

Protected disclosures

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Policy statement and principles

Police is committed to high standards of ethical conduct and encourages employees to raise concerns about any serious wrongdoing in the workplace to help to promote integrity, accountability, transparency, and good management.

A protected disclosure is a formal process through which employees or individuals can report serious wrongdoing, misconduct, or illegal activities within Police without fear that action will be taken against them. The process is governed by the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#) (the Act). When making a protected disclosure, individuals can provide information about the wrongdoing to a designated authority. The purpose of this mechanism is to encourage transparency, accountability, and prevention of corruption.

The Act outlines the legal framework for this protection and provides remedies for disclosers if they face adverse consequences for their disclosure.

What

This policy outlines the requirements under the Act, and Police's procedures for receiving and handling protected disclosures. It explains what qualifies as a protected disclosure under the Act and sets out how someone may disclose an allegation of serious wrongdoing, where a discloser can go for advice, and the protections that apply. It also covers the storage, access, and reporting of information on protected disclosures.

Why

The Act sets out certain procedural requirements for employees wanting to report concerns about serious wrongdoing and requires Police to have appropriate procedures in place to handle and investigate such reports.

How

Disclosures and investigations about serious wrongdoing can be made using the process outlined in this policy. "Serious wrongdoing" in this context, and therefore this policy, does not apply to all possible wrongdoing that might occur in Police. Other concerns (for example, about bullying, harassment, discrimination, and other unacceptable behaviour by colleagues) should be reported using the other options available to staff, such as [Kia Tū](#), and in those circumstances the protections under the Act would be unlikely to apply.

Protected Disclosures

Who can make a protected disclosure?

A protected disclosure about matters involving Police can be made by any current or former employee, secondee, contractor, volunteer, or person concerned in the management of the organisation (such as a member of a governance board advising Police). See [‘application of the Act \(flowchart overview\)’](#) for further information.

What can be disclosed?

Protected disclosures can be made about any serious wrongdoing within Police, including any act, omission, or conduct that is:

- an offence
- a serious risk to public health or safety, the health or safety of any individual, or to the environment
- a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or resources (by Police or by a private sector organisation contracted by Police)
- conduct by a public official, or on behalf of a public sector organisation or the Government, that is oppressive, unlawfully discriminatory, grossly negligent, or gross mismanagement.

There are special rules for making disclosures about intelligence and security information or international relations information as outlined in the Act and this policy.

What conditions must be met by the discloser?

A disclosure of information is a protected disclosure under the Act if the discloser:

- believes on reasonable grounds there is or has been serious wrongdoing within their organisation; **and**
- discloses the information in accordance with the Act; **and**
- does not disclose it in bad faith.

This also includes situations where a person discloses information confidentially to another person, to seek advice about whether or how to make a protected disclosure

See [‘application of the act \(flowchart overview\)’](#) for further information.

What protections exist for disclosers?

Part 3 of the Act outlines the protections that exist for those who make protected disclosures. These are:

Confidentiality

Police (or another receiver of a disclosure) must use best endeavours to protect the identity of the disclosing employee. The discloser, or anyone else, may seek information and guidance from the Office of the Ombudsman about this duty of confidentiality. A discloser’s identity may only be released if they have consented to its release, or Police reasonably believes:

- disclosure of their identity is essential to the effective investigation of the disclosure **or**
- to prevent serious risk to public health, public safety, the health and safety of any individual, or the environment **or**
- it is essential to comply with the principles of natural justice **or**
- it is essential to an investigation by another law enforcement or regulatory agency for the purpose of law enforcement.

Police (or another receiver of a disclosure) must consult with the discloser prior to releasing their identity if it is being released in relation to an investigation or for natural justice reasons. If it is being released for the other listed reasons, Police are only required to inform the discloser after the information is released. However, Police will endeavour to consult the discloser prior to release if it is practicable.

The discloser may make a complaint to the Privacy Commissioner if they think Police has disclosed their identity in breach of the Act. A release of identifying information that is not in line with the Act will also be a breach of the Privacy Act 2020. The onus would be on Police to prove otherwise.

