



# Nelson College for Girls Board Procedure

## 11.2 Protected Disclosures Procedure

The purpose of this document is to provide information and guidance to employees<sup>1</sup> of the College who wish to report serious wrongdoing within the school.

The following procedure will apply in relation to making and investigating a protected disclosure:

1. Any employee who believes on reasonable grounds that a serious wrongdoing<sup>2</sup> is occurring or may occur within the school may disclose the relevant information to the Protected Disclosure Officer (PDO). The Principal is the College's primary Protected Disclosure Officer (PDO).
2. If the employee believes 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 the Principal, then the disclosure should be made to the Board PDO. The current appointee is listed here on the school intranet.
3. The disclosure must be done in writing, identify that the disclosure is being made under the Protected Disclosures Act, and contain information including:
  - a. the nature of the serious wrongdoing
  - b. the name or names of people involved
  - c. surrounding facts including details relating to the time and/or place of the wrongdoing if known or relevant.
4. The PDO must decide, within 20 working days, whether the disclosure constitutes a serious wrongdoing, what is the best course for investigating the allegations, and the appropriate mechanism for informing the person who made the disclosure of the outcome of the investigation. The PDO 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. to forward the disclosure to an "appropriate authority", usually the Police, if urgency or seriousness dictates. The relevant authority will then advise the discloser that they are investigating the complaint.
5. In investigating a complaint, the PDO may:
  - a. call a meeting of a committee of the Board to consider confidential employment issues
  - b. contact the NZSTA personnel/industrial relations advisor for advice on investigating the alleged wrongdoing
  - c. contact the Board's insurer on employment matters.

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<sup>1</sup> This includes current and past staff members and Principals, and contractors. The Protected Disclosures Act does not apply to parents or Board of Trustees members unless they are staff members of the school.

<sup>2</sup> Serious wrongdoing is defined in the Protected Disclosures Act as:

- (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 public safety or the environment; or
- (c) 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
- (d) an act, omission, or course of conduct that constitutes an offence; or an act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

6. The PDO may consider that the allegation does not fit the criteria for serious wrongdoing. If this is clearly the case, e.g. the disclosure is about a parent, the PDO will advise the person making the disclosure and suggest they consider other forms of action if necessary (see Complaints Policy and Procedures).
7. A disclosure may be made directly to an appropriate authority under the following three circumstances:
  - a. if the employee believes that the Principal and the Chairperson of the Board of Trustees may be a party to the wrongdoing or in close relationship with the person/s involved which would make it inappropriate for them to investigate
  - b. if the matter needs urgent attention or there are other exceptional circumstances
  - c. if there has been no action or recommended action by the PDO within 20 working days of the date of the disclosure.
8. All disclosures will be treated with the utmost confidence. The PDO will:
  - a. ensure that any discussions with that person are carried out in a manner that protects the confidentiality of the discloser, subject to the limitations in the Protected Disclosures Act
  - b. inform the discloser of the protections they have, including any possible reasons that information that may identify them may need to be disclosed and remind them that those protections only exist if the allegation is made in good faith.  
The protections are:
    - the discloser's identity will be confidential unless you give permission to be identified or other specific conditions set out in the Act are met
    - the discloser cannot be victimised by the employer for having disclosed the information
    - the discloser is not liable for civil or criminal proceedings for disclosing the information
    - if the discloser believes that they have been unfairly treated in their job or unreasonably dismissed following a disclosure they can take a personal grievance against their employer.
9. If the PDO decides to investigate the allegation, the investigation will follow the Complaints Procedures with necessary modifications to protect the confidentiality of the discloser. Normally the PDO would discuss with the discloser what steps would be taken to investigate the wrongdoing. This can include calling the committee of the Board, NZSTA etc. The investigation report and recommendations for action if appropriate will be sent to the Board Chairperson.
10. The PDO may arrange a further meeting with the discloser to discuss any outcome of an investigation that can be shared. The discloser is entitled to know that the allegation has been investigated even if he/she cannot be told the outcome of that investigation.
11. Confidential records of any meetings, notes, and investigation reports will be kept in a secure place.
12. A copy of the Protected Disclosures Act can be found on the internet at Legislation on Line.

**Policy Agreed:**

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Signature (Chair)

Date

**Review Schedule:** Triennial  
**Review Date:** February 2025  
**Supporting Procedures:** 11.1 Protected Disclosures Procedure  
**Supporting Documents:** N/A

## PROTECTED DISCLOSURES ACT 2000 – Information for Staff (Sample)

The Protected Disclosures Act 2000 came into effect on 1 January 2001. The Act requires that public sector organisations such as schools have an internal process that staff can use if they wish to make a protected disclosure. The following information details this process and provides you with information about the protections given in the Act.

Are you:

- A staff member [either temporary or permanent]
- A contractor supplying services to the school
- A former staff member [either temporary or permanent]

If you fit into any of these categories you are able to make a disclosure under the provisions of this Act.

The Act does not apply to parents or Board of Trustees members unless they are staff members of the school. It is for the protection of employees. For the purposes of this Act the Board of Trustees 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.

Protected means that as long as you have reasonable grounds to believe that a serious wrongdoing is being done by or in the organisation by the above people you can report in good faith asking that the wrongdoing be investigated without worrying about negative consequences.

It is important to remember that this is an Act to protect employees and the disclosure will be about the employer or another employee/s not a student or parent.

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

- 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 public safety or the environment; or
- c. 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;
- d. an act, omission, or course of conduct that constitutes an offence; or
- e. an act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement, -"

You are "protected" when making a disclosure in the following ways:

- your identity will be confidential unless you give permission to be identified\*
- you cannot be victimised by your employer for having disclosed the information
- you are not liable for civil or criminal proceedings for disclosing the information
- if you believe that you have been unfairly treated in your job or unreasonably dismissed following a disclosure you can take a personal grievance against your employer.

\*There are some limitations to this described in the Act. These are:

1. Every person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the person who made the protected disclosure unless
  - a. that person consents in writing to the disclosure of that information; or

- b. the person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information –
  - i. is essential to the effective investigation of the allegations in the protected disclosure; or
  - ii. is essential to prevent serious risk to public health or public safety or the environment; or
  - iii. is essential having regard to the principles of natural justice.
- 2. A request for information under the Official Information Act 1982 [other than one made by a member of the police for the purpose of investigating an offence] may be refused, as contrary to this Act, if it might identify a person who has made a protected disclosure.”

This protection depends on you making the disclosure in accordance with the internal procedure.