



# Protected Disclosures Policy

## POLICY TITLE

**Protected Disclosures Act 2000 (amended  
Whistle-blower protection)**

## APPLIES TO

- A current or former employee of Whakatane District Council
- A person seconded to the organisation
- An individual who is engaged or contracted under a contract to provide services 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)
- A person who works for the organisation as a volunteer without reward or expectation of reward for that work

The term “employee” will be deemed to cover all of the above categories where it is mentioned within this document.

## POLICY STATEMENT

This policy complies with the requirements of the Protected Disclosures Act 2000, which has the objectives of

- Promoting the public interest by facilitating the disclosure and investigation of matters of serious wrongdoing (see definitions) in or by the organisation
- Protecting employees who make disclosures of serious wrongdoing in the organisation

### **Making a protected disclosure**

An employee, may make a “protected disclosure” if:

- The information is about a serious wrongdoing in or by the organisation, (Whakatane District Council)
- The complainant believes on reasonable grounds that the information disclosed is true or likely to be true
- The complainant wishes the serious wrongdoing to be investigated
- The complainant wishes the disclosure to be protected

### **Disclosure Procedure**

#### **Internal Procedures**

##### ***Initiating the Procedure***

An employee who wishes to raise concerns about wrongdoing within the Council is to notify a Council PDA Co-ordinator orally or in writing, that he or she is considering making a disclosure of information under this Act. The employee has a right to make a complaint to an appropriate authority. Appropriate authority includes the Police or Auditor General.

##### ***Council-appointed PDA Co-ordinators***

Council-appointed PDA Co-ordinators are:

- (a) Human Resources Manager and Customer Services Manager

Should the employee believe a PDA Co-ordinator is involved directly or indirectly in the wrongdoing, then the employee may make the disclosure directly to the Chief Executive.

In the event the employee believes all parties named in the Disclosures Procedure are directly or indirectly involved in the wrongdoing, that employee may request a copy of the Protected Disclosures Act 2000 which makes reference in Sections 8 and 9 to other options and to how to make a disclosure in such circumstances.

### ***Initial Responses by the PDA Co-ordinator***

The PDA Co-ordinator is to:

- (a) Discuss the matter with the employee
- (b) Record the date that that the notification was received
- (c) Provide information and guidance to that employee on the following matters:
  - (i) the kinds of disclosures that are protected under this Act
  - (ii) the protection and remedies available under the Act and the Human Rights Act 1993 if the disclosure of information in accordance with this Act leads to victimisation of the person making the disclosure
  - (iii) how particular information disclosed may be referred to another appropriate authority under this Act
- (d) Advise the person making the disclosure that the alleged wrongdoings will be brought to the attention of the Chief Executive (or in her absence the Acting Chief Executive) and that the person making the disclosure will:
  - (i) be advised within 20 days how the matter has been dealt with
  - (ii) advise the Chief Executive of the alleged wrongdoings if appropriate or the Acting Chief Executive or the Mayor

### ***Chief Executive's Responsibilities***

- (a) The Chief Executive is responsible for commissioning whatever investigative, restorative or disciplinary actions are considered necessary to deal with the alleged wrongdoings
- (b) The Chief Executive is to ensure that the relevant PDA Co-ordinator is advised how the matter is being dealt with or how it has been resolved so that the person who made the disclosure may be advised within 20 days from the date the disclosure was made

### ***Follow Up Action by the PDA Co-ordinator***

The PDA Co-ordinator is to:

- (a) Advise the person who made the disclosure how the matter is being dealt with within 20 days of the disclosure being made
- (b) Should the above procedures be followed and the person who made the disclosure consider that the matter has not been adequately addressed then the PDA Co-ordinator is to make the person aware of his/her right to take the matter to a Minister of the Crown or the Ombudsman [provided the provisions of Clause 10 of the Act are observed]
- (c) Advise the Chief Executive if further action under (b) above may be taken
- (d) Advise all parties on how the matter was being dealt with

## Protections

A complainant who suffers retaliatory action from an employer or former employer as a result of making a disclosure in terms of this policy and the Protected Disclosures Act may bring a personal grievance complaint under the Employment Relations Act 2000.

A complainant is immune from any civil or criminal proceedings as a result of a disclosure.

A complainant is protected from discrimination under the Human Rights Act 1993.

A complainant is not protected, however, if the information disclosed is protected by legal privilege.

A complainant is not protected who knowingly makes a false declaration or makes a disclosure in bad faith.

## DEFINITIONS

Under the Act, **serious wrongdoing** includes:

- (a) An unlawful, corrupt, or irregular use of Council funds or resources
- (b) An act, omission of conduct that constitutes a serious risk to public health or public safety or the environment
- (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
- (d) An act, omission, or course of conduct that constitutes an offence
- (e) An act, omission, or course of conduct by a public official that is oppressive, inappropriate, discriminatory, grossly negligent, or that constitutes gross mismanagement
- (f) Whether the wrongdoing occurred before or after the commencement of the Act.

## IMPLEMENTATION GUIDELINES

Information about the policy must be published widely in the organisation and must be reviewed at regular intervals. This requirement will be met by:

- (a) Publication of the policy on Whoogle, the WDC intranet
- (b) Publication posted on staff notice boards across WDC places of work
- (c) Inclusion in WDC Councillors' Code of Conduct Manual
- (d) Quarterly briefing with Third Tier managers
- (e) Reviewed on a three-yearly basis.

## FURTHER INFORMATION

HR Department, HR Manager

## POLICY APPROVAL

Human Resources Manager  
Audit Committee

## APPROVAL DATES

This policy was originally approved in March 2010

This version was approved by Council on 31 MARCH 2010

This version takes effect on 31 MARCH 2010

This policy is to be reviewed by 2013.

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