
Whistleblower Policy

1. Purpose

The purpose of this Policy is to facilitate disclosures and provide guidance on the procedures for making a disclosure of serious wrongdoing under the Protected Disclosures (Protection of Whistleblowers) Act 2022 (the Act).

2. Application of Policy

This Policy applies to individuals who currently have, or previously had, an employment-type relationship with the University as a staff member, seconded, contractor, volunteer or member of the Board or other governing body of the University concerned in its management. In this Policy, these persons will be collectively referred to as *disclosers*.

Policy Content

3. Main principles

- 3.1 To facilitate disclosures and investigations of alleged serious wrongdoing, the University will –
- (a) ensure its policies and practices comply with the Act and any other relevant Aotearoa New Zealand legislation or instruments;
 - (b) use its best endeavours to make this Policy and any associated training widely accessible to existing and new staff members;
 - (c) build and maintain a culture that promotes kaitiakitanga and speaking up about wrongdoing;
 - (d) keep an accurate record of reported concerns;
 - (e) cooperate with public sector organisations where necessary;
 - (f) treat information that may expose the identity of disclosers confidentially and in accordance with the Privacy Act 2020;
 - (g) respond punctually to reported concerns and adhere to the principles of natural justice (fairness and impartiality) at all times;
 - (h) give tailored support and practical advice to disclosers;
 - (i) prevent any unfair treatment of or retaliation against disclosers or their relatives and associates.

Note: The University will refuse requests for information made under the Official Information Act 1982 if the requested information might identify disclosers of protected disclosures.

4. General information

- 4.1 According to the Act, serious wrongdoing is an act, omission, or course of conduct that –
- (a) constitutes an offence; or
 - (b) involves an unlawful, corrupt, or irregular use of public funds or public resources; or

- (c) puts public, individual, and environmental health and safety at serious risk; or
- (d) contains a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences or the right to a fair trial; or,
- (e) is considered to be oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a staff member(s) or any other person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of the University.

5. Making a disclosure

5.1 In the University context, disclosures of information will be considered a protected disclosure if:

- (a) the disclosure concerns serious wrongdoing in or by the University; or
- (b) the discloser has reasonable grounds to believe the information they wish to disclose concerns serious wrongdoing and it is true or likely to be true.

5.2 Disclosers may choose to make a protected disclosure either to the University (via the Disclosure Officer, any managers, or the Vice-Chancellor or Provost) or to any other appropriate authority such as –

- (a) the head of any public sector organisation;
- (b) any of the three offices of Parliament – the Office of the Auditor General, the Office of the Ombudsman, and the Office of the Parliamentary Commissioner for the Environment;
- (c) the Director of the Serious Fraud Office;
- (d) the Inspector General of Intelligence and Security;
- (e) the Independent Police Conduct Authority;
- (f) the Solicitor General;
- (g) the Public Service Commission;
- (h) the Health and Disability Commissioner;
- (i) the membership body of a particular profession, trade, or calling with the power to discipline its members.

5.3 Disclosers are required to act professionally and with due regard to the potential seriousness of the allegations, including maintaining confidentiality over the information they disclose. It is not appropriate nor protected by the Act, or this Policy, for a discloser to report alleged serious wrongdoing to unauthorised third parties such as the media or members of the public.

Note: Disclosers may seek third-party advice on how to make protected disclosures so long as they do it in confidence.

6. Receiving a disclosure

6.1 Upon receipt of a protected disclosure, the University's Disclosure Officer will assess whether the disclosure meets the criteria of serious wrongdoing (as set out in paragraph 4.1) and whether it warrants investigation. Receivers other than the Disclosure Officer may seek assistance and advice from the Disclosure Officer in conducting this assessment and any subsequent investigation or other action. Any receiver of a disclosure should consult with the discloser prior to referring the protected disclosure to the Disclosure Officer and/or any other person.

6.2 As soon as practicable, the receiver will also assess any risk involved to people involved in the alleged serious wrongdoing and/or the discloser and will provide necessary support where

required. A discloser will also be provided with the details of a designated support person from the time a concern is first raised. This support will be available for as long as it is required.

- 6.3 The receiver will acknowledge to the discloser the date that the disclosure was received and notify the discloser whether the disclosure contains an allegation of serious wrongdoing. If the receiver decides that a matter that has been complained about does not amount to serious wrongdoing, the matter may be investigated in accordance with the Staff Conduct Policy.
- 6.4 Where a disclosure is made orally, the receiver will summarise the receiver's understanding of the disclosure.