Note: Confidentiality refers to protecting information from unauthorised access; it does not guarantee the discloser's anonymity or that a person's identity will remain unknown throughout an investigation. Anonymity, in most cases, will hinder the ability to investigate and/or update the discloser. The reality is a discloser may be identified through the nature or content of their complaint and action required to investigate it. Identifying the discloser may be an unintended consequence, but unavoidable if a matter is to be effectively investigated.

Obligation not to retaliate or treat less favourably

A discloser must not be retaliated against, victimised, or treated less favourably by New Zealand Police because of a protected disclosure.

Retaliation includes any of the following:

- being dismissed
- being offered different terms, conditions, benefits, or opportunities than offered to other employees (of similar qualifications, skills and experience who were employed in similar circumstances)
- being subjected to disadvantage
- being required, or caused, to resign or retire.

Victimisation includes the discloser, or one of their relatives or associates, being treated less favourably than others in the same or similar circumstances are treated.

Police treats any allegations of victimisation or retaliation very seriously. If a discloser has made, or intends to make, a protected disclosure under the Act and feels they have been retaliated against or victimised by Police as a result, they may take a personal grievance under the Employment Relations Act 2000 or make use of the anti-victimisation provisions of the Human Rights Act 1993.

Any person who makes a protected disclosure is entitled to protection under the Act even if they:

- are mistaken and there is no serious wrongdoing
- do not refer to the name of the Act or this policy when making the disclosure (see [inadvertent disclosures](#))
- do not technically comply with all of the requirements (but have substantially complied)
- also make a confidential disclosure to another person for the purposes of seeking advice about making a disclosure under the Act.

These protections also apply to anyone who discloses supporting information about a disclosure, as long as that disclosure is not made in bad faith.

Conversely, a discloser will not be protected by the Act if:

- they make a disclosure knowing it is false
- they make the disclosure in bad faith
- they do not make the disclosure in line with the provisions of the Act (as set out in this chapter), for example by disclosing on social media
- the information disclosed is protected by legal professional privilege.

Note: Retaliation, victimisation or unfavourable treatment after a protected disclosure refers to potential adverse actions of Police against the discloser because of the disclosure made. Bullying, or equally adverse actions by an employee's colleagues, however, are addressed by using the other options available to staff, such as [Kia Tū](#), not the protected disclosure processes, Act, or protections under the Act.

Can a disclosure be made anonymously?

The Act also anticipates the situation where someone might want to make an anonymous disclosure. Current and former Police staff, anyone seconded to Police, and Police contractors and volunteers, can anonymously report serious wrongdoing in or by Police by using external 'whistleblowing' channels, such as Crimestoppers. A discloser may also seek guidance and information from an Ombudsman when seeking to make an anonymous disclosure.

Note: As already mentioned, anonymity, in most cases, will hinder the ability to investigate and/or update the discloser.

Where can support or advice be found?

Police must provide a discloser with practical assistance and advice and ensure a discloser is not retaliated against or victimised. Police must not retaliate or threaten to retaliate against a discloser or anyone who supports a discloser or treat a discloser less favourably than others in similar or the same circumstances.

Support is available for any employee who reports serious wrongdoing, whether the report is assessed to meet the threshold of a protected disclosure under the Act. A discloser can seek advice or support from their immediate manager, other position holders listed in this chapter, or by contacting a Wellness Advisor who can provide impartial, confidential assistance. For more advice, see the [Safer People](#) TenOne page and our [Wellness policy](#).

For employees who are members of a service organisation or staff association, there is also the option of reaching out to support that these groups make available; or indeed, by making use of independent advocates or legal counsel. For disclosers who may be feeling particularly vulnerable, accessing such external support can be particularly effective in helping to allow them to feel well-supported.

The Ombudsman has a statutory role in providing information and guidance to organisations handling protected disclosures, and confidential assistance service for employees who are considering making, or who have made, disclosures. Advice can be sought from the Ombudsman in several ways, but most commonly by phone (0800 802 602) or email (info@ombudsman.parliament.nz). For more information, see this [guidance](#) published by the Ombudsman.

The Inspector-General of Intelligence and Security (IGIS) is an appropriate authority under the Act to receive protected disclosures involving intelligence and security or classified information. The IGIS is an independent statutory officer, completely separate from the intelligence and security agencies and Ministers. A discloser can contact the IGIS for advice on how to make a disclosure safely and securely, or refer to this [fact sheet](#) or this [guidance](#).

