

Protected Disclosures Policy

Owner:	Deputy Chief Executive
Approved By:	Chief Executive
Date Approved:	6 July 2026
Review Date:	July 2029

Whāinga Matua | Purpose

1. The purpose of this policy is to set out key information about the Teaching Council of Aotearoa New Zealand's (Council) approach to protected disclosures.
2. This policy should be read in conjunction with the Council's Protected Disclosures Procedure (Procedure), which set out how disclosures are received, assessed, managed, investigated, and how disclosers are communicated with and supported.
3. This policy addresses both:
 - (a) Protected disclosures about the Council and its operations
 - (b) Protected disclosures made to the Council about members of the teaching profession, including registered teachers and holders of a Limited Authority to Teach (LAT).

Korahi | Scope

4. This policy applies to all protected disclosures received by the Council. There are two main sources:
 - (a) Disclosures about members of the profession. The Council is an appropriate authority under the Protected Disclosures (Protection of Whistleblowers) Act 2022 (Act) in relation to teachers and holders of Limited Authorities to Teach, meaning that people can make protected disclosures to it about members of the teaching profession.
 - (b) Disclosures about the Council. The Teaching Council may also receive protected disclosures from Teaching Council employees, board members, secondees, independent contractors working for the Council, and volunteers.

Hītori | Background

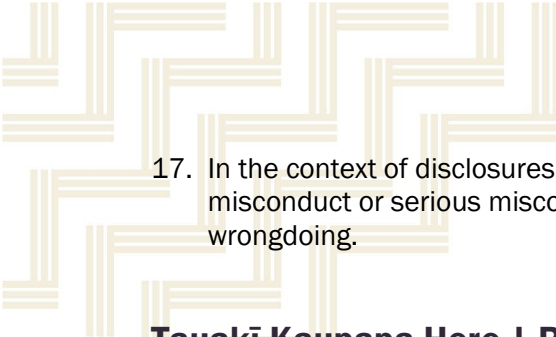
5. The Council is an independent statutory body continued by the Education and Training Act 2020 to ensure safe and high-quality leadership, teaching, and learning for children and young people in early childhood, primary, secondary, and senior secondary schooling in English-medium and Māori-medium settings through raising the status of the profession. It endeavours to meet the highest standards of ethical behaviour and practice in accordance with its organisational values.
6. However, should concerns about serious wrongdoing arise in relation to the activities of the Council or members of the profession, the Act provides a means for a discloser to raise such issues safely and confidentially. Disclosers are entitled to a range of protections under the Act.

7. This policy sets out the Council's approach to protected disclosures and, in conjunction with the Procedure, provides information for disclosers and potential disclosers on how to make a protected disclosure to the Council.

Tuhinga Whakamārama | Definitions

8. **Act** means the Protected Disclosures (Protection of Whistleblowers) Act 2022.
9. **Appropriate Authority** means the head of any public sector organisation; an officer of Parliament; the membership of a particular profession, trade or calling with the power to discipline its members; or any of the organisations listed in the schedule 2 of the Act. It does not include media (including print media, television, radio, social media, blogs etc). It includes the Council in relation to teachers and holders of Limited Authorities to Teach.
10. **Discloser** means a person who makes a protected disclosure to the Council and meets the criteria in section 8 of the Act.
11. **Procedure** means the Teaching Council of Aotearoa New Zealand Protected Disclosures Internal Procedure.
12. **Protected Disclosure** is defined in s 9 of the Act and means a disclosure made by a discloser who:
1. believes on reasonable grounds that serious wrongdoing has occurred within, or by, their organisation.
 2. is not making the disclosure in bad faith (for example, not knowing it to be false or for ulterior motives); and
 3. makes the disclosure in accordance with this policy, the Procedure and/or the Act.
13. **Serious misconduct** is defined in s 10(1) of the Education and Training Act 2020 as conduct by a teacher that meets two characteristics:
- (a) that—
 - (i) adversely affects, or is likely to adversely affect, the well-being or learning of 1 or more students; or
 - (ii) reflects adversely on the teacher's fitness to be a teacher; or
 - (iii) may bring the teaching profession into disrepute; and
 - (b) that is of a character or severity that meets the Council's criteria for reporting serious misconduct.
14. The Council's criteria for reporting serious misconduct are set out in r 9 of the Teaching Council Rules 2016.
15. Conduct that meets the first characteristic, but not the second, is misconduct.¹
16. **Serious wrongdoing** is defined in s 10 of the Act and means:
- (a) an offence.
 - (b) a serious risk to public health, public safety, the health or safety of an individual, or the environment.
 - (c) a serious risk to the maintenance of the law (including the presentation, investigation, and detection of offences, or the right to a fair trial).
 - (d) an unlawful, 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 by an employee of the Council or a person performing a function or duty on behalf of the Council.

¹ *Evans v Complaints Assessment Committee of the Teaching Council of Aotearoa New Zealand* [2021] NZCA 66.

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17. In the context of disclosures about members of the profession, serious wrongdoing may also be misconduct or serious misconduct, but not all serious misconduct will amount to serious wrongdoing.

