



**ORGANISATIONAL  
POLICY:**

**WHISTLEBLOWING**

**AUTHORITATIVE SOURCE:**

Protected Disclosures Act 2000

**AUTHOR:**

Chief Executive

**PURPOSE:**

To define the internal process for Hauora Tairāwhiti employees to disclose information about serious wrongdoing in or by Hauora Tairāwhiti in accordance with the Protected Disclosures Act 2000, such that the public interest is promoted by:

- a. facilitating the disclosure and investigation of matters of serious wrongdoing in or by Hauora Tairāwhiti; and
- b. protecting employees who, in accordance with the Act, disclose serious wrongdoing in or by Hauora Tairāwhiti.

**DEFINITIONS:**

**Serious wrongdoing**

Includes any serious wrongdoing of any of the following types:

- a. an unlawful, corrupt or irregular use of public funds or public resources; or
- b. an act, omission, or course of conduct that constitutes a serious risk to public health; or an act, 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 a fair trial; or
- c. an act, omission or course of conduct that constitutes an offence; or
- d. an act, omission or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement, whether the wrongdoing occurs before or after the commencement of the Protected Disclosures Act 2000.

**Protected Disclosure**

A disclosure made by an employee about serious wrongdoing in or by Hauora Tairāwhiti which the employee believes on reasonable grounds to be true or likely to be true, and which the employee wishes to disclose in confidence so that an investigation can be held, and to attract the protection of the Protected Disclosures Act.

**Employee**

The term 'employee' includes current and former employees, a person seconded to Hauora Tairāwhiti, an individual who is engaged or contracted under a contract for services to do work for Hauora Tairāwhiti, or a person concerned in the management of Hauora Tairāwhiti.



### **Appropriate Authority**

These include:

- The Commissioner of Police
- The Police Complaints Authority
- The Controller and Auditor-General
- The Director of the Serious Fraud Office
- The Inspector General of Intelligence and Security
- The Ombudsman
- The Parliamentary Commissioner for the Environment
- The Solicitor General
- The State Services Commissioner
- The Health and Disability Commissioner
- The head of any public sector organisation
- A Private sector body which comprises members of a particular profession or calling and which has power to discipline its members

An appropriate authority does not include:

- A Minister of the Crown
- A Member of Parliament

### **POLICY STATEMENTS:**

1. The Protected Disclosures Act 2000 will apply only where:
  - A serious wrongdoing, as described in the Act, has been identified
  - Hauora Tairāwhiti disclosure procedures are complied with.
2. Where a 'serious wrongdoing' is identified, according to the definition above, Hauora Tairāwhiti employees will need to follow the internal published reporting procedures and the Protected Disclosures Act 2000.
3. A disclosure will be lawful if it relates to a serious wrongdoing and requirements for protected disclosure are satisfied. An employee's compliance with the requirements for making a protected disclosure gains them protection and immunity under the Protected Disclosures Act 2000 and the Human Rights Act.
4. To ensure protection under the Protected Disclosure Act, 2000 Hauora Tairāwhiti employees must undertake not to disclose, in any format, any such matter of concern to any branch of the media, or to any enforcing or professional disciplinary authority unless the provisions of this Policy have been complied with and the matter has not been satisfactorily resolved.
5. The Protected Disclosures Act does not give any protection to employees disclosing information to members of the media.
6. Nothing in the Protected Disclosures Act authorises a person to disclose information protected by legal professional privilege. A disclosure of such information is not a protected disclosure.

7. The Protections conferred by the Protected Disclosures Act 2000 and by section 66(1)(a) of the Human Rights Act 1993 do not apply where the person who makes a disclosure of information makes an allegation known to that person to be false or otherwise act in bad faith.
8. Any person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose the identity of the person making the protected disclosure unless:
  - The person making the disclosure consents in writing to the disclosure of that information; or
  - The person to whom the disclosure is made reasonably believes that disclosure of the identifying information is:
    - a. essential to the effective investigation of the allegations in the protected disclosure; or
    - b. essential to prevent serious risk to public health or public safety or the environment; or
    - c. essential, having regard to the principles of natural justice.
9. An employee who makes a protected disclosure in accordance with this procedure is protected from:
  - Retaliatory action by Hauora Tairāwhiti including dismissal from employment under s17 of the Protected Disclosures Act 2000. If retaliatory action is suffered by an employee, this may constitute a ground for a personal grievance claim under Part 9 s103 (1) (a) of the Employment Relations Act.
  - Civil or criminal liability or disciplinary proceedings for making the disclosure under s18 of the Protected Disclosures Act 2000.
  - Under section 66(1)(a) of the Human Rights Act 1993 it is unlawful for any person to victimise a person who has made a protected disclosure.

