

Protected disclosures

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Policy statement and principles

This policy explains how reports of serious wrongdoing can be received and dealt with by Police under New Zealand's 'whistleblowing' law, the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#) (the Act). The Act provides protections so employees can disclose concerns in confidence and safe from disciplinary, civil or criminal proceedings related to the disclosure.

This policy applies to all current and former Police employees, anyone seconded to Police, contractors and volunteers as well as current and former members of governance boards providing advice to Police.

The policy outlines the steps that can be followed to make a protected disclosure to Police and confirms the ability for such disclosures to be made anonymously via external reporting channels, such as Crimestoppers.

New Zealand Police is strongly committed to the disclosure of any wrongdoing by staff. Police will take all concerns seriously and respect employees' rights. This supports our priority to be first, then do - strengthening how and who we are as an organisation.

What

This policy outlines employees' ability to safely disclose matters of serious wrongdoing in or by Police so they can be dealt with. It explains what qualifies as a protected disclosure under the Act and sets out the protections in place for those who choose to make such disclosures. It also covers the storage, access and reporting of information on protected disclosures.

Why

We all have a role to play to maintain Police's high integrity environment. Employees are well placed to note any serious wrongdoing within Police and are encouraged and supported to report any concerns. Disclosures about serious wrongdoing can be made using the process outlined in this policy. Other concerns should be reported using [Kia Tū](#) (which explains how to identify and raise concerns, both informally and formally, about bullying, harassment, discrimination and other unacceptable behaviour).

How

This policy informs our people about the process to make and receive protected disclosures, and their responsibilities under the Act.

Who can make a protected disclosure?

A protected disclosure about Police can be made by any employee. In the context of the Act, 'employee' includes current or former Police employees, anyone seconded to Police, contractors and volunteers. It also includes anyone concerned in the management of the organisation, such as a member of a governance board advising Police.

What can be disclosed?

Protected disclosures can be made about any serious wrongdoing within Police, including:

- an offence
- an unlawful, corrupt or irregular use of public funds or resources (by Police or by a private sector organisation contracted by Police)
- conduct that poses a serious risk to public health or safety, the health or safety of any individual, or to the environment
- conduct that poses a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial
- 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.

What conditions must be met?

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

- believes on reasonable grounds there is or has been serious wrongdoing within their organisation
- discloses the information in accordance with the Act so that it can be investigated
- does not disclose it in bad faith.

There are special rules for making disclosures about intelligence and security information or international relations information as such disclosures must be made to the appropriate authorities.

What protections exist for those who make protected disclosures?

Any employee who makes a disclosure in accordance with the procedures in this chapter, or to the Commissioner or a Deputy Commissioner/Deputy Chief Executive, is immune from criminal, civil or disciplinary proceedings related to the disclosure. Police is committed to maintaining the confidentiality of anyone who makes a protected disclosure.

Police treats any allegations of victimisation or retaliation very seriously. If you have made, or intend to make, a protected disclosure under the Act and feel you have been retaliated against or victimised as a result, you may take a personal grievance under the Employment Relations Act or make use of the anti-victimisation provisions of the Human Rights Act.

Retaliation includes 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 or being required to resign or retire. Victimisation includes you, or one of your relatives or associates, being treated less favourably than others in the same or similar circumstances are treated.

These protections apply even if:

- your belief there has been serious wrongdoing is mistaken
- you do not refer to the name of the Act
- you don't technically comply with all of the requirements (but have substantially complied)

- you 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 your disclosure, as long as that disclosure is not made in bad faith.

You will not be protected by the Act if:

- you make a disclosure knowing it is false
- you make the disclosure in bad faith
- you don't make the disclosure in line with the provisions of the Act (as set out in this chapter), for example by disclosing to media or social media
- the information you disclose is protected by legal professional privilege.

What obligations does Police have in relation to the disclosure?

Confidentiality

Police (or another receiver of your disclosure) must make best endeavours to protect your identity as the disclosing employee. You, or anyone else, may seek information and guidance from the Office of the Ombudsman about this duty of confidentiality. Your identity may only be released if you have consented to its release, or Police reasonably believes:

- disclosure of your 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.

Natural justice is the 'duty to act fairly'. It has two key aspects:

- fair process
- ensuring that the decision maker is not biased.

A fair process is one where the complaint is taken seriously, and where both parties are kept informed about the progress of any investigation. A fair process also requires that someone be told, and have the opportunity to respond to, any allegations made against them.

Police (or another receiver of your disclosure) must consult with you prior to releasing your 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, you must only be consulted if it is practicable. Either way, you must be informed after your identity has been released. You may make a complaint to the Privacy Commissioner if you think Police has disclosed your 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.

Police must provide you with practical assistance and [advice](#) and ensure you are not retaliated against or

victimised. Police must not retaliate or threaten to retaliate against you or anyone who supports you, or treat you less favourably than others in similar or the same circumstances.

Referrals

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, and upon referring, Police must inform the receiver what has been or is being done.

Protected disclosures register

The Director: Assurance maintains a register of protected disclosure reports received. Documents on the central register are held electronically (where physical documents are received, they will be digitised). Requests to access any protected disclosure report must be made to the Director: Assurance in the first instance.

Where can I get support or advice?

Support is available for any employee who reports serious wrongdoing, whether or not the report is assessed to meet the threshold of a protected disclosure under the Act. You can seek advice or support from your 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](#) Intranet page and our [Wellness policy](#).

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:

- telephone: 0800 802 602
- email: info@ombudsman.parliament.nz
- post: PO Box 10152, Wellington 6143

Can I make an anonymous disclosure?

While this policy describes the steps that can be followed to make a protected disclosure to Police, the Act also anticipates the situation where someone might want to make an anonymous disclosure. For the avoidance of doubt, 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.

