

PROTECTED DISCLOSURES

PURPOSE: The Kamo Primary School Board of Trustees ensures procedures are in place to meet the requirements of the Protected Disclosures Act 2000.

GUIDELINES:

Procedures for making a protected disclosure under the Protected Disclosures Act 2000

1. 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.

2. This must be done in writing. 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.

3. 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 Chairperson of the Board of Trustees.

4. It is then up to the person you disclose to, to decide if the disclosure constitutes a serious wrongdoing, and that all allegations need investigating.

They can decide:

(a) to investigate the disclosure themselves.

(b) to forward the disclosure to the Board or a Committee of the Board to investigate.

(c) whether it needs to be passed on to an appropriate authority. If it goes to an appropriate authority they will advise you that they are now investigating the complaint.

5. If you believe that both the Principal and the Chairperson to the Board of Trustees may be a party to the wrongdoing or in close relationship with the person/s involved in the wrongdoing you can approach an external ‘appropriate authority’ directly yourself.

Who is an “appropriate authority”?

6. As noted above, in some circumstances the disclosure could be made to an appropriate authority be yourself or the person to whom you made the disclosure. An appropriate authority is defined in the Act as including:

“(a) includes -

- (i) the Commissioner of Police
- (ii) the Controller and Auditor-General
- (iii) the Director of the Serious Fraud Office
- (iv) the Inspector-General of Intelligence and Security
- (v) an Ombudsman
- (vi) the Parliamentary Commissioner for the Environment
- (vii) the Police Complaints Authority
- (viii) the Solicitor General
- (ix) the State Services Commissioner
- (x) the Health and Disability Commissioner: and

(b) included the head of every public sector organisation, whether or not mentioned in paragraph

(a).”

7. Clause (b) can mean that in certain circumstances the appropriate authority could be the Secretary for Education of the Ministry of Education or the Chief Review Officer of the Education Review Office (ERO).

Why can't I just go to the appropriate authority myself?

8. There are three circumstances when you can go directly to the appropriate authority
- (a) When you believe that the head of the organisation is also a party to the wrongdoing or has an association with the person which would make it inappropriate for them to investigate.
 - (b) If the matter needs urgent attention or there are other exceptional circumstances.
 - (c) If after 20 working days there has been no action or recommended action on the matter to which the disclosure related.
- Otherwise you need to go through the internal process.

What happens if even the appropriate authority does nothing?

9. You could then make the disclosure to the Ombudsman (unless they were the authority you have already disclosed to) or a Minister of the Crown.
10. The Act does not protect you if you disclose information to the media or a member of parliament other than a Minister of the Crown in the circumstances referred to above.

Where can I find out more information?

11. 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 victimization.

INFORMATION FOR STAFF: PROTECTED DISCLOSURES

Introduction

The Protected Disclosures Act 2000 came into effect on 1 January. The Act requires that public sector organisations such as schools have an internal process that staff can use if they wish to make a protected disclosure. The following information details this process and provides you with information about the protections given in the Act.

Who can make a protected disclosure?

Are you:

- A staff member (either temporary or permanent)
- A contractor supplying services to the school
- A former staff member (either temporary or permanent)

If you fit into any of these categories you are able to make a disclosure under the provisions of this Act.

Note: the Act does not apply to parents or Board of Trustees members unless they are staff, members of the school. It is for the protection of employees. For the purpose of this Act the Board of Trustees is the employer.

As a public sector organisation boards are required to have an internal procedure for staff, contractors, or former employees to make protected disclosures within the school.

What is a “protected disclosure”?

Protected means that as long as you have reasonable grounds to believe that a serious wrongdoing is being done by or in the organisation by the above people you can report in good faith asking that the wrongdoing be investigated without worrying about negative consequences.

It is important to remember that this is an Act to protect employees and the disclosure will be about the employer or another employee’s not a student or parent.

What is a serious wrongdoing?

The Act defines a serious wrongdoing 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 detention 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,”

How am I protected?

You are “ protected” when making a disclosure in the following ways:

Your identity will be confidential unless you give permission to be identified*

You cannot be victimized by your employer for having disclosed the information.

If you believe that you have been unfairly treated in your job or unreasonably dismissed following a disclosure you can take a personal grievance against your employer.

There are some limitations to this described in the Act. These are:

- (1) Every 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 protected disclosure unless-
 - (a) that person consents in writing to the disclosure of that information: or
 - (b) the person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information-
 - (i) is essential to the effective investigation of the allegations in the protected disclosure: or
 - (ii) is essential to prevent serious risk to public health or public safety or the environment; or
 - (iii) is essential having regard to the principles of natural justice.
- (2) A request for information under the Official Information Act 1982 (other than one made by a member of the police for the purpose of investigating an offense) may be refused, as contrary to this Act, if it might identify a person who has made a protected disclosure.”

This protection depends on you making the disclosure in accordance with the internal procedure.

Reviewed: Term 2 2015

.....Chairperson, BOT

Review date: Term 2 2018