Making a protected disclosure: Guidelines

There are different procedures for disclosure of serious wrongdoing, depending on whether the disclosure involves classified information or the activities of an intelligence and security agency or international relations information.

Classified information is official information that is classified in New Zealand, under the New Zealand Government Security Classification System, or in a foreign country. Classified information is accessible only to those with a national security clearance.

New Zealand's intelligence and security agencies are the New Zealand Security Intelligence Service (NZSIS) or the Government Communications Security Bureau (GCSB).

Disclosures regarding Classified Information

To make a Protected Disclosure about *classified information or information related to NZSIS or GCSB*

If a discloser is unsure about whether to make a report or to whom, a discloser can, at any stage in the process, (only) seek guidance from the IGIS.

A protected disclosure of serious wrongdoing (a discloser may use the [Protected Disclosure Report for Classified Information](#)) should be made to a person who holds the appropriate security clearance and is authorised to have access to the information.

Within Police, the appropriate people to approach are:

- the Chief Assurance Officer
- the Director Integrity and Conduct
- an Assistant Commissioner (or Executive Director) with appropriate security clearance
- a Deputy Commissioner (or Deputy Chief Executive) with appropriate security clearance
- Commissioner of Police.

A discloser may also make their disclosure directly to the IGIS.

To contact the IGIS:

- Phone: +64 4 460 0030
- Email: enquiries@igis.govt.nz
- Post: PO Box 5609, Wellington
- Meet: The Inspector-General can arrange a meeting at the IGIS office or off-site.

If a discloser reasonably believe that the receiver of their disclosure has not correctly followed the process for 'Receiving and investigating a protected disclosure' about classified information or related to NZSIS or GCSB or has not addressed the serious wrongdoing, they can also make their protected disclosure to the Prime Minister or the Minister responsible for an intelligence and security agency.

If the intelligence and security information relates to serious wrongdoing by the IGIS, the discloser can disclose directly to the Prime Minister.

Disclosures regarding International Relations

To make a Protected Disclosure about *international relations*

A protected disclosure of serious wrongdoing (a discloser may use the [Protected Disclosure Report](#)) should be made to the discloser's immediate manager or to one of the position holders listed below:

- Area Commander
- District Commander
- Director Integrity and Conduct
- Chief Assurance Officer
- Assistant Commissioner or Executive Director
- Deputy Commissioner or Deputy Chief Executive
- Commissioner.

If a discloser prefers to report externally, a discloser also has the option to approach the Office of the Ombudsman.

If a discloser reasonably believes the receiver of their disclosure has not correctly followed the process for 'Receiving and investigating a protected disclosure' or has not addressed the serious wrongdoing, they can also make their protected disclosure to the Prime Minister or the Minister responsible for foreign affairs or trade.

Disclosures regarding Other Information

To make a protected disclosure unrelated to classified information, the activities of an intelligence and security agency or international relations

The protected disclosure of serious wrongdoing (a discloser may use the [Protected Disclosure Report](#)) should be made to the discloser's immediate manager or can also be made to one of the following position holders:

- Area Commander
- District Commander
- Director: Integrity and Conduct
- Chief Assurance Officer
- Assistant Commissioner or Executive Director
- Deputy Commissioner or Deputy Chief Executive
- Commissioner.

A discloser also has the option to approach an appropriate external authority such as:

- the head of any public sector organisation
- any officer of Parliament (but not a Minister or a member of Parliament)
- any other appropriate authority, as listed in [Schedule 2](#) of the Act (this list includes the Independent Police Conduct Authority (IPCA)).

If a discloser reasonably believes the receiver of their disclosure has not correctly followed the process for 'Receiving and investigating a protected disclosure' or has not addressed the serious wrongdoing, they can also make their protected disclosure to a Minister of the Crown.

Receiving and investigating a protected disclosure: Guidelines

Receiving a protected disclosure (internally or after referral from another agency)

If a Police employee receives a protected disclosure, either from the original discloser or as a referral from another organisation, they must take immediate steps to protect any information that could identify the discloser and follow the steps below.

