



TOKOMARU SCHOOL

PROCEDURE 3.1.9 (NAG 3)

PROTECTED DISCLOSURES PROCEDURE

INTRODUCTION

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. For other complaints please refer to the Complaints Procedure 3.1.6.

This policy is issued in compliance with the Protected Disclosures (Protection of Whistleblowers) Bill 2020 (which replaces the Protected Disclosures Act 2000 and the Protected Disclosures Amendment Act 2009.) The Bill extends the definition of serious wrongdoing to ensure that unlawful, corrupt, or irregular use of public funds or resources is in scope whether it occurs in a public or private organisation and to cover non-government organisations delivering services or exercising authority on behalf of the Government.

DEFINITIONS

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.

Serious Wrongdoing

Serious wrongdoing for the purposes of this policy includes any of the following:

- an unlawful, corrupt, or irregular use of funds or resources of a public-sector organisation; or
- an act, omission or course of conduct which 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 fair trial; or
- 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 constitutes gross mismanagement; -
- whether the wrongdoing occurs before or after the commencement of this act.

CONDITIONS FOR 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 Tokomaru School 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 using a copy of the form attached below.

2. Information to be contained

The disclosure should contain detailed information including the following:

- the nature of the serious wrong doing
- 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 Principal who has been nominated by the Board of Tokomaru School under the provision of Protected Disclosures (Protection of Whistleblowers) Bill 2020 for this purpose.

OR

A disclosure can be made to the Chair of the Board of Trustees if you believe 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 them.

4. Decision to investigate

On receipt of a disclosure, the Principal (or Chair) 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 Principal (or Chair) 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 Principal (or Chair) 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 Principal (or Chair) will prepare a report of the investigation with recommendations for action if appropriate, which will be sent to the Tokomaru School 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 Service 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.

REVIEWED: October 2020
APPROVED: November 2020
NEXT REVIEW DATE: November 2023

APPROVED BY _____ DATE ____/____/____
Chairperson, BOT

Tokomaru School Protected Disclosure Form



1. State the nature of the serious wrongdoing

2. The name or names of the people involved

3. Surrounding facts including details relating to the time and/or place of the wrong doing if known or relevant.

4. *For person making disclosure to fill in:*

Please read the following and then sign and date the document.

I (full name) _____ believe the information contained in the above disclosure to be true and correct, and

I also understand that while every endeavour will be made to keep my name confidential, there are certain circumstances where it may be made public (see policy for details).

Signed _____

Date ____/____/____

5. *For person receiving disclosure to fill in:*

Your Name: _____ Signature _____

Position: Principal/Chair or _____ Date Received ____/____/____