

Operational Procedure 2.4 Protected Disclosures (see also Health and Safety Handbook)

Rationale

The Papatoetoe Intermediate School Board of Trustees ensures procedures are in place to meet the requirements of the Protected Disclosures Act 2000. Please Note: The Act does not apply to parents or Board members unless they are staff members of the school. It is for the protection of employees. For the purposes of this Act the School Board 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.

The purpose of this procedure is to provide information and guidance for Papatoetoe Intermediate School employees who wish to report serious wrongdoing within the school or within RTLB Cluster 10 Manawanui

Definition of Serious Wrongdoing

The Protected Disclosure Act defines a serious wrongdoing as being any of the following:

- An unlawful, corrupt, or irregular use of funds or resources of a public sector organisation; or
- An act of omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- An act or 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 fair trial; or
- An act, omission, or course of conduct that constitutes an offence; or
- An act, omission, or course of conduct that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

Conditions for Disclosure

Before making a disclosure the employee should be sure the following conditions are met;

- The information is about serious wrongdoing in or by the school/cluster; and
- The employee believes on reasonable grounds the information to be true or is likely to be true; and
- The employee wishes the wrongdoing to be investigated; and
- The employee wishes the disclosure to be protected.

Who can make a Protected Disclosure?

You are able to make a disclosure under the provisions of this Act if you meet any of the following categories:

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

Protection of Employees making Disclosures

An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:

- May bring a personal grievance in respect of retaliatory action from their employers
- May access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers
- Are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure
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- Will, subject to Clause 5 of the Procedure, have their disclosure treated with the utmost confidentiality*.

This protection depends on a person making the disclosure in accordance with these internal procedures and will not be available to employees making allegations they know to be false or where they have acted in bad faith.

Protected Disclosures Act Procedures

To make a protected disclosure an employee should:

1. Put the disclosure in writing, stating the nature of the wrongdoing and the names of the people involved.
2. State that they wish the disclosure to be protected.
 - By making the disclosure protected, the person will be immune from civil, criminal, or disciplinary proceedings being taken because of making the disclosure.
 - The disclosure officer will use their best endeavours to protect the identity unless identifying it is essential for the investigation, to prevent serious risk to public health, or is under the principles of natural justice.
 - Protection only applies to serious wrongdoing (see the definition above) and anyone who makes a disclosure they know is false, or in bad faith, is not protected by the Act.
3. Sign and date the letter. Include your return address details and send it to the disclosure officer.
4. Unless it is inappropriate, **the principal is the school's disclosure officer.**
5. If the person thinks the principal is involved, or associates with someone who is involved in the wrongdoing, contact the Board chair or an appropriate outside authority e.g. Secretary for Education, Ombudsman

Managing a Protected Disclosure

- The Principal will acknowledge receipt of the disclosure in writing and report it to the Presiding Board Member who will refer the matter to the Board. If the disclosure relates to the Board Chair, the Principal refers it to the Deputy Presiding Member.

- The Board/ Principal will consider the disclosure and determine the scope and management of any investigation, including the process to be followed and who will be involved.
 - All steps must be taken to ensure that the identity of the person making the disclosure remains confidential.
- If, for reasons of natural justice, it is deemed impossible to investigate a disclosure and maintain confidentiality, the Principal will communicate this directly to the complainant and discuss the reasons for this decision.
- The Principal has a duty of care to the employee who has made the disclosure and will maintain close contact with them throughout the process to ensure that any support necessary is put in place, and to keep them generally informed of progress in the investigation.
- The Board/ Principal will consider seeking legal advice, and may refer any complainant to the Office of the Ombudsman, which has a statutory role in providing advice and information to employees making a disclosure.
- Within 20 working days the Principal reports to the employee concerned on the progress of their disclosure.
 - This includes any actions taken and/or recommended, and whether or not the disclosure is deemed a serious wrongdoing.