Police may receive referrals from other organisations, and thereby become the receiver of the disclosure under the Act. Police may also, where appropriate, refer a disclosure to another authority. Prior to referring a disclosure, Police must consult with the discloser and the intended recipient. Upon referring, Police must also inform the receiver what has been or is being done.

Where Police receive a protected disclosure, it shall be notified to the IPCA as a complaint as required by section 15 of the IPCA Act.

Within 20 working days of receiving a protected disclosure the receiver should:

Acknowledge receipt:

- Formally acknowledge to the discloser receipt of the disclosure and the date received.
- If the disclosure was made verbally, summarise for the discloser their understanding of the disclosure.

Consider:

- Consider the disclosure and whether it warrants investigation. For protected disclosures **not** involving classified information:
 - send a copy of the report to the Director: Integrity and Conduct, via an encrypted email using “Confidential” settings. The Director: Integrity and Conduct should conduct a formal assessment of the disclosure to determine whether the protected disclosure meets the criteria of the Act and if it amounts to “serious wrongdoing”. This assessment can be made in conjunction with the Chief Assurance Officer, Director: Legal Services and Director: Employment Relations.

For protected disclosures **involving classified information**, refer to an Assistant Commissioner (or Executive Director) or a Deputy Commissioner (or Deputy Chief Executive) with the appropriate security clearance, so they can assess whether the disclosure is a protected disclosure of information for the purposes of the Act, and must therefore be investigated. If unsure about whether a senior leader holds an appropriate clearance, confirmation can be obtained from nationalsecurityclearance@police.govt.nz.

Check:

- Check with the discloser whether any disclosure has been made elsewhere and any outcome.

Manage the disclosure:

- Do one or more of the following:
 - investigate the disclosure
 - address any serious wrongdoing by acting or recommending action
 - [refer](#) the disclosure to an appropriate authority (a referral should be made if another appropriate authority listed in [Schedule 2](#) of the Act is better placed to respond to the disclosure)
 - decide no action is required.

Inform discloser (with reasons)

- For protected disclosures **not involving classified information**, the Director: Integrity and Conduct must ensure the disclosing employee is informed within seven days after receipt of the disclosure, what has been done or is being done and why, whether the matter is to be investigated, and if not, the reasons why not.
- For protected disclosures **involving classified information**, the relevant Assistant Commissioner/Executive Director or Deputy Commissioner/Deputy Chief Executive must ensure the disclosing employee is informed within seven days after receipt of the disclosure, what has been done or is being done and why, whether the matter is to be investigated, and if not, the reasons why not.

When it is not practicable to do the above in 20 working days the receiver should:

Acknowledge receipt, Consider and Check within 20 working days and then:

- **Inform discloser**
 - Inform the discloser how long the receiver expects to take to deal with the matter; and
- **Update**
 - Provide appropriate progress updates; and
- **Deal with**
 - Deal with as described above; and
- **Inform discloser (with reasons)**
 - Inform discloser as above.

Inadvertent disclosures

Individuals are not obligated to explicitly reference the Act when seeking to make a protected disclosure, and indeed there may be instances where an individual inadvertently makes a statement(s) that still qualifies as a protected disclosure under the Act. In such situations, the responsibility lies with the recipient to identify and acknowledge such a disclosure promptly. Moreover, in the event of future disputes, the recipient must be able to provide clear documentation demonstrating either a thorough consideration of the Act and valid reason for dismissing it, or a legitimate rationale for not considering the Act at all.

Investigating a protected disclosure

Where it is considered that the disclosure meets the criteria of the Act, an investigation must be conducted. Disclosing employees should not contact the person alleged to have committed serious wrongdoing or attempt to personally conduct investigations or interviews about the wrongdoing.

Investigations will be undertaken in accordance with good practice, and with appropriate input from subject matter experts such as Employment Relations, Integrity and Conduct, Privacy and Legal, as required. Investigations will be managed in accordance with the Act. Given the sensitivity of such investigations they will not always follow standard investigation pathways (such as referral to the National Assessment Team for initial categorisation) but will align with core processes where appropriate.

Any investigation conducted to examine allegations of serious wrongdoing by or within Police is an employment investigation and must be conducted within the terms of the Police Code of Conduct, any applicable employment agreement, and the principles of natural justice.

