

## Hātepe Kaimahi

Poipoi – Kauawhi – Tāuteute – Pūnaha Auaha – Ārahi  
Nurture – Include – Engage – Innovate – Lead

### What guides us

Living Te Tiriti o Waitangi  
Ensuring ākongā are at the centre of everything we do  
Delivering high-quality, future-focused teaching and learning

## PROTECTED DISCLOSURES

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Owner	: Chief Advisor Strategy
Who are these procedures for	: All kaimahi

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These procedures support the [Feedback and Complaints Governance Policy](#) approved by the Board of Trustees in November 2023.

### Scope

This Hātepe Kaimahi covers disclosures as defined in the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#). These disclosures must meet the definition of **protected disclosure** as outlined below. It does not cover general feedback or complaints nor complaints about specific individuals or personal grievances.

### Purpose

Protected Disclosures are a specific type of action and process defined by the legislation of Aotearoa New Zealand, the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#) (the Act). The Act was created to promote public interest by doing the following:

- Facilitating the disclosure and timely investigation of serious wrongdoing in or by an organisation.
- Protecting the people who disclose in accordance with the Act.

To obtain that protection, kaimahi must follow the outlined procedure when making a disclosure as it ensures their alignment with the Act.

### What is a 'Protected Disclosure'?

As specified in section 9 of the Act. A disclosure of information is a **protected disclosure** if the discloser:

- a. Believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the discloser's organisation; and
- b. Discloses information in accordance with the Act; and
- c. Does not disclose it in bad faith.

### Te Tiriti o Waitangi and cultural inclusivity

Receivers of disclosures at Te Kura must ensure that appropriate support is provided throughout this process as it relates to cultural safety and cultural understanding. This can be support to the discloser and/or appropriate cultural competency as part of investigations. It is paramount and obligated where a disclosure relates to, and/or has regard for, Māori.

## Definitions

These definitions are as defined by the Act. For any terms not defined below please refer to the Act interpretations linked [here](#).

**Appropriate authority:** as defined in [section 25 of the Act](#), included as an appendix.

**Discloser:** see the following section [“Who can be a ‘Discloser’?”](#)

**Protected Disclosure:** see the above definition under heading, [“What is a ‘Protected Disclosure’?”](#)

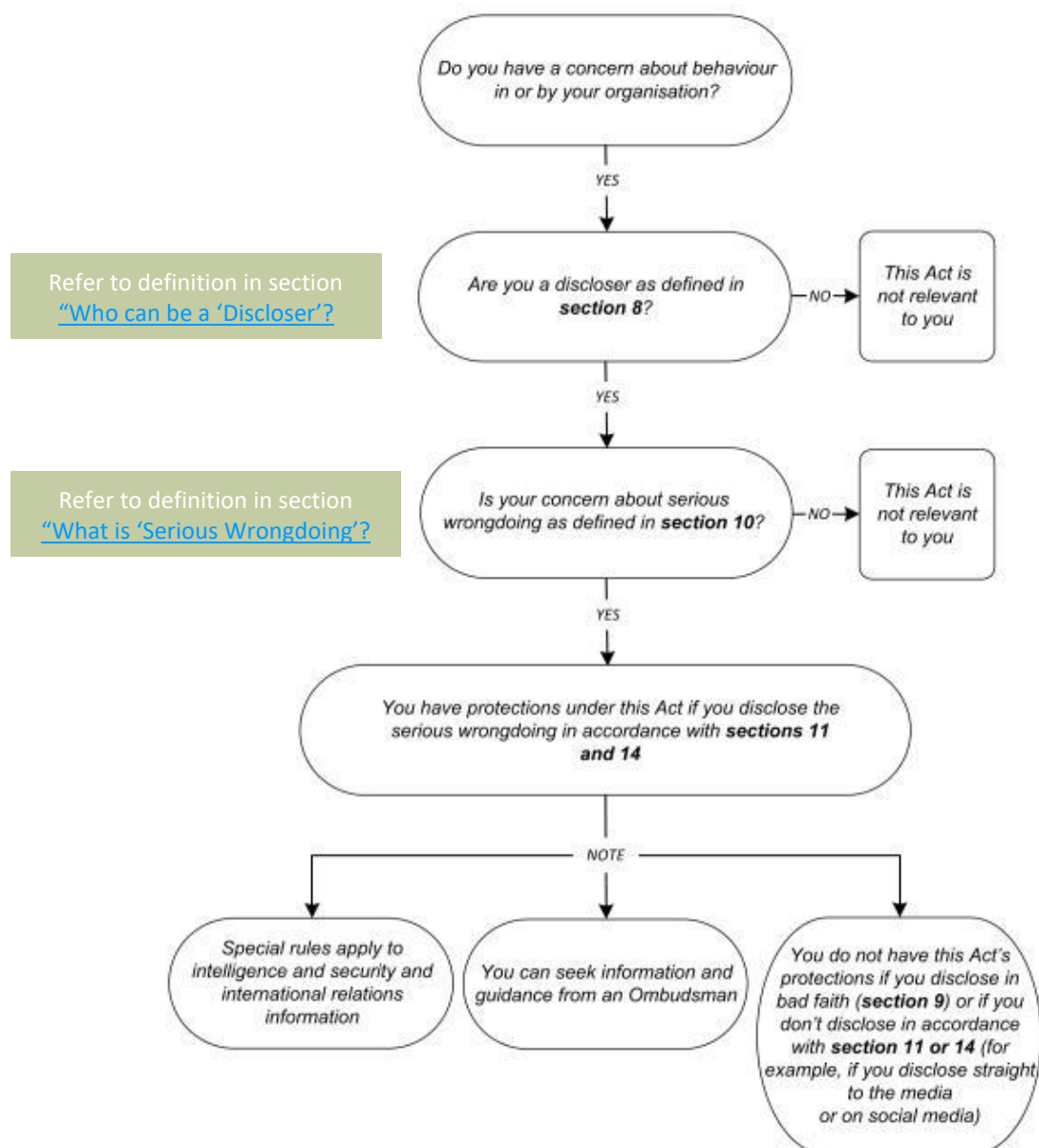
**Receiver:** The receiver of the disclosure, can be the organisation concerned or an appropriate authority.

