

# Kimbolton School

## PROTECTED DISCLOSURES

### **INTRODUCTION:**

The purpose of this policy is to provide information and guidance to employees of the school who wish to report serious wrongdoing within the school.

This policy is issued in compliance with the Protected Disclosures Act 2000.

### **The policy consists of:**

1. A definition of a protected disclosure
2. A definition of serious wrongdoing that can be a basis for a protected disclosure by an employer
3. Conditions for disclosure
4. Information on who can make a disclosure
5. Protection for employees making disclosures
6. A procedure by which an employee can make a disclosure

### **What is a protected disclosure?**

A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

### **Definition of serious wrongdoing**

Serious wrongdoing for the purpose of this policy includes any of the following:

Unlawful, corrupt, or irregular use of public funds or resources

An act or omission or course of conduct

- which seriously risks public health or safety or the environment; or
- that constitutes an offence; or
- that is oppressive, improperly discriminatory, grossly negligent or constitutes gross mismanagement; or
- constitutes serious risk to the maintenance of law

### **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; 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 disclosure?**

Any employee of the school can make a disclosure. For the purposes of this policy an employee includes:

- current employees and principal
- former employees and principal
- contractors supplying service to the school

### **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
- is not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure
- will, subject to clause 5 of the procedure, have their disclosure treated with the utmost confidentiality

The protections provided in this section will not be available to employees making allegations they know to be false or where they have acted in bad faith.

### **PROCEDURES**

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, has occurred 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 should be done in writing. You should identify that the disclosure is being made under the Protected Disclosures Act and is following the board procedure, providing 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 the 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. All disclosures will be treated with the utmost confidence. If undertaking an investigation, and when writing the report, the principal or BOT Chair will make every endeavour possible not to reveal information that can identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential:
- to ensure an effective investigation
  - to prevent serious risk to public health or public safety or the environment
  - to have regard to the principles of natural justice.
6. If you believe that both the principal and the chairperson of the Board of Trustees may be party to the wrongdoing or in a close relationship with the person/s involved in the wrongdoing you can approach an external “appropriate authority” direct yourself.

### **Who is an appropriate authority?**

7. As noted above, in some circumstances the disclosure could be made to an appropriate authority by yourself or the person to whom you have made the disclosure.

An appropriate authority is defined in the Act as including:

- A.
- a) the Commissioner of police
  - b) the Controller and the Auditor General
  - c) the director of the Serious Fraud Office
  - d) the Inspector General of Intelligence and Security
  - e) the Ombudsman
  - f) the Parliamentary commissioner for the Environment
  - g) the independent Police Conduct Authority
  - h) the Solicitor General
  - i) the States Services Commissioner
  - j) the Health and Disability Commissioner

B. Includes the head of every public sector organisation, whether mentioned in A.

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?**

There are three circumstances when you can go directly to the appropriate authority:

- a) When you believe 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 twenty working days there has been no action or recommended action on the matter to which the disclosure related.

Otherwise you will need to go through the internal processes.

**What happens if even the appropriate authority does nothing?**

- 10. 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.
- 11. 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?**

- 12. If you notify the office of the Ombudsman verbally or in writing, that you have disclosed or are considering a disclosure under the 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.
- 13. A copy of the Protected Disclosures Act 2000 can be found on the internet at <http://www.legislation.govt.nz/>

Signed \_\_\_\_\_ Date \_\_\_\_\_

Reviewed \_\_\_\_\_