

Protected Disclosures Policy

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Approval Authority	Council
Contact Officer	General Counsel Registrar

1. Introduction

This Policy outlines the requirements of the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#), and the procedures to be followed in relation to protected disclosures under the terms of the Act. More specifically, this Policy sets out:

1. how a Discloser may disclose an allegation of Serious Wrongdoing;
2. where a Discloser can go to seek advice;
3. the protections to which a Discloser is entitled; and
4. the procedures to be followed by the University on receiving an allegation of Serious Wrongdoing.

This Policy does not detract from any rights of the complainant under the Act.

2. Purpose

The purpose of the Act and this Policy is to promote the public interest:

1. by facilitating the disclosure and timely investigation of matters of serious wrongdoing in, by or related to an organisation, and
2. by protecting people who disclose in accordance with the Act.

Organisations, such as the University, are required to have internal procedures for receiving and dealing with information about Serious Wrongdoing in, by or related to the organisation. Except in limited circumstances defined in the Act and considered in this Policy, the Act also provides that the identity of a Discloser (as well as any other person who discloses information in support of or relating to a Protected Disclosure), will remain confidential and will not be disclosed to any other person without prior consultation with the Discloser.

Civil, criminal, or disciplinary proceedings cannot be taken against a Discloser for making a Protected Disclosure, or against a Receiver who refers one to an Appropriate Authority. In addition, the Act provides that an employee who is subject to Retaliation by their employer for making a Protected Disclosure can take personal grievance proceedings under the [Employment Relations Act 2000](#).

It is unlawful to treat Disclosers, potential Disclosers, those who have encouraged Disclosers, or those who provide Information in connection with a Protected Disclosure, less favourably than others in the same or similar circumstances. If any such person is victimised in this way, the legal remedies under the anti-victimisation protections in the [Human Rights Act 1993](#) may be available to them.

3. Policy

All employees, secondees, contractors, volunteers, students and members of a governing body of the University must disclose matters of Serious Wrongdoing in, by or related to the University and assist the investigation of Serious Wrongdoing, if requested.

A Discloser must disclose information under the procedures if the following criteria are met:

1. the information is about Serious Wrongdoing in, by or related to the University and the Discloser believes on reasonable grounds that it is true or likely to be true;
2. the information is disclosed in accordance with the Act and this Policy (which summarises the Act); and
3. the disclosure is not made in bad faith.

Any other person who discloses any information in support of, or relating to, a Protected Disclosure having already been made, is also entitled to protection under the provisions of this Policy and the Act if that Discloser:

1. discloses in accordance with this Policy; and
2. does not disclose the Information in bad faith.

A Discloser is entitled to the protections provided in this Policy and the Act, even if:

1. they are mistaken and there is no Serious Wrongdoing; or
2. they do not refer to this Policy or the name of the Act when making the disclosure.

All evidence gathered in relation to a Protected Disclosure must be fully preserved and protected.

The University will not Retaliate against any employee for intending to make, or for having made a Protected Disclosure.

The University will not treat or threaten to treat a person less favourably than others in similar circumstances for intending to make or having made a Protected Disclosure, encouraging another person to make a Protected Disclosure, or for giving information in support of a Protected Disclosure.

Neither a Discloser who makes a Protected Disclosure, nor a Receiver who refers the disclosure under the Act is liable to any civil, criminal or disciplinary proceeding because of making or referring the disclosure.

4. Making a Disclosure

Any person who wishes to make a Protected Disclosure, including anonymously, may choose to report the matter to:

- 1. the University Registrar, level 6, Matariki Building; or**
- 2. the Vice-Chancellor, level 6, Matariki Building; or**
- 3. PricewaterhouseCoopers by phoning 0800 436 9369; or**
- 4. emailing PricewaterhouseCoopers at uc.whistleblower@pwc.com; or**
- 5. an Appropriate Authority (as listed in the Definitions section).**

PricewaterhouseCoopers will independently register and manage any disclosure made to them.