Further Information

Type	Title/Description
Guidance	<ul style="list-style-type: none"> - Office of the Ombudsman's <i>Serious wrongdoing at work</i> - 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 - Employment Relations Act 2000 - Human Rights Act 1993
Policies and other related documents	<ul style="list-style-type: none"> - Code of Conduct
	<ul style="list-style-type: none"> - Kia Tū
	<ul style="list-style-type: none"> - Managing conflicts of interest
	<ul style="list-style-type: none"> - Disciplinary policy
	<ul style="list-style-type: none"> - Police Investigations of complaints and notifiable incidents
	<ul style="list-style-type: none"> - Wellness policy
	<ul style="list-style-type: none"> - Crimestoppers
	<ul style="list-style-type: none"> - Fraud and corruption policy
Forms	<ul style="list-style-type: none"> - Protected disclosure report - Protected disclosure report for classified information

Protected Disclosures Guidelines

Making a protected disclosure

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).

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

Make your protected disclosure of serious wrongdoing (you may use the [Protected Disclosure Report](#)) to your immediate manager or to one of the position holders listed below:

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

You also have 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.

If you reasonably believe the receiver of your disclosure has not correctly followed the process for '[Receiving and investigating a protected disclosure](#)' or has not addressed the serious wrongdoing, you can also make your protected disclosure to a Minister of the Crown.

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

If you are unsure about whether to make a report or to whom, you can, at any stage in the process, (only) seek guidance from the Inspector- General of Intelligence and Security (IGIS).

Make your protected disclosure of serious wrongdoing (you may use the [Protected Disclosure Report for Classified Information](#)) 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:

- an Assistant Commissioner (or Executive Director) with appropriate security clearance
- a Deputy Commissioner (or Deputy Chief Executive) with appropriate security clearance
- Commissioner of Police.

You may also make your disclosure directly to the IGIS.

If you reasonably believe that the receiver of your disclosure has not correctly followed the process for '[Receiving and investigating a protected disclosure](#)' about classified information or related to NZIS or GCSB or has not addressed the serious wrongdoing, you can also make your 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, you can disclose directly to the Prime Minister.

To make a Protected Disclosure about *international relations*

Make your protected disclosure of serious wrongdoing (you may use the [Protected Disclosure Report](#)) to your immediate manager or to one of the position holders listed below:

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

If you prefer to report externally, you also have the option to approach the Office of the Ombudsman.

If you reasonably believe the receiver of your disclosure has not correctly followed the process for '[Receiving and investigating a protected disclosure](#)' or has not addressed the serious wrongdoing, you can also make your protected disclosure to the Prime Minister or the Minister responsible for foreign affairs or trade.

Receiving and investigating a protected disclosure

Receiving a protected disclosure

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

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 your understanding of the disclosure.

Consider

- Consider the disclosure and whether it warrants investigation. For protected disclosures **not** involving classified information:
 - refer to the Professional Conduct Manager in the District or Service Centre to assess whether the protected disclosure meets the criteria of the Act and for investigation
 - send a copy of the report to the Director: Integrity and Conduct, via an encrypted email using “Confidential” settings.

For protected disclosures **involving classified information**, refer to a Deputy Commissioner with the appropriate security clearance to assess whether the disclosure is a protected disclosure of information for the purposes of the Act and must therefore be investigated.

Check

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

Deal with

- 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 or not the matter is to be investigated, and if not, the reasons why not.
- For protected disclosures **involving classified information**, the Deputy Commissioner 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 or not 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.

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.

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: Depending on the nature of the serious wrongdoing, a criminal investigation may result. In the case of disclosures involving classified information, personnel with appropriate security clearance must conduct the criminal investigation.

Summary of Responsibilities

We all have a part to play in ensuring Police has safe, high trust, positive workplaces and achieves the highest level of public trust and confidence.

Role	Responsibilities
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Commissioner & Executive	<ul style="list-style-type: none"> - Instil safe, high trust, positive workplaces. - Ensure all employees are made aware of this policy and know its provisions, including the obligation not to retaliate against, or treat less favourably, the discloser. - Provide advice or support to any employee who approaches you concerning making a protected disclosure. - Acknowledge receipt of a protected disclosure to the disclosing employee within 48 hours and confirm the preferred channel of communication of the employee 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 employee making the protected disclosure is not released without their written consent to do so. - Provide a progress update to the discloser within 10 working days. - Keep the discloser informed on progress, actions taken and the outcome excluding any disciplinary action. - 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.
Director: Assurance	<ul style="list-style-type: none"> - Maintain a register of protected disclosure reports received. - Provide advice or support to any employee concerning making a protected disclosure.
Other people leaders	<ul style="list-style-type: none"> - Instil safe, high trust, positive workplaces. - Ensure team members are aware of this policy, the processes and support available, including the obligation not to retaliate against, or treat less favourably, the discloser. - Provide advice or support to any employee who approaches you about making a protected disclosure or direct the employee to the Director: National Integrity Unit and/or other specialist support. - Acknowledge receipt of a protected disclosure to the disclosing employee within 48 hours and confirm the preferred channel of communication of the employee making the disclosure. - Provide a progress update within 10 working days of receipt. - Keep the discloser informed on progress, actions taken and the outcomes excluding any disciplinary action. - Ensure information that could identify the employee making the protected disclosure is not released without their written consent.

Employees making a protected disclosure	<ul style="list-style-type: none">- Be familiar with this policy, the guidelines and further information and support available to you.- Ensure you disclose information about serious wrongdoing to the most appropriate authority and position holder.- When submitting a protected disclosure report, identify whether you want to be kept informed about progress, actions taken and the outcomes.
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