

Protected Disclosures Act

Internal Procedures and Code of Conduct

Category:	University Management
Last Modified:	April 2012
Review Date:	May 2015
Approved By:	Vice-Chancellor
Contact Person:	The University Registrar, Extn 6854

Introduction:

In terms of the Protected Disclosures Act of 2000, the University of Canterbury has developed internal procedures and a Code of Conduct for persons to whom a disclosure may be made, as follows.

Definitions:

“**Serious wrongdoing**” is as defined in the Act, and includes:

- an unlawful, corrupt, or irregular use of funds or resources of a public sector organisation; or
- an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment; 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
- an act, omission, or course of conduct that constitutes a criminal 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.

Policy Statement:

The Protected Disclosures Act (the Act) came into force on 1 January 2001.

In terms of the Act, organisations are required to set up procedures whereby the public interest is promoted:

- a) by facilitating the disclosure and investigation of matters of serious wrongdoing (see definition above) in or by an organisation; and
- b) by protecting employees who, in accordance with the Act, make disclosures of information about serious wrongdoing in or by an organisation; and
- c) by compliance with the requirements of natural justice.

Internal Procedures:

Employees (persons in the employ of the University, either on a permanent or temporary basis) and past employees wishing to disclose information about serious wrongdoing in or by the University, should do so in accordance with these internal procedures.

1. Any disclosure by an employee of information to those persons listed in paragraphs 5, 6, or 8 below will be a “protected disclosure” where the information is about a serious wrongdoing in or by the University and the employee:
 - a) believes on reasonable grounds that the information is true or likely to be true; and
 - b) the employee wishes to disclose the information so that the wrongdoing can be investigated; and
 - c) the employee wishes the disclosure to be protected.

provided that the protection that given by the Act will not apply where the person who makes a disclosure of information makes an allegation known to that person to be false or otherwise acts in bad faith.
2. Every person to whom disclosure is made must use his or her best endeavours not to disclose information that might identify the person who made the protected disclosure unless that person consents in writing, or it is essential to the effective investigation of the allegations, it is essential to prevent serious risk to public health or public safety or the environment, or it is essential having regard to the principles of natural justice.
3. With good faith on the part of all parties, protection will be given to employees who make any disclosure, including protection against:
 - retaliatory action by the employer;
 - discrimination/victimisation under the *Human Rights Act 1993*; and
 - criminal or civil liability arising from the disclosure (unless the whistleblower was personally involved in the serious wrongdoing).
4. Any disclosure of information, verbally or in writing, should be made as soon as possible after the event that has given rise to the reasons for the disclosure, to the Registrar. [The Registrar’s office is located at Okeover House.]
5. If the employee believes on reasonable grounds either that:
 - a) the Registrar is, or may be, involved in the alleged serious wrongdoing ; or
 - b) because of the Registrar’s relationship or association with a person who is, or may be, involved in the alleged serious wrongdoing, disclosure to the Registrar is not appropriate;

then the information should be disclosed directly to the Vice-Chancellor, the Pro-Vice-Chancellor of the relevant College or the School of Law, or other member of the University’s Senior Management Team.

Note: The names of members of the University's Senior Management Team may be obtained from the University's website <http://www.canterbury.ac.nz> , or from the Personal Assistant to the Registrar who is located at Okeover House (see below).

6. The person to whom the employee has made disclosure will advise the employee within 20 working days after the date on which the disclosure was made of the action, or recommended action, the organisation will take on the matter.
7. If the employee believes on reasonable grounds that:
 - a) any member of the Senior Management Team is, or may be, involved in the alleged serious wrongdoing; or
 - b) reference to the Chancellor is justified because of the urgency of the matter or for other exceptional circumstances; or
 - c) there has been no action or recommended action within 20 working days after disclosure; then the information should be disclosed directly to the Chancellor or the Pro-Chancellor. [The office of the Chancellor is located at Okeover House]. Enquiries as to the Chancellor's or Pro-Chancellor's availability may be made of the Personal Assistant to the Registrar (see below).
8. If the employee believes on reasonable grounds that:
 - a) the Chancellor or Pro-Chancellor or may be involved in the alleged serious wrongdoing; or
 - b) immediate reference to an appropriate authority is justified by reason of the urgency of the matter to which the disclosure relates, or some other exceptional circumstances; or
 - c) there has been no action or recommended action on the matter to which the disclosure relates within 20 working days after the date on which the disclosure was made:
The disclosure may be made to an appropriate authority.