**These protections do not apply if you make an allegation you know to be false or you otherwise act in bad faith.**

10. Alternative pathways for professional issues:

Where the issue relates to the activities of a specific professional group there may be alternative pathways that should be considered. Clearly, the relevant senior professional in the organisation is a first person to contact. However, registered professionals are currently covered by specific legislation in respect of their practice:

Where there is concern about the practice of a member of one these professional groups, an issue can be raised directly with the registering body, e.g., Medical Council of New Zealand for Doctors, or, alternatively, with the Medical Officer of Health, who can inquire into certain issues.

**RELATED PROCEDURE:**

- Public Statements Policy
- Complaints Policy
- Code of Behaviour

**OUTCOME STANDARDS:**

Adherence to internal Hauora Tairāwhiti procedures, the Protected Disclosures Act 2000 and other relevant legislation regarding Protected Disclosures



**EVALUATION METHOD:**

Annual audit of all disclosure made to assess compliance with policy and procedure to be undertaken by Internal Audit.

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**Authorised By: Chief Executive**

**Date of Approval: March 2019**

**Next review: March 2022**

## PROCEDURE FOR WHISTLEBLOWING

1. All employees disclosing any 'serious wrongdoing' should do so in writing or orally to either the following appointed people:
  - Director of Nursing & Midwifery
  - Chief Medical Officer
  - Chair of Clinical Board
  - Kaiwhakahaere Hauora Maori (Maori Health Manager)
2. If you believe on reasonable grounds that the appointed people are or may be involved in the serious wrongdoing alleged, or that the above people are, by reason of any relationship or association with a person who is or may be involved in the serious wrongdoing alleged in the disclosure, not people to whom it is appropriate to make the disclosure, you may make the disclosure to the Chief Executive.
3. An employee may refer the matter directly to an appropriate authority if the employee reasonably believes that:
  - a. The Chief Executive may be involved in the serious wrongdoing; or
  - b. The urgency of the matter or some other exceptional circumstance justifies it; or the Director of Nursing & Midwifery, Chief Medical Officer, Chair of Clinical Board or Kaiwhakahaere Hauora Maori does not take action or recommended action on the matter to which the disclosure relates within 20 working days of the disclosure.
4. An employee may make a protected disclosure to a Minister of the Crown or to an Ombudsman if the employee:
  - a. has made a disclosure either according to the internal procedures or to the Chief Executive or to the appropriate authority
  - b. believes on reasonable grounds that the Director of Nursing & Midwifery, Chief Medical Officer, Chair of Clinical Board, Kaiwhakahaere Hauora Maori, Chief Executive or appropriate authority to whom the disclosure was made:
    - i. has decided not to investigate the matter; or
    - ii. has decided to investigate the matter but has not made progress with the investigation within a reasonable time after the date on which the disclosure was made to the person or appropriate authority; or
    - iii. has investigated the matter but has not taken any action in respect of the matter nor recommended the taking of action in respect of the matter, as the case may require; and
  - c. continues to believe on reasonable grounds that the information disclosed is true or likely to be true.
5. On receipt of a protected disclosure the Director of Nursing & Midwifery, Chief Medical Officer, Chair of Clinical Board or Kaiwhakahaere Hauora Maori will:
  - a. promptly acknowledge the receipt of the disclosure in writing to the person who made it.
  - b. investigate the disclosure and determine whether the nature of the disclosure falls within the definition of the Act of 'serious wrongdoing'.
  - c. Investigate the matter as per the Hauora Tairāwhiti Complaints Process as outlined in the Hauora Tairāwhiti Complaints Policy.



- d. Notify the Chief Executive/Manager of the service in which the serious wrongdoing has been alleged to have occurred
- e. inform the employee of the results of the investigation within 20 working days of receiving the protected disclosure.
- f. Where any allegation of serious wrongdoing impacts on Hauora Tairāwhiti's contractual obligations, the necessary notification responsibilities should be discharged.



**PROCEDURE FOR WHISTLEBLOWING**