Where a person to whom this Policy applies becomes aware of information about Serious Wrongdoing, but does not report the matter to the University Registrar or Vice-Chancellor, to PricewaterhouseCoopers or an Appropriate Authority, they are encouraged to disclose it without delay to any of the following persons at the University:

1. their manager; or
2. their manager's manager; or
3. the Executive Director of People, Culture and Campus; or
4. any other [Senior Leadership Team](#) Member; or
5. the Chancellor or Pro-Chancellor if justified because the matter involves Serious Wrongdoing by a Council member or the Vice-Chancellor. Enquiries as to the availability of the Chancellor and Pro-Chancellor may be made to the Governance and Compliance Manager.

A Discloser who becomes aware of information about Serious Wrongdoing may also choose to report it to an Appropriate Authority at any time, including (without limitation) in circumstances where:

1. the Discloser is of the view that reporting to an Appropriate Authority is justified due to the urgency of the matter or other exceptional circumstances; or
2. there has been no notification from the Receiver setting out the recommended action on the matter to which the disclosure relates within 20 working days after the date on which the disclosure was made.

A Discloser or potential Discloser may also approach any of the persons in this section above, as well as the PricewaterhouseCoopers number (0800 436 9369) or email (uc.whistleblower@pwc.com), and an Appropriate Authority for advice, support and

practical assistance, as well as for assistance in assessing any risks to a Discloser in making a Protected Disclosure.

The mailing address for the Office of the Controller and Auditor-General is:

Office of the Auditor-General
PO Box 3928
Wellington 6140
Phone: (04) 917 1500
Email: enquiry@oag.parliament.nz

The mailing address for the Office of the Ombudsman is:

The Office of the Ombudsman
PO Box 10152
Wellington 6143
Phone: 0800 802 602
Email: info@ombudsman.parliament.nz

5. Receiving a Disclosure

If a person receives, or is approached for advice or support about a Protected Disclosure and:

1. they are aware that they may have some involvement in the alleged serious wrongdoing, or
2. they have any relationship or association with an alleged wrongdoer,

they must immediately advise the person to contact either the PricewaterhouseCoopers number (0800 436 9369) or email (uc.whistleblower@pwc.com) or another appropriate University person listed in section 5 above.

All Protected Disclosures must be dealt with promptly. The Receiver of the Protected Disclosure will consult with the Discloser prior to referring the Protected Disclosure to the University Registrar and any other intended recipient.

The University Registrar shall notify the Vice-Chancellor of the matter in writing, in circumstances where the University Registrar considers this is appropriate and following consultation with the applicable Discloser.

If the Receiver of a Protected Disclosure considers it appropriate, the Receiver can also refer the disclosure to an Appropriate Authority.

A disclosure may also be referred to an appropriate person within the University, as well as to an Appropriate Authority on more than one occasion, provided that the above requirements are complied with.

6. Confidentiality

Any Receiver of a Protected Disclosure, or any person approached for assistance, advice or support in making a Protected Disclosure, must use their best endeavours not to disclose information that might identify the Discloser who made the Protected Disclosure unless they have consent from the Discloser to do so.

Note, where practicable, consent should be provided in writing.

However, the Registrar/Vice-Chancellor or any investigator appointed by the Registrar/Vice-Chancellor may disclose information that might identify the person who made the Protected Disclosure if they reasonably believe this is essential:

1. for the effective investigation of the allegations in the Protected Disclosure; or
2. to prevent serious risk to public health, public safety, the health or safety of any individual, or the environment; or
3. to comply with the principles of natural justice; or
4. if the University is subject to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement.

Where such information is to be disclosed in the circumstances outlined in 1. and 3. above, the Registrar/Vice-Chancellor or appointed investigator must consult the Discloser about the intended release.

However, where the Registrar/Vice-Chancellor or appointed investigator considers it is impracticable in the circumstances to consult with a Discloser due to a serious risk to public health, public safety, the health and safety of any individual, or the environment, or to an impending investigation by a law enforcement or regulatory agency for the purposes of law enforcement (reasons set out in 2. and 4. above), the requirement to consult prior to the disclosure does not apply.

After releasing any identifying information, for a reason described in the circumstances above, the Receiver must inform the Discloser that their information has been referred and disclosed to another person.