Note: A protected disclosure may lead to a criminal investigation if the disclosed information reveals potential criminality or illegal activity. In the case of disclosures involving classified information, personnel with appropriate security clearance must conduct the criminal investigation.

Notifying the Independent Police Conduct Authority

Under the Memorandum of Understanding (MOU) Police has with the IPCA, and pursuant to section 15 of the IPCA Act, Police is obligated to promptly notify the IPCA of any protected disclosures it receives. This ensures the IPCA is informed of potential concerns or wrongdoing, allowing the Authority, where necessary, to independently investigate and oversee the matter, in line with its mandate.

Conversely, the IPCA, pursuant to section 16 of the IPCA Act, has a statutory obligation to inform Police about complaints it receives against Police. This includes notifying Police of any protected disclosures made directly to the IPCA that are against Police, in the circumstances and manner outlined in the MOU.

Protected disclosures register

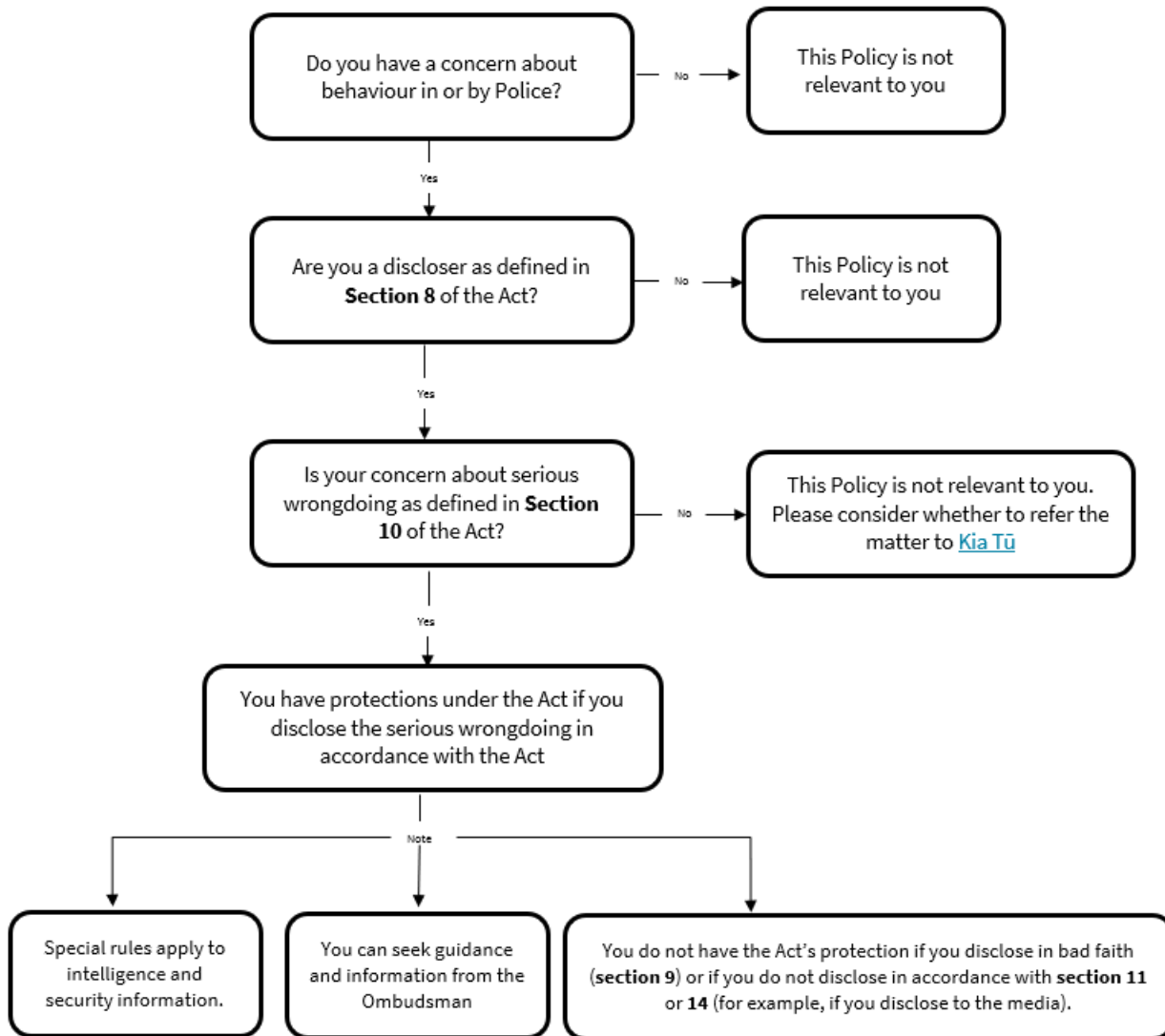
Providing a further layer of independence and support, the Chief Assurance Officer maintains a register of all protected disclosure reports received within Police. Documents on the central register are held electronically (where physical documents are received, they will be securely disposed of after being digitised). Only the Chief Assurance Officer and a second designated member of the Assurance Group has access to the register.

