

Protected disclosures (whistle blowing) policy



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Purpose

The purpose of this policy is to explain the principles and objectives for establishing a framework by which serious wrongdoing may be reported and the subsequent protections afforded to the Whistleblower under the Protected Disclosures Act 2000.

The policy aims to encourage the reporting of suspected or actual wrongdoing, conducted by or associated with Central Otago District Council. This policy shall assist in the identification of risks associated with the breach of policy and aims to protect the Whistleblower from retaliation which may arise as a result of the report concerning suspected wrongdoing.

Principles and objectives

The key principles which guide activity under this policy are:

- **Transparency** – This policy promotes transparency by allowing employees to report serious wrongdoing without fear of reprisal. The report maker has the right to be kept informed of the progress of any investigation arising from a complaint;
- **Fairness** – All employees will be treated fairly and equally regardless of position or length of service with Council. An employee reporting an instance of serious misconduct is entitled to anonymity;
- **Good Faith** – Any report made in good faith is entitled to the protections afforded by this policy, and this principle guides all activity under this policy. Any report that is found to have not been made in good faith may result in disciplinary action against the Whistleblower;
- **Safety** – Activity under this policy should be conducted in a manner which recognises the rights of both the Whistleblower and the subject of any serious wrongdoing. The safety of all parties must be ensured, and an employee must not be compromised through making a report under this policy.

The objectives of this policy are to:

- Facilitate the disclosure and investigation of serious wrongdoing at Central Otago District Council
- Protect employees who make disclosures of serious wrongdoing

Scope

This policy applies to all Central Otago District Council employees and Elected Members wishing to report cases of serious wrongdoing. For the avoidance of any doubt, any reference to employees or staff in this policy shall include:

- An organisation's former employees, volunteers, employees, persons seconded to Council and as appropriate, contractors (individuals, contractor staff, sub-contractors or affiliated persons with third parties) members of the public and/or other parties with a business relationship with the Council, including Council-controlled Organisations.

Definitions

Word or phrase	Definition
Serious wrongdoing	Serious wrongdoing includes any instances of the following: <ul style="list-style-type: none"> • An unlawful use of public funds or resources; or • An act or omission constituting a serious risk to public health or safety or the environment; or • An act or omission that constitutes a serious risk to the maintenance of law; or • An act or omission that constitutes an offence; or • An act or omission by a public official that is oppressive, improperly discriminatory, grossly negligent or that constitutes gross mismanagement.

Policy

Reporting

- Reports can be made in several ways, either internally (e.g. to the Executive Manager – Corporate Services or to the Chief Executive Officer) or externally through the Office of the Ombudsman.
- Employees are encouraged to lodge a report if they suspect serious wrongdoing may have occurred. Relevant supporting information should be supplied when making a report.
- If the Whistleblower wishes to remain anonymous, they may contact the Chair of the Audit and Risk Committee or the Office of the Auditor General.
- In the event that a report of serious wrongdoing relates to a member of the Executive Team or the Chief Executive Officer, then the matter shall be referred to the Chair of the Audit and Risk Committee.
- In the event a report is made, and the complaint falls short of serious wrongdoing, the protections under the policy may not be available, however the complaint may still merit investigation. Complaints falling outside the definition of serious wrongdoing will be examined under usual disciplinary procedures.

Protections

- An employee who reports serious wrongdoing under this policy can claim protection under the Protected Disclosures Act 2000, provided they:
 - Believe the information they are reporting is true or have reasonable grounds to suspect that it is true; and
 - The information is provided in good faith; and
 - They wish for the matter to be investigated; and
 - Want disclosure of that information protected.
- Employees who meet the above criteria are afforded the following protections:
 - No civil, criminal or disciplinary proceedings can be taken against them for making a protected disclosure; and
 - An employee who suffers retaliatory action by their employer for making a protected disclosure may be able to take personal grievance proceedings.
- An employee who makes a protected disclosure has the right to anonymity unless:
 - The employee consents in writing to the disclosure of their identity; or
 - The disclosure of identifying information:
 - is essential to the effective investigation of the protected disclosure; or
 - is essential to prevent serious risk to public health, safety or the environment;
 - or
 - is essential in the interests of transparency and fairness; or
 - the concern is raised with a lawyer for the purpose of obtaining legal advice or representation.

Investigations

- Council shall ensure the fair treatment of any employee referred to in a report.
- Investigations will vary depending on the nature of the serious wrongdoing alleged in the report. Within 20 working days of disclosure, a decision on the scale of investigation must be made by the appropriate personnel.
- If warranted, the Chief Executive Officer or the Chair of the Audit and Risk Committee will arrange for a full investigation to be undertaken.
- Any employee who is the subject of a report will be given a reasonable opportunity to respond to the report findings and is entitled to be represented in any discussions relating to an adverse report.

The Ombudsman

- The Protected Disclosures Act 2000 allows for The Ombudsman to receive complaints of serious wrongdoing and provide guidance to organisations investigating cases of serious wrongdoing.

Any employee concerned with the process or outcome of an investigation may refer the matter to The Ombudsman for review.

Relevant legislation

- Protected Disclosures Act 2000

Related documents

- Central Otago District Council Fraud, Bribery and Corruption Policy
- Central Otago District Council Fraud, Bribery and Corruption Process
- Central Otago District Council Sensitive Expenditure Policy
- Central Otago District Council Staff Interests Policy
- Central Otago District Council House Rules

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