**Serious Wrongdoing:** see the following section [“What is defined as a ‘Serious Wrongdoing’?”](#)

**Working Days:** Any day of the week other than: Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, the Sovereign’s birthday, Waitangi Day, Labour Day, Matariki, and a day in the period beginning on 25 December in any year and ending on 15 January (both dates being inclusive) in the following year.

## Procedures/Process

The flowchart below is a helpful tool to understand whether your concern is considered a protected disclosure. It is directly from the Act, and you can refer to the Act directly if you wish, otherwise you can refer to the added sections which refer to this Hātepe Kaimahi.



## Who can be a ‘Discloser’?

As specified in section 8 of the Act. In relation to an organisation, a ‘discloser’ means an individual who is (or was formerly)—

- (a) an employee;
- (b) a homeworker within the meaning given in section 5 of the Employment Relations Act 2000;
- (c) a secondee to the organisation;
- (d) engaged or contracted under a contract for services to do work for the organisation;
- (e) concerned in the management of the organisation (including, for example, a person who is or was a member of the board or governing body of the organisation);
- (f) a member of the Armed Forces (in relation to the New Zealand Defence Force);
- (g) a volunteer working for the organisation without reward or expectation of reward for that work.

## What is ‘Serious Wrongdoing’?

As specified in section 10 of the Act. serious wrongdoing includes any act, omission, or course of conduct in (or by) any organisation that is 1 or more of the following:

- (a) an offence;
- (b) a serious risk to—
  - (i) public health; or
  - (ii) public safety; or
  - (iii) the health or safety of any individual; or
  - (iv) the environment;
- (c) a serious risk to the maintenance of law, including—
  - (i) the prevention, investigation, and detection of offences; or
  - (ii) the right to a fair trial;
- (d) an unlawful, a corrupt, or an irregular use of public funds or public resources;
- (e) oppressive, unlawfully discriminatory, or grossly negligent, or that is gross mismanagement, and is done (or is an omission) by—
  - (i) an employee (if the organisation is a public sector organisation);
  - (ii) 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.

## Confidentiality

Disclosures can be made anonymously, and the receiver of the disclosure is required to use their best endeavours to keep information that might identify the discloser confidential. There are instances where a receiver does not need to keep a disclosers identity confidential, such as the following:

1. The discloser consents to the release.
2. Reasonable grounds to believe the release of information is essential for any of the following:
  - a. Effective investigation.
  - b. Prevent serious risk to public health, public safety, the health or safety of any individual, or the environment.
  - c. Comply with the principles of natural justice.
  - d. An investigation by a law enforcement or regulatory agency for the purpose of law enforcement.

Refer to [Part 3 of the Act](#) for more information.