Summary of Responsibilities

We all have a part to play in ensuring Police has safe, high trust, workplaces and enjoys a wide measure of public trust and confidence.

Role	Responsibilities
Director: Integrity and Conduct	<ul style="list-style-type: none"> - Provide information or support to any person who seeks advice about making a protected disclosure. - Acknowledge receipt of a protected disclosure to the discloser, if possible within 48 hours, and confirm the preferred channel of communication of the person making the disclosure. - If classified information is not involved, assign to the appropriate District or Service Centre Professional Conduct Manager. - Ensure information that could identify the discloser is not released without their written consent or otherwise in accordance with the Act. - Provide direction where evidence needs to be gathered and or inquiries carried out to assist in decision making. - Appoint an investigator or panel of inquiry based on the nature of the disclosure. - Keep the discloser informed on progress, actions taken and any (non-disciplinary) outcomes.
Chief Assurance Officer	<ul style="list-style-type: none"> - Provide information or support to any person who seeks advice about making a protected disclosure. - Where requested, support the Director: Integrity and Conduct to make an assessment whether a disclosure meets the criteria of the Act. - Maintain a register of protected disclosure reports received. - Provide 'no surprises' notifications of any new reports received to the Commissioner of Police - When required, provide summary-level information (such as total numbers of reports received, by year, and the end-outcome of any investigations [if known]) for the purposes of external accountability reporting.
Other people leaders	<ul style="list-style-type: none"> - Ensure team members are aware of this policy, the processes and support available, including the obligation not to retaliate against the discloser, or treat them less favourably. - Provide general advice and support to any employee who approaches the leader with questions about making a protected disclosure, or refer the employee to the Director: Integrity and Conduct, Chief Assurance Officer and/or other specialist support (for example, the Director: Employment Relations or the Director: Legal Services). - Acknowledge receipt of a protected disclosure to the discloser, if possible, within 48 hours, and confirm the discloser's preferred channel of communication. - Keep the discloser informed on progress, actions taken and any (non-disciplinary) outcomes. - Ensure information that could identify the discloser is not released without their written consent.
Individuals making a protected disclosure	<ul style="list-style-type: none"> - Be familiar with this policy, the guidelines and further information and support available to a discloser. - Ensure that any information about suspected serious wrongdoing is disclosed in good faith to the most appropriate authority and position holder.

Application of the Act (Flowchart Overview)



Where can I find further information?

Type	Title/Description
Guidance	<ul style="list-style-type: none">- Office of the Ombudsman's Serious wrongdoing at work- Te Kawa Mataaho/Public Services Commission's Protected Disclosures Act 2022
Legislation	<ul style="list-style-type: none">- Protected Disclosures (Protection of Whistleblowers) Act 2022- Privacy Act 2020- Employment Relations Act 2000- Human Rights Act 1993- Independent Police Conduct Authority Act 1988
Policies and other related documents	<ul style="list-style-type: none">- Code of Conduct- Memorandum of understanding between Police and the IPCA- Kia Tū- Managing conflicts of interest- Disciplinary policy- Police Investigations of complaints and notifiable incidents- Wellness policy- Crimestoppers- Fraud and corruption policy
Forms	<ul style="list-style-type: none">- Protected disclosure report- Protected disclosure report for classified information