



Te Ture Whakahaumarū i te Whākinga 2022

Protected Disclosures (Protection of Whistleblowers) Act 2022

WHAKARĀPOPOTOTANGA O NGĀ KUPU ĀRAHI | SUMMARY OF GUIDANCE

This summary provides an overview of the Protected Disclosures (Protection of Whistleblowers) Act 2022. For further guidance, see the companion document **Guidance: Protected Disclosures (Protection of Whistleblowers) Act 2022**.

Mō te Ture | About the Act

The Protected Disclosures (Protection of Whistleblowers) Act 2022 replaces the Protected Disclosures Act 2000. The new Act comes into force on 1 July 2022. It continues the 2000 Act's purpose – to facilitate the disclosure and investigation of serious wrongdoing in the workplace (also known as whistleblowing), and provide protection for employees/workers who report concerns.

The 2022 Act extends the definition of serious wrongdoing, enables a discloser to report serious wrongdoing to an appropriate authority at any time rather than having to go to their organisation first, specifies what a receiver of a disclosure should do and clarifies the potential forms of adverse conduct disclosers may face.

He aha te whākinga e whakahaumarutia ana?

What is a protected disclosure?

A protected disclosure is when the discloser believes on reasonable grounds that there is, or has been, serious wrongdoing in or by their organisation, they disclose in accordance with the Act and they do not disclose in bad faith.

Ko wai tētahi kaiwhāki?

Who is a discloser?

A discloser is a person who has an employment type relationship with the organisation they are disclosing about. This includes current and former employees, homeworkers, secondees, contractors, volunteers and board members.

He aha te takahanga nui?

What is serious wrongdoing?

Serious wrongdoing is an act, omission, or course of conduct		
Type of serious wrongdoing	Does it apply to the public sector?	Does it apply to the private sector?
An offence	Yes	Yes
A serious risk to public health, or public safety, or the health or safety of any individual, or to the environment	Yes	Yes
A serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial	Yes	Yes
An unlawful, corrupt or irregular use of public funds or public resources	Yes	Yes, but does not include the use of private sector funds or resources
Oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government	Yes	Yes, but does not include the use of private sector powers

Ehara te aha i te takahanga nui?

What is not serious wrongdoing?

Things like dissatisfaction with the leadership of an organisation or more minor misconduct matters may not amount to serious wrongdoing and thus may not be covered by the Act. The Act does not cover employment issues that are more properly covered by the Employment Relations Act.

Ka pūrongo te kaiwhāki i te takahanga nui ki a wai?

Who does a discloser report serious wrongdoing to?

A discloser may make a protected disclosure to their organisation or to an appropriate authority (see below) at any time.

He aha te āhua o te whakahaumarū i te tangata e pūrongo ana i te takahanga nui?

What protections are there for a person reporting serious wrongdoing?

A discloser is entitled to protection for a protected disclosure made in accordance with the Act, even if they are mistaken and there is no serious wrongdoing. The protections a discloser is entitled to are confidentiality, not retaliated against or treated less favourably, and immunity from civil, criminal and disciplinary proceedings. These protections extend to people who volunteer supporting information for the disclosure.

Me aha ngā whakahaere o te rāngai tūmatanui me te rāngai tūmataiti hei kaiwhiwhi o te whākinga e whakahaumarutia ana?

What must public and private sector organisations do as the receiver of a protected disclosure?

Within 20 working days of receiving a protected disclosure, the receiver (the organisation or an appropriate authority) should acknowledge to the discloser the receipt of the disclosure, consider whether it warrants investigation, and deal with the matter by doing one or more of:

- investigating the disclosure
- addressing any serious wrongdoing by acting or recommending action
- referring the disclosure to an (or another) appropriate authority
- deciding that no action is required.

The receiver should then inform the discloser about what they have done or are doing to deal with the matter. If the receiver is unable to complete these actions within 20 working days, they should begin the process and inform the discloser how long it may take.

He aha ngā tukanga me whai e ngā whakahaere katoa o te rāngai tūmatanui mō ngā whākinga e whakahaumarutia ana?

What procedures must organisations have?

Every public sector organisation must have appropriate internal procedures that set out a process for the organisation to follow as the receiver of a protected disclosure, identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act and how the organisation will provide practical assistance and advice to disclosers.

Private sector organisations are not required by the Act to establish internal procedures for protected disclosures.

Ko wai tētahi manatū e tika ana, ā, ka aha rātau?

Who is an appropriate authority and what do they do?

An appropriate authority is a trusted external party who can be approached if a discloser is not confident about making the disclosure within their own organisation. A discloser may report serious misconduct to an appropriate authority at any time, rather than having to go through their organisation first. An appropriate authority includes: the head of any public sector organisation; any officer of Parliament (the Ombudsman, Controller and Auditor-General, Parliamentary Commissioner for the Environment); as examples 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. Appropriate authorities, as receivers of protected disclosures, should handle a protected disclosure in accordance with the requirements in the Act.

Special provisions limit who the appropriate authorities are for disclosures relating to intelligence and security or international relations information.

He aha te wāhi ki Te Kaitiaki Manga Tangata?

What is the role of the Ombudsman?

As well as being an appropriate authority, the Ombudsman has a wide role supporting the operation of the Act. For example, the Ombudsman can provide information and guidance to disclosers who approach it about how to make a disclosure and the protections under the Act, or to organisations who are unsure what to do about a disclosure.