## Making a disclosure

If you have a concern about behaviour in or by Te Kura, you must:

1. Consult the flowchart above and do the following:

- a. Identify whether you meet the definition of a 'discloser'.
  - b. Confirm the concern meets the definition of 'serious wrongdoing'.
2. Put the disclosure in writing and reference the Protected Disclosures Act 2020. Include as much information as possible and specifically:
  - a. The nature of the serious wrongdoing.
  - b. The name/s of the people involved.
  - c. Facts and details relating to the time and/or place of the wrongdoing if known/relevant.
3. Submit the written disclosure to the CE or to the Chairperson of the Board of Trustees if you believe the CE is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them.
  - a. You are able to disclose to an appropriate authority or seek information from the Ombudsman. You should refer to [the Act](#) directly for this.
4. The receiving a disclosure process will begin following receipt of a disclosure at Te Kura.

## Receiving a disclosure

On receipt of a disclosure of serious wrongdoing, the CE (or the Board Chairperson) should do all the following actions within 20 working days of receiving the disclosure.

1. Acknowledge to the discloser the date it was received, and if disclosed verbally summarise your understanding).
2. Consider the disclosure and whether it warrants investigation.
3. Check whether the disclosure has been made elsewhere, and if there was any outcome.
4. Deal with the matter by doing 1 or more of the following:
  - a. Investigating, see [Te Kura investigations](#) below.
  - b. Addressing any serious wrongdoing by acting or recommending action
  - c. Refer the disclosure on to an appropriate authority or the organisation concerned
  - d. Decide no action is required
5. Inform the discloser, with reasons, about what has been done or is being done to deal with the matter.

IF it is impracticable to complete all of the above then the receiver must do the following within 20 working days:

1. 1 to 3 of the above.
2. Inform the discloser how long it is expected to take to deal with the matter.
3. Update the discloser on progress.
4. Deal with the matter as per step four above.
5. Inform the discloser, with reasons, about what has been done or is being done to deal with the matter.

## Te Kura Investigations

If it is decided that an investigation is appropriate the CE or the Board Chairperson will initiate a formal investigation.

1. The investigation will be undertaken by the CE or their nominee or arranged as quickly as practically possible through an appropriate authority.
2. When undertaking an investigation, and when writing the report, you must meet the expectations of [Confidentiality](#) as outlined previously.
3. At the conclusion of the investigation a report of the investigation will be prepared with recommendations for action if appropriate.
4. The report must be sent to the CE and/or the Board Chairperson, as appropriate, for consideration. The report, or a summary of it, will also be made available to the employee who made the disclosure.

## Evaluation

- The disclosure process will be tracked to ensure adherence to the Act and the expectations of this Hātepe Kaimahi.
- Disclosures data will be recorded, tracked and all reports stored for future reference. Any data will be appropriately reported dependent on the nature of the disclosure.
- Where a disclosure is made to an appropriate authority Te Kura may choose to investigate the reasons why and whether there are improvements that could be made to support disclosers within Te Kura.

## Additional resources

[Appendix 1 – Appropriate Authorities](#)

[Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#)

[Feedback and Complaints Governance Policy](#)

Feedback and Complaints Hātepe Kaimahi

Protected Disclosure Intranet Page (in development)

**Approved by Te Rina Leonard, Chief Executive, Te Aho o Te Kura Pounamu**

## Appendix 1 – Appropriate Authorities

Outlined below is the definition of this term as defined by [section 25 of the Act](#). Generally, an authority should be an organisation or body that has a function or role related to the nature of your concern. E.g. Concern about banks would be appropriate to the Reserve Bank of New Zealand, concerns about financial reporting would be appropriate to the Financial Markets Authority. You can find a full list of examples under Schedule 2 of the Act, linked [here](#).

**Appropriate authority**, without limiting the meaning of that term, —

- (a) includes the head of any public sector organisation; and
- (b) includes any officer of Parliament; and
- (c) includes (as examples) the persons or bodies listed in the second column of Schedule 2; and
- (d) includes the membership body of a particular profession, trade, or calling with the power to discipline its members; but
- (e) does not include—
  - (i) a Minister; or
  - (ii) a member of Parliament.

However, —

- (a) the appropriate authority for a protected disclosure that is or includes international relations information is an Ombudsman only;
- (b) the appropriate authority for a protected disclosure that is or includes intelligence and security information is the Inspector-General of Intelligence and Security only. See—
  - (i) section 27(3) for a disclosure relating to serious wrongdoing in or by the office of the Inspector-General;
  - (ii) section 16(7) for the Inspector-General’s ability to refer;
  - (iii) sections 14 and 27 for the discloser’s entitlement to disclose further.