

## **2.1 PROTECTED DISCLOSURES**

**Approved by:** Board of Trustees

**Contact:** Headmaster

**Group:** Headmaster

**Date effective:** Oct 2016

**Review date:** Oct 2019

**Reviewed by:** Headmaster

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### **Policy Statement**

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.

### **Policy Rationale**

This policy is issued in compliance with the Protected Disclosures Act 2000 and will apply from 1 January 2001.

The policy consists of:

- A definition of a protected disclosure.
- A definition of serious wrongdoing that can be the basis for a protected disclosure by an employee.
- Conditions for disclosure.
- Information on who can make a disclosure.
- Protections for employees making disclosures.
- A procedure by which an employee can make a disclosure.

### **Responsibility for implementation**

#### **The Board of Trustees**

- will ensure that fair and appropriate policies & procedures are in place, which comply with relevant legislation.
- will delegate implementation of the policy to the Headmaster

#### **Headmaster**

- will implement the policy under provision of Section 11 of the Protected Disclosures Act 2000 to whom a written disclosure is to be sent

### ***Definition of 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 purposes 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.

### ***Procedure for making a 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 principals
- Contractors supplying services 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;
- are 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.

### ***Procedure***

Any employee of Nelson College who wishes to make a protected disclosure should do so using the following procedure.

#### **1. How to submit a disclosure**

*The employee should submit the disclosure in writing.*

#### **2. Information to be contained**

*The disclosure should contain detailed information including the following:*

- *the nature of the serious wrongdoing*
- *the name or names of the people involved*
- *surrounding facts including details relating to the time and/or place of the wrong doing if known or relevant.*

#### **3. Where to send disclosures**

A disclosure must be sent in writing to the Headmaster who has been nominated by the Board of Trustees of Nelson College under provision of Section 11 of the Protected Disclosures Act 2000 for this purpose.

*OR*

*If you believe that the Headmaster is involved in the wrong doing 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 Chair of the Board*

**4. Decision to investigate**

On receipt of a disclosure, the Headmaster must, within 20 working days examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted. If warranted a full investigation will be undertaken by the Headmaster or arranged by him/her as quickly as practically possible, through an appropriate authority.

**5. Protection of disclosing employees name**

All disclosures will be treated with the utmost confidence. When undertaking an investigation and when writing the report, the Headmaster 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. Report of investigation**

At the conclusion of the investigation the Headmaster will prepare a report of the investigation with recommendations for action if appropriate, which will be sent to the Board of Trustees.

**7. Disclosure to an appropriate authority in certain circumstances**

A disclosure may be made to an appropriate authority (including those listed below) if the employee making the disclosure has reasonable grounds to believe:

- the Chair of the Board of Trustees in the school responsible for handling the complaint is or may be involved in the wrongdoing; or
- immediate reference to another authority is justified by urgency or exceptional circumstances; or
- there has been no action or recommended action within 20 working days of the date of disclosure.

Appropriate Authorities include (but are not limited to)

- Commissioner of Police
- Controller and Auditor General
- Director of the Serious Fraud Office
- Inspector General of Intelligence and Security
- Ombudsman
- Parliamentary Commissioner for the Environment
- Police Complaints Authority
- Solicitor General
- State Services Commissioner
- Health and Disability Commissioner
- The head of every public sector organisation.

## **8. Disclosure to Ministers and Ombudsman**

A disclosure may be made to a Minister or an Ombudsman If the employee making the disclosure

- Has made the same disclosure according to the internal procedures and clauses of this policy
- Reasonably believes that the person or authority to whom the disclosure was made:
  - has decided not to investigate; or
  - has decided to investigate but not made progress with the investigation within reasonable time; or
  - has investigated but has not taken or recommended any action; and continues to believe on reasonable grounds that the information disclosed is true or is likely to be true

### ***Related Policies***

This policy works in conjunction with the following policies

- Personnel Policy - Staff discipline
- Health and Safety Policy - Crisis
- Health and Safety Policy – Safe Use of IT and
- Personnel Policy – Safe Use of IT
- Finance, Administrative & Physical Resources Policy
- Prevention of Fraud & Theft
- Staff Purchases