

# **BAYFIELD HIGH SCHOOL PROTECTED DISCLOSURES**

## **1. Purpose and Interpretation**

- 1.1 The purpose of this policy is to provide information and guidance to employees of Bayfield High School (“the school”) who wish to report serious wrongdoing within the school.
- 1.2 For the purpose of this policy, the interpretation of “serious wrongdoing” is the same as in the Protected Disclosures Act (“the Act”), and includes any of the following:
  - unlawful, corrupt or irregular use of public funds or resources of a public sector organisation (which includes the school);
  - an act, omission or course of conduct which:
    - constitutes a serious risk to public health, public safety, or the environment;
    - constitutes a serious risk to maintenance of the law, including the prevention, investigation and detection of offences and the right to a fair trial;
    - is a statutory offence;
    - is oppressive, improperly discriminatory, grossly negligent or constitutes gross mismanagement.

## **2. What is a protected disclosure, and who can make a protected disclosure?**

- 2.1 A protected disclosure in accordance with the Act is a declaration or disclosure made by an employee where they genuinely believe serious wrongdoing has occurred.
- 2.2 Any employee of the school can make a protected disclosure. For the purposes of this policy, “employee” includes current and former employees and principals, and contractors supplying services to the school.
- 2.3 Employees making such disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

## **3. Conditions for protection of disclosures**

- 3.1 An employee may disclose information in accordance with this policy if:
  - the information is about serious wrongdoing in or by the school; and
  - the employee believes on reasonable grounds that the information is true or is 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
- 3.2 A disclosure will not be protected if:
  - the employee making the disclosure knew the allegation to be false, or acted in bad faith;
  - the information being disclosed is protected by legal professional privilege.

#### **4. Protection of employees making disclosures**

- 4.1 An employee who makes a disclosure, who has met the conditions for the protection of disclosures, and who has acted in accordance with the procedure outlined below:
- may bring a Personal Grievance if they experience retaliatory action from their employer;
  - may access the anti-discrimination provisions of the Human Rights Act if they experience retaliatory action from their employer;
  - is not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made a referral or disclosure;
  - will, subject to Clause 5, have their disclosure treated with the utmost confidentiality.
- 4.2 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.

#### **5. Procedure for making a protected disclosure**

The disclosure should be in writing, and must contain the following details:

- The nature of the serious wrongdoing
- The name or names of the people involved
- Evidence that supports their concern; and
- Any other facts considered important or relevant, including details relating to the time and/or place of the wrongdoing.

#### **6. Who to submit the disclosure to**

- 6.1 The disclosure must be submitted to the Principal who has delegated authority under Section 11 of the Act for this purpose.
- 6.2 Should the employee 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, the disclosure can be submitted to the Board Chairperson.

#### **7. Decision to investigate**

- 7.1 On receipt of the disclosure the Principal (or Board Chairperson, if appropriate) must, within 20 working days, examine the allegations made.
- 7.2 If a full investigation is considered warranted, this will be undertaken by the Principal/Board Chairperson, or arranged as quickly as practically possible through an appropriate authority.
- 7.3 At the conclusion of any investigation, the Principal/Board Chairperson will prepare a report to the Board of Trustees, with recommendations for action if appropriate.
- 7.4 The Board will write to the disclosing employee advising them of the outcome.

## **8. Protection of disclosing employee's name**

- 8.1 All disclosures must be treated with the utmost confidentiality.
- 8.2 When undertaking an investigation and when writing the report, the Principal/Board Chairperson will make every effort not to reveal information that could identify the employee, unless the employee gives written consent to being identified or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential to:
- ensure an effective investigation;
  - prevent serious risk to public health or public safety or the environment;
  - have regard to the principles of natural justice.

## **9. Disclosure to an appropriate authority in certain circumstances**

- 9.1 A disclosure may be made to an appropriate authority if the employee making the disclosure has reasonable grounds to believe that:
- The Principal/Board Chairperson may be involved in the wrongdoing;
  - Immediate referral to another authority is justified by urgency or exceptional circumstances;
  - There has been no action or recommended action within 20 days of the date of the disclosure.
- 9.2 An "appropriate authority" includes, but is not limited to:
- 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 Police Complaints Authority
  - The Solicitor General
  - The State Services Commissioner
  - The Health and Disability Commissioner
  - The Head of any public sector organisation
- 9.3 A disclosure may be made to an Ombudsman or a Minister of the Crown if the employee making the disclosure:
- has followed the procedures set out in this policy; and
  - reasonably believes that the person to who the disclosure was made:
    - has decided not to investigate; or
    - has begun an investigation but has made no progress with it within a 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 likely to be true.

<b>Next Triennial Review Date</b>	November 2020
<b>Policy Area</b>	NAG 3 (Personnel) and NAG 5 (Health and Safety)
<b>Related Legislation</b>	Protected Disclosures Act 2000 State Sector Act 1988 Health & Safety at Work Act 2015 Education Act 1989 Human Rights Act 1993
<b>Linked Policies</b>	N/A
<b>Linked Documentation</b>	N/A