee to retire or resign:
- b) organising to do anything described in paragraph (a).

Protected Disclosure: a disclosure of information is a protected disclosure if the discloser:

- (a) believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the discloser’s organisation; and
- (b) discloses information about that in accordance with this Act; and
- (c) does not disclose it in bad faith.

Serious wrongdoing: does not apply to all possible wrongdoing in your organisation. It does include any act, omission, or course of conduct in (or by) any organisation that is one or more of the following:

- a) an offence:
- b) a serious risk to—
 - (i) public health; or
 - (ii) public safety; or
 - (iii) the health or safety of any individual; or
 - (i) the environment
- c) a serious risk to the maintenance of law, including—
 - (i) the prevention, investigation, and detection of offences; or
 - (ii) the right to a fair trial:
- d) an unlawful, a corrupt, or an irregular use of public funds or public resources:
- e) oppressive, unlawfully discriminatory, or grossly negligent conduct, or gross mismanagement by—

- (i) a public sector employee:
- (ii) a person performing a function or duty or exercising a power on behalf of a public sector organisation.

Volunteer: a volunteer working for the organisation without reward or expectation of reward for that work.

10 Review

This policy will be reviewed 3 yearly or as amendments to legislation apply.