Anyone may seek information and guidance from an Ombudsman about this duty of confidentiality.

7. Action Following a Disclosure

After the Registrar/Vice-Chancellor receives a Protected Disclosure under these procedures, they must give it full consideration and decide with an open mind whether or not the alleged Serious Wrongdoing should be investigated or whether any further action should be taken.

The potential outcomes may be:

1. investigating the Protected Disclosure;

2. addressing any Serious Wrongdoing by acting or recommending action;
3. referring the Protected Disclosure to an Appropriate Authority;
4. deciding that no action is required.

Note, the process of any investigation, and a decision to investigate, will depend on the nature of the alleged wrongdoing.

A decision not to investigate alleged Serious Wrongdoing must be recorded in writing and does not prevent the University from taking further action in relation to matters raised in the Protected Disclosure, as appropriate. However, the original Discloser will be informed about any further action that may be taken, should it require further disclosure to any other person.

The Registrar/Vice-Chancellor may direct another person to make preliminary inquiries or gather evidence on their behalf or perform any other work as necessary to assist them in making their decision. If this is proposed, the Discloser will be consulted and notified of any further disclosure.

The Registrar/Vice-Chancellor should also notify the Discloser within 20 working days, from the date the Protected Disclosure is received, of their decision whether or not the alleged Serious Wrongdoing is to be investigated providing reasons for this decision. If it is impracticable to do this within 20 working days they should begin the process and inform the Discloser how long it may take.

If the Protected Disclosure is investigated, a final report detailing the outcome of the investigation and steps taken must be provided to the Registrar and the Vice-Chancellor, and held as a record by the University's Registrar's Office.

8. Further Disclosure to an Appropriate Authority

A Discloser may choose to disclose information about Serious Wrongdoing to an Appropriate Authority or an Ombudsman at any time, this includes whether or not the Discloser has also made the Protected Disclosure to the University or to another Appropriate Authority.

9. Liability, Legal Professional Privilege and False Disclosures

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.

Nothing in the Act or this policy 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.

The provisions of the Act 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.

Disclosures are only Protected Disclosures if they are made to persons who are specified in the Act or this Policy as persons to whom disclosures may be made. Disclosures to the media (including news media or social media) or Members of Parliament will not be Protected Disclosures for the purposes of the Act.

10. Other Forms of Reporting

Where a concern or allegation of wrongdoing does not amount to Serious Wrongdoing, other forms of reporting are available at the University, as follows:

- Allegations of fraud -
<https://www.canterbury.ac.nz/about/governance/ucpolicy/general/fraud-response-policy/Fraud-Response-Policy-and-Procedures.pdf>
- Sexual harm complaints –
<https://www.canterbury.ac.nz/support/concerns/sexual-harm/>
- Complaints regarding UC Health Centre -
<https://www.canterbury.ac.nz/healthcentre/complaints-procedure/>
- Health and safety concerns –
<https://www.canterbury.ac.nz/about/health-and-safety/report-and-investigate-an-incident/>
- General student complaints -
<https://www.canterbury.ac.nz/support/concerns/students/>
- Staff raising a complaint about another Person -
https://ucshare.canterbury.ac.nz/HUM/STM/STM002/PublishedHRTToolkitDocuments/pc_gdl01.pdf
- Anonymous complaints –
<https://www.canterbury.ac.nz/report-it/>

11. Definitions

Act refers to the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#).

Appropriate Authority has the meaning given in section 25 of the Act and includes the head of every public sector organisation; any officer of Parliament (the Ombudsman, Controller and Auditor-General, Parliamentary Commissioner for the Environment); as examples, any of the persons or bodies listed in Schedule 2 of the Act; and the membership body of a particular profession, trade, or calling with the power to discipline its members. An appropriate authority does not include Ministers of the Crown or members of Parliament.

Corrupt refers to the abuse of entrusted power for private gain (e.g. soliciting or receiving gifts or other gratuities to perform part of an official function or omit to perform an official duty). It includes dishonest activity in which a manager, employee or contractor of the

University acts contrary to the interests of the University and abuses their position of trust in order to achieve some personal gain or advantage for themselves or for another person or entity.

