



Port of Tauranga

Connecting New Zealand and the World

Protected Disclosures – Whistleblowing Policy

26 May 2023



Introduction

The purpose of the Protected Disclosures Act 2022 (the Act) is to protect people who make an allegation of serious wrongdoing within Port of Tauranga Limited (POTL).

The Act applies to both public and private organisations. POTL has adopted this policy in order to meet its obligations under the Act. As a major supplier of essential services POTL believes that this policy is necessary for the benefit of POTL, shareholders, employees and customers.

The purpose of the policy is to provide an internal procedure for employees to report any serious wrongdoing at POTL. Employees will be protected from any retaliatory action by POTL if the report of serious wrongdoing is made in accordance with this policy and the Act.

Definitions

“Employee” in relation to an organisation includes:

- a current employee
- a former employee
- a homemaker within the meaning of section 5 of the Employment Relations Act 2000
- a person seconded to POTL
- an individual who is engaged or contracted under a contract for services to do work for POTL
- a person concerned in the management of POTL
- a board member.

“Investigator” means a person independent of the person or persons who is or are alleged to have committed serious wrongdoing.

“Serious wrongdoing” includes any serious wrongdoing of any of the following types:

- an unlawful, corrupt, or irregular use of POTL’s funds or resources;
- an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the health of safety of any individual, or to the environment;
- 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 or the right to a fair trial;
- an act, omission, or course of conduct that constitutes an offence; or

- an act, omission, or course of conduct by an employee that is oppressive, unlawfully discriminatory, or grossly negligent, or that constitutes gross mismanagement.

Application

This policy only covers the disclosure of serious wrongdoing within POTL and is not intended to replace the standard internal procedures for employment issues or complaints contained in any individual or collective employment agreements.

Disclosures

Before reporting any serious wrongdoing, you must:

- be an employee of POTL;
- have information about serious wrongdoing by or at POTL;
- believe on reasonable grounds that this information is true or likely to be true;
- want the serious wrongdoing to be investigated; and
- want your disclosure to be protected.

If you report serious wrongdoing in accordance with the definition 'serious wrongdoing' then it will be a protected disclosure for the purposes of the Act.

You may report serious wrongdoing in writing by letter or email or by telephone or in person.

When reporting serious wrongdoing you must:

- identify the person or persons you believe is or are involved in serious wrongdoing; and
- specify the nature of the serious wrongdoing.

Procedures for Disclosures

You must report any serious wrongdoing to the Chief Executive or the GM Corporate Services.

If you believe that the Chief Executive or the GM Corporate Services is or may be involved in the serious wrongdoing, then you must report the serious wrongdoing to the Chair of the POTL Board or to POTL's Independent External Auditors.

Investigation

If you report serious wrongdoing, then an investigator must be appointed to investigate and report on the serious wrongdoing.

The investigator will be appointed by the person receiving the report of serious wrongdoing.

The investigator must use his or her best endeavours to keep your identity confidential unless:

- you consent in writing; or
- the investigator reasonably believes that disclosure of your identity is essential to an effective investigation.

All reports of serious wrongdoing will be investigated within 20 working days of the report of wrongdoing being received.

The investigation must comply with the principles of natural justice which include:

- the investigator must be unbiased and impartial;
- a decision must only be made once all parties have been given the opportunity to be heard;
- all parties must be given reasonable notice of any interview;
- all parties must be advised that he or she may be represented at any interview; and
- all parties must be given a reasonable opportunity and period of time to respond to the allegation.

The investigator must produce any report in writing outlining the allegation of serious wrongdoing, any responses to the allegation, any supporting evidence and an assessment of the allegation with recommendations.

The report must in the first instance be provided to the person appointing the investigator.

Protection for Employees

- If you report serious wrongdoing in accordance with this policy then you will be protected under the Act.
- If you make a protected disclosure and claim to have suffered retaliatory action from POTL or other persons affecting your relationship with POTL then you may take a personal grievance under the Employment Relations Act 2000.
- POTL will not tolerate any attempt by any employee or contractor to apply any sanction or detriment to any person who has reported serious wrongdoing.
- POTL will treat any such sanction or detriment by its employees as a serious disciplinary matter.
- Where such sanction or detriment is undertaken by a contractor, POTL will regard this as a breach of contract.

Limits on Protection and Disclosure

- The protection you are given under the Act does not apply where you make an allegation which you know to be false or if you act in bad faith.
- You are not allowed under the Act to disclose any information protected by legal professional privilege. This includes legal advice given to POTL or reports commissioned by POTL for the purposes of litigation.

Policy Communication

The contents of this policy are explained to new employees in the Corporate Induction and is available on the Intranet.

Review

Approved:	Board
Policy Owner:	GM Corporate Services
Effective Date:	26 May 2023
Next Review Date:	February 2024 (or earlier if required)
Approval:	The GM Corporate Services or the Chief Executive has the authority to approve minor revisions or amendments

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