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PROTECTED DISCLOSURES

Section	Institute Governance and Management		
Approval Date	15.03.2010	Approved by	Executive Team
Next Review	19.03.2022	Responsibility	Chief Executive
This review	19.03.2019	Key Evaluation Question	6

PURPOSE

To promote the public interest by:

- Facilitating the disclosure and investigation of matters of **serious wrongdoing** in or by Nelson Marlborough Institute of Technology (NMIT); and
- Protecting those **employees** who disclose information about serious wrongdoing ('whistleblowing') in or by Nelson Marlborough Institute of Technology (NMIT).

SCOPE

Under Section 11 of the Protected Disclosures Act (the Act) NMIT is required to have appropriate internal procedures for receiving and dealing with information about **serious wrongdoing** in or by that organisation.

An **employee** of NMIT may disclose information if:

- the information is about **serious wrongdoing** in or by NMIT; and
- the employee believes on reasonable grounds that the information is true or likely to be true; and
- the employee wishes to disclose the information so that the **serious wrongdoing** can be investigated; and
- the employee wishes the disclosure to be protected.

NOT IN SCOPE

This policy does not apply to matters outside the scope, as listed above. For those matters, such as employee relations, discipline or staff misconduct, refer to the appropriate NMIT policies and procedures.

DEFINITIONS

The following are relevant definitions under the Act (which are used in bold type in this policy).

Serious wrongdoing	<ul style="list-style-type: none"> • 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,
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	<p>investigation, and detection of offences and the right to a fair trial; or</p> <ul style="list-style-type: none"> • 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, - whether the wrongdoing occurs before or after the commencement of the Protected Disclosures Act 2000.
Employee	<ul style="list-style-type: none"> • An employee of NMIT • A former employee of NMIT • A home worker within the meaning of section 5 of the Employment Relations Act 2000 • A person seconded to NMIT • A person engaged under a contract for services to NMIT • A person concerned in the management of NMIT • A person who works for the organisation as a volunteer without reward or expectation of reward for that work
Appropriate authority	<ul style="list-style-type: none"> • the Commissioner of Police • the Controller and Auditor General • the Director of the Serious Fraud Office • the Inspector General of Intelligence and Security • an Ombudsman • the Parliamentary Commissioner for the Environment • the Independent Police Conduct Authority • the Solicitor General • the State Services Commissioner • the Health and Disability Commissioner • the head of every public sector organisation

PRINCIPLES

NATURAL JUSTICE

The principles of natural justice and procedural fairness shall apply.

GOOD FAITH

All parties shall act in good faith. The Act and these procedures do not apply where a person who makes a disclosure of information makes an allegation known to that person to be false or otherwise acts in bad faith.

CONFIDENTIALITY

If the person making a protected disclosure reveals their identity but requests anonymity, the person who receives the disclosure and every person to whom it refers or with whom it is discussed must make every effort not to disclose the identity of the person making the disclosure.

A request for information under the Official Information Act 1982 (other than a request by the police) may be refused if it might identify a person who has made a protected disclosure.

PERSONAL GRIEVANCE

Where an employee who makes a protected disclosure of information claims to have suffered retaliatory action by NMIT, that employee may have a personal grievance under the Employment Relations Act 2000.

IMMUNITY

No **employee** 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.

PROCEDURE

- 1.1 **Employees** may disclose concerns within the scope of **serious wrongdoing**, to the Chief Executive.
- 1.2 However, if the **employee** making the disclosure believes on reasonable grounds that:
 - the Chief Executive is or may be involved in the **serious wrongdoing** alleged in the disclosure; or
 - the Chief Executive is, 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 a person to whom it is appropriate to make the disclosure; or
 - the Chief Executive is reasonably unavailable to receive the disclosure;then the disclosure may be made instead to Council Chair.
- 1.3 If the **employee** making the disclosure believes on reasonable grounds that:
 - the Council Chair is or may be involved in the **serious wrongdoing** alleged in the disclosure; or
 - the Council Chair is, 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 a person to whom it is appropriate to make the disclosure; or
 - it is justified by reason of the urgency of the matter to which the disclosure relates, or some other exceptional circumstances,then disclosure may instead be made to an **Appropriate Authority**.
- 2 Information may be disclosed in person, in writing, by phone, voicemail, fax or email and should provide sufficient information to allow an investigation to proceed.

- 3 The Chief Executive will acknowledge the disclosure and will investigate, or arrange an appropriate person to investigate, the matter and determine whether to take or recommend action.
- 4 An investigation shall be completed within 20 working days of the information being disclosed. If it is not possible for the investigation to be completed within 20 working days, the person undertaking the investigation will notify the employee who made the disclosure, and provide them with a summary of progress made and an explanation for the delay.
- 5 The actions taken or recommended may include the initiation of a procedure under another NMIT policy or referral of the matter to an Appropriate Authority.

REFERENCES

INTERNAL

[Staff Misconduct Procedure](#)

EXTERNAL

[Protected Disclosures Act 2000](#)

[Official Information Act 1982](#)

[Human Rights Act 1993](#)

[Employment Relations Act 2000](#)

LEGAL

Legal Opinion	provided by Pitt & Moore Lawyers, Nelson	February, 2010
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