Council refers to the Council of the University constituted under Part 4 of the Education and Training Act 2020.

Discloser in relation to the University, refers to an individual who is (or was formerly):

1. an employee;
2. a secondee;
3. a contractor;
4. a member of the Council or any other governing body appointed by the University; and
5. any volunteer.

Note that 'discloser' is defined in section 8 of the Act.

Fraudulent Activity is an intentional and dishonest act involving deception or misrepresentation, to obtain or potentially obtain an advantage for themselves or any other person. It includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose of the University or the improper use of information or position whether or not for personal benefit.

Information refers to information about Serious Wrongdoing in or by the University that a Discloser believes, on reasonable grounds, is true or is likely to be true.

Natural Justice refers to the right to procedural fairness.

Policy means this University of Canterbury Protected Disclosures Policy.

Protected Disclosure means a disclosure where the person:

1. believes on reasonable grounds that there is, or has been, Serious Wrongdoing in or by the Discloser's organisation;
2. discloses Information in accordance with the Act or this Policy (which summarises the Act); and
3. does not make the disclosure in bad faith.

Note that 'protected disclosure' is defined in section 9 of the Act.

Receiver, in relation to the University, means an individual who holds a position title referred to in section 5 of this Policy that is responsible for receiving a Protected Disclosure on behalf of the University and has obligations under this Policy and the Act.

Retaliation / Retaliate, in relation to an employee, means doing any of the following:

1. dismissing an employee; or
2. refusing or omitting to offer or afford to an employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training,

- promotion, and transfer as are made available to other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances; or
3. subjecting the employee to any detriment or disadvantage (including any detrimental or disadvantageous effect on the employee's employment, job performance, or job satisfaction) in circumstances in which other employees employed by the employer in work of that description are not or would not be subjected to such detriment or disadvantage; or
 4. retiring the employee, or requiring or causing the employee to retire or resign.

Serious Wrongdoing includes any act, omission, or course of conduct in, or by, the University that constitutes one or more of the following:

1. an act, omission, or course of conduct that constitutes an offence; or
2. a serious risk to public health, public safety, or the health or safety of any individual or the environment; or
3. a serious risk to the maintenance of law, including the prevention, investigation and detection of offences or the right to a fair trial; or
4. an unlawful, Corrupt, or irregular use of funds or public resources; or
5. an act, omission, or course of conduct by a person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of a public sector organisation or the Government, that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

Note that 'serious wrongdoing' is defined in section 10 of the Act.

University means Te Whare Wānanga o Waitaha | University of Canterbury and includes all subsidiaries.

12. Related Documents and Information

Legislation

- [Employment Relations Act 2000](#)
- [Human Rights Act 1993](#)
- [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#)
- [Public Service Act 2020](#)

UC Website

- [Conflict of Interest Policy](#)
- [Fraud Response Policy](#)
- [Vice-Chancellor's Office](#)

- [Senior Leadership Team](#)

External

- [Public Service Commission: Protected Disclosures Act Guidance](#)
- [Ombudsman “Making a Protected Disclosure”](#)

Document History and Version Control Table			
Version	Action	Approval Authority	Action Date
<i>For document history and versioning prior to 2013 contact ucpolicy@canterbury.ac.nz</i>			
1.00	Converted document onto new template and added PWC contact information.	Policy Unit/SMT	Sep 2013
1.01	Minor revision to remove duplicate wording.	Policy Unit	Dec 2014
2.00	Scheduled review by Contact Officer.	Policy Unit	Jul 2015
2.01	Unscheduled review by PU, minor changes review date changed to annually	Policy Unit	May 2017
3.00	Scheduled review by Contact Officer, major changes to align document with best practice as recommended by the State Services Commission	Vice-Chancellor	April 2019
3.01	Minor error corrections to numbering references, SMT changed to SLT.	Policy Unit	June 2020
3.02	PWC email address updated to new mailbox address	Policy Unit	May 2021
4.00	Policy revised in line with the new Protected Disclosures (Protection of Whistleblowers) Act 2022	University Council	November 2022

The following flowchart gives an overview of how this Policy applies to a Discloser