7. Confidentiality

- 7.1 Any recipient of a disclosure, or any person approached for assistance, advice or support in making a disclosure, will use their best endeavours not to disclose information that might identify the discloser who made the disclosure unless they have express consent from the discloser to do so.
- 7.2 However, the Disclosure Officer and/or any investigator appointed by the University may disclose information that might identify the person who made the protected disclosure if they reasonably believe this is essential:
- (a) for the effective investigation of the allegations in the protected disclosure, or
 - (b) to prevent serious risk to public health, public safety, the health or safety of any individual, or the environment, or
 - (c) to comply with the principles of natural justice, or
 - (d) if the University is subject to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement.
- 7.3 Where such information is to be disclosed in the circumstances outlined above, the Disclosure Officer will consult the discloser about the intended release.
- 7.4 However, where the Disclosure Officer and/or any investigator considers it is impracticable in the circumstances to consult with a discloser due to a serious risk to public health, public safety, the health and safety of any individual, or the environment, or to an impending investigation by a law enforcement or regulatory agency for the purposes of law enforcement, the requirement to consult prior to the disclosure does not apply.
- 7.5 After releasing any identifying information for a reason described in the circumstances above, the receiver will inform the discloser that their information has been referred and disclosed to another person.

8. Investigating a disclosure

- 8.1 If it is decided that a matter should be investigated as an allegation of serious wrongdoing, any action or recommended action (such as the commencement of a formal investigation or referral to an appropriate authority) will be communicated to the discloser within 20 working days after the date on which the disclosure was made, with the investigation to be conducted and completed as soon as practicable thereafter.
- 8.2 Any investigation will be conducted by the reporting manager or other persons the receiver considers to be appropriate, which may include a person independent of the University. In making any decision as to who should investigate a disclosure, the Director, People and Capability or another authorised staff member may be consulted.

- 8.3 The investigator will determine whether or not the allegation is substantiated, and the investigator may be asked to determine whether the conduct constitutes serious wrongdoing. The University will decide what further action may be appropriate based on the findings of the investigation

Note: Subject to the confidentiality requirements in 7 above, the Disclosure Officer may share information contained in the investigation report with relevant University officers including relevant Council members, members of the Council Committees, and members of the Senior Leadership Team.

- 8.4 If the investigation into a disclosure has not been commenced within the timeframe specified in 8.1, the discloser may refer the matter to the Vice-Chancellor or any other appropriate authority (see 5.2 above) for consideration.
- 8.5 Where a decision has been made to take no action in response to a disclosure under the Act, but the discloser continues to genuinely believe that the matter they raised qualifies as serious wrongdoing, the discloser may refer that disclosure to an Ombudsman or Minister of the Crown.
- 8.6 The University will refer a matter to appropriate authorities where the disclosed information concerns security, intelligence, or international relations. Where possible, the University will consult with any discloser if such disclosure will be required.

9. Protections for disclosers

- 9.1 Disclosers are strongly encouraged to advise the University that they are making a disclosure under the Act and that their disclosure concerns a potential serious wrongdoing in or by the University. However, neglecting to do so will not preclude a disclosure from being considered protected under the provisions of the Act.
- 9.2 Disclosers are entitled to protection even if their allegation of serious wrongdoing is proven false by an investigation. The protections conferred by the Act, this Policy, and section 66(1)(a) of the Human Rights Act 1993 do not apply to disclosures that are deliberately made in bad faith or the information being disclosed is protected by legal professional privilege.
- 9.3 Where a discloser feels they have been victimised or retaliated against for making a disclosure of serious wrongdoing, they may take a personal grievance under the Employment Relations Act 2000 or make a complaint under the Human Rights Act 1993.
- 9.4 The University takes allegations of victimisation or retaliation very seriously. Actions of this nature may result in disciplinary action under the Staff Conduct Policy.

10. Definitions

In this Policy, unless the context otherwise requires:

Disclosure Officer means the General Counsel or delegate

Related Documents and Information

11. Related Documents

[Education and Training Act 2020](#)
[Employment Relations Act 2000](#)
[Human Rights Act 1993](#)
[Official Information Act 1982](#)
[Privacy Act 2020](#)
[Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#)
[Victoria University of Wellington Act 1961](#)

[Fraud Policy](#)

[Staff Conduct Policy](#)
[Te Tiriti o Waitangi Statute](#)

12. Document Management and Control

Approver	Vice-Chancellor
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Sponsor	Director, People and Capability
Policy Owner	General Counsel Manager, Employment Law and Employment Relations