"Appropriate authority", without limiting the meaning of that term,-

- a) includes-
 - i. the Commission of Police:
 - ii. the Controller and Auditor-General:
 - iii. the Director of the Serious Fraud Office:
 - iv. the Inspector-General of Intelligence and Security:
 - v. an Ombudsman:
 - vi. the Parliamentary Commissioner for the Environment:
 - vii. the Police Complaints Authority:
 - viii. the Solicitor-General
 - ix. the State Services Commissioner:
 - x. the Health and Disability Commissioner: and
- b) includes the head of every public sector organisation (as defined in the Act), whether or not mentioned in paragraph a): and
- c) includes a private sector body which comprises members of a particular profession or calling and which has power to discipline its members: but
- d) does not include-
 - i. a Minister of the Crown: or
 - ii. a member of Parliament.

9. Disclosure may be made to the Office of the Auditor-General or to an Ombudsman, orally or in writing, if the employee has already made disclosure in accordance with paragraphs 4 to 8 and believes on reasonable grounds that the information is true (or likely to be true) and that the person to whom disclosure was made:
- a) has decided not to investigate the matter; or
 - b) has decided to investigate but has not made progress with the investigation within a reasonable time after disclosure; or
 - c) has investigated the matter but has not taken any action nor recommended the taking of any action.
- but disclosure may not be made to an Ombudsman pursuant to this clause 9 if disclosure to an Ombudsman has already been made in accordance with clause 8.

10. The address of the Office of the Controller and Auditor-General is:

The Office of the Controller and Auditor-General
Private Bag 3928
Wellington
Phone: (04) 917 1500

The address for the Ombudsman is:

The Office of the Ombudsmen
P O Box 10152
The Terrace
Wellington
Phone: (04) 473 9533

11. a) No person who makes a protected disclosure of information or refers a protected disclosure of information to an appropriate authority for investigation is liable to any civil or criminal proceeding or to a disciplinary proceeding by reason of having made or referred that disclosure of information.
- b) Nothing in the Act or these procedures authorises a person to disclose information protected by legal professional privilege and a disclosure of such information is not a protected disclosure for the purposes of the Act.
- c) The provisions of the Act do not apply do not apply where the person who makes a disclosure of information makes an allegation known to that person to be false or otherwise acts in bad faith.
- d) Disclosures are only protected disclosures if they are made to persons who are specified in the Act or these procedures as persons to whom disclosures may be made. Disclosures to the news media or Members of Parliament will not be protected disclosures for the purposes of the Act.
12. The existence of these internal procedures and Code of Conduct will be drawn to the attention of members of staff at least every six months, in the University Diary.

Code of Conduct for Persons to Whom Disclosure is Made

- a) The person to whom disclosure is made in accordance with these internal procedures must immediately advise the employee making the disclosure if they have any personal involvement in the alleged wrongdoing or have any relationship or association with the alleged wrong doer which would make it inappropriate for that person to consider the information. The employee should also be advised to whom disclosure should then be made, and the person to whom initial disclosure has been made must keep the fact of disclosure and any information disclosed confidential.
- b) The person to whom disclosure is made must give full consideration to the information and have regard to all relevant considerations in deciding whether or not to investigate the alleged wrongdoing and/or to take any action.
- c) The person to whom disclosure is made will advise the employee of the decision as to whether or not to investigate and/or to take action and the reasons for that decision within 20 working days from the date of disclosure.
- d) Where the person to whom disclosure is made decides that the allegations must be investigated or that other action is required and there is potential for adverse findings against the alleged wrongdoer or other persons, then prior notice of the allegations or the relevant material relied upon will need to be given to those affected persons, so that they have a fair opportunity to make representations in the absence of bias or pre-judgment.
- e) Any 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:
 1. That person consents in writing to the disclosure of that information;
or
 2. The person who has acquired knowledge of the protected disclosure reasonably believes that the 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.

Related Policies, Procedures and Forms:

- [Human Rights Act 1993](#)
- [Protected Disclosures Act 2000](#)

Notes:

1. The Internal Procedures and Code of Conduct for the Protected Disclosures Act 2000 were drafted in discussion with the University's solicitors, Macfarlane Dougall Stringer, revised in February 2006 and February 2009, and approved by the Senior Management Team at its meeting 10 February 2009.

2. For further information on these procedures, or for information and guidance in the making of disclosures, employees may contact the Registrar or Registrar's Personal Assistant directly on phone 364-2496 or by email (see website for email address) or may contact the Office of the Auditor-General or the Ombudsman whose addresses are set out in paragraph 10.

Version Control Table		
Action	Approval Body	Date Amended
Full Review <i>Minor changes to Internal Procedures 5. b)</i>	Chair, SMT	16 February 2009
Rolled for Review in April 2012	Chair, SMT	1 March 2012
Full Review <i>Minor amendments</i>	Chair, SMT	14 May 2012

© This policy is the property of the University of Canterbury.