

Okaihau College: Protected Disclosures Policy

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.

This policy is issued in compliance with the Protected Disclosures Act 2000 and will apply from 1 January 2001.

The policy consists of:

1. A definition of a protected disclosure.
2. A definition of serious wrongdoing that can be the basis for a protected disclosure by an employee.
3. Conditions of disclosure.
4. Information on who can make a disclosure.
5. Protections for employees making disclosures.
6. A procedure by which an employee can make a disclosure.

What is a 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.

Definition of Serious Wrongdoing

Serious wrongdoing includes any serious wrongdoing of any of the following type:

- An unlawful, corrupt, or irregular use of funds or resources of a public sector organisation; or
- An act or 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 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 that constitutes gross mismanagement; -
- Whether the wrongdoing occurs before or after the commencement of this act.

Conditions of 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;
- The employee believes on reasonable grounds the information to be true or is likely to be true;
- 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;
- Is not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure; and
- 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 Okaihau College 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

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; and
- 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 Okaihau College under the provision of Section 11 of the Protected Disclosures Act 2000 for this purpose.

OR

If you believe that the Principal is involved in the wrong-doing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the Chair of the Okaihau College Board of Trustees.

4. Decision to investigate

On receipt of a disclosure the Principal 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 Board of Trustees or arranged by him 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 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 will prepare a report of the investigation with recommendations for action if appropriate, which will be sent to The Board of Trustees of Okaihau College.

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 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.