



Auckland Council

Te Kaunihera o Tāmaki Makaurau

Protected Disclosures Policy

July 2024, Version 1.3



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Introduction

Auckland Council is committed to supporting and protecting our [kaimahi](#), so that they feel safe and empowered in delivering positive outcomes for Aucklanders. We expect high standards of ethical and accountable conduct by [kaimahi](#) and Auckland Council's expectations of [Pono | Integrity](#) are set out in [Our Charter | Tā Tātou Kawenata](#). We are committed to integrity, accountability, transparency and good management making it important for [kaimahi](#) to Speak Up about any behaviour that threatens this.

[The Protected Disclosures \(Protection of Whistleblowers\) Act 2022 \(the Act\)](#) promotes the public interest by facilitating the disclosure and timely investigation of [serious wrongdoing](#) in or by an organisation and by protecting the people who make Protected Disclosures in accordance with the Act.

Auckland Council does not tolerate serious wrongdoing and expects anyone working at, or for Auckland Council, to disclose any instances of serious wrongdoing that they identify.

Auckland Council's Chief Executive (CEO) and Executive Team endorse this Policy and its associated Procedure, and are committed to meeting our obligations under the Act.

Purpose

The purpose of this Policy is to communicate our overall commitment to protecting [kaimahi](#) who disclose serious wrongdoing in accordance with the Act.

This Policy should be read in conjunction with Auckland Council's Protected Disclosures Procedure.

Scope

This Policy applies to all [kaimahi](#) at Auckland Council, including:

- Current, former and temporary employees of Auckland Council.
- Volunteers, contractors, secondees and homeworkers to Auckland Council.
- Those concerned in the governance of Auckland Council (including Elected Members).

This Protected Disclosures Policy is a subset of Auckland Council's wider Speak Up processes and should be read in conjunction with our Speak Up Guidance, noting that this Policy relates to a certain type of Speak Up and does not replace the Speak Up processes.

Policy commitments

Recorded below are our three commitments in relation to [Protected Disclosures](#):



Protected Disclosures at Auckland Council

1

Provide materials to help kaimahi understand what Serious Wrongdoing is

The [Act](#) provides protections for people who make disclosures of serious wrongdoing. Serious wrongdoing has a particular meaning under the Act and does not apply to all matters of wrongdoing. Serious wrongdoing includes:

- **an offence** (e.g. accepting a bribe)
- **a serious risk to public health, public safety, the health or safety of any individual, or the environment, or the maintenance of law** ¹ (e.g. manipulating health & safety or investigation documents to reflect a more favourable position)
- **an unlawful, corrupt, or irregular use of public funds or public resources such as grants, leases and other benefits** (e.g. directing Council funds to personal bank accounts)
- **oppressive, unlawfully discriminatory or grossly negligent conduct or gross mismanagement** ² (e.g. discriminating against others)

Further detail of what is considered serious wrongdoing and illustrative examples are included in the Protected Disclosures Procedure.

2

Maintain procedures and support for kaimahi who identify Serious Wrongdoing

[kaimahi](#) can disclose serious wrongdoing to any of Auckland Council's Speak Up channels, Chief Executive, or directly to an Appropriate Authority.

¹ including the prevention, investigation and detection of offences and the right to a fair trial

² Protected Disclosures (Protection of Whistleblowers) Act 2022.

A person who makes a report or disclosure (a [discloser](#)) is entitled to protection under the Act for making a [Protected Disclosure](#).

- The discloser's identity will be kept confidential (unless certain exceptions apply).
- The discloser will be protected from civil, criminal and disciplinary proceedings that might otherwise arise 'because of making the disclosure'.
- The discloser will be protected from [retaliatory action](#) or unfavourable treatment by Auckland Council.
- The discloser will be protected by the [anti-victimisation provisions of the Human Rights Act 1993](#).

Please note that a discloser will not have immunity from civil or criminal liability for any personal involvement in the wrongdoing itself.

3

Apply a consistent and fair approach to all disclosures

At Auckland Council, [kaimahi](#) can disclose serious wrongdoing safely and trust that any concerns they raise will be handled appropriately. It is important that Auckland Council considers and treats the same, any and all [Protected Disclosures](#) made to us.

When Auckland Council receives a disclosure, we will respond appropriately, in accordance with our Protected Disclosures Procedure. We will endeavour to complete the required steps within 20 working days of receiving a Protected Disclosure. When it is impractical to do so we will notify the Discloser of revised timeframes.

All identified protected disclosures must be reported to the Chief Risk and Assurance Officer. Risk and Assurance will notify appropriate committees and the CEO.

Our bottom line



There is zero tolerance for bullying, harassment or ill treatment of someone who has spoken up. Breaching our bottom line expectations would be considered and treated as misconduct.



Quick Reference Guide 1.

Definitions³

Anonymity means your identity is unknown to Auckland Council.

Appropriate Authority means one of the officials and organisations named in the [Act](#), including the Commissioner of Police, an Ombudsman and the Director of the Serious Fraud Office. In the Act, Appropriate Authority:

- a. includes the head of any public sector organisation
- b. includes any officer of Parliament
- c. includes (as examples) the persons or bodies as recorded in the Act.
- d. includes the membership body of a particular profession, trade, or calling with the power to discipline its members
- e. does not include a:
 - i. Minister
 - ii. member of Parliament.

Bad faith includes doing something for dubious motives⁴.

Confidentiality means information is kept private and on a need-to-know basis.

Discloser is any [kaimahi](#) who, whether anonymously or not, makes a Protected Disclosure.

Kaimahi are:

- Current, former and temporary employees of Auckland Council.
- Volunteers, contractors, secondees and homeworkers to Auckland Council.
- Those concerned in the governance of Auckland Council (including Elected Members).

Natural justice is the duty to act fairly. It is the right to a fair process and a fair hearing, free from bias.

Legal professional privilege means information that is confidential legal advice and communications between Auckland Council and its solicitors, as relating to that privileged advice. This could include emails with our solicitors or third parties contracted by our solicitors or general counsel to enable our solicitors,

³ Some of these definitions have specific meaning in the Act. If the report relates to serious wrongdoing, then the relevant definition under the Act will apply.

⁴ Ombudsman Making a Protected report - a guide to “blowing the whistle”.

memos or reports written to or by a lawyer in Auckland Council, or a lawyer who was advising Auckland Council.

Protected Disclosure means a disclosure of information about serious wrongdoing made in accordance with the Act. A disclosure of information is a Protected Disclosure if the discloser:

- believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the discloser's organisation
- discloses information about that in accordance with the Act
- does not disclose it in bad faith.

Retaliate means doing (or organising to do) any of the following.

- Dismissing kaimahi.
- Refusing or omitting to offer or afford to kaimahi the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available to other kaimahi of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances.
- Subjecting kaimahi to any detriment or disadvantage (including any detrimental or disadvantageous effect on kaimahi's employment, job performance, or job satisfaction) in circumstances in which other kaimahi employed by the employer in work of that description are not or would not be subjected to such detriment or disadvantage.⁵

Serious wrongdoing includes:

- an offence
- a serious risk to public health, public safety, the health or safety of any individual, or the environment, or the maintenance of law
- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory or grossly negligent conduct or gross mismanagement.

Speak Up is any concern raised through a formal Auckland Council Speak Up channel.

⁵ Section 21 of the Act.



Quick Reference Guide 2. Related Documents, Legislation and Guidance

Related Auckland Council Documents	Related Legislation	Related Guidance
<ul style="list-style-type: none">• Our Charter Tā Tātou Kawenata• Disciplinary Action Guide• Conflict of Interest Guide• Fraud and Corruption Policy• Equal Employment Opportunities Policy• Health, Safety and Wellbeing policies (Corporate Standards)• Privacy Guide• Speaking Up and Responding when someone Speaks Up Guides	<ul style="list-style-type: none">• Protected Disclosures Protection of Whistleblowers) Act 2022• Human Rights Act 1993	<ul style="list-style-type: none">• Ombudsman Checklist - Am I ready to make a Protected report?• Ombudsman – Make a protected disclosure• Ombudsman Making a Protected report - a guide to “blowing the whistle”• Ombudsman – Protections for whistleblowing• Ombudsman – Serious wrongdoing at work (protected disclosure)• Ombudsman – Protected disclosures – Guidance on internal processes and procedures

Version control

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Document history

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1.1	Risk and Assurance and ELT	30 th March – 30 th April 2023	Update following ELT review
1.2	29 th May ELT – Updates made following feedback in ELT mtg	29 th May 2023	Agreed Sign off changes
1.3	Risk and Assurance	18/07/2024	Change to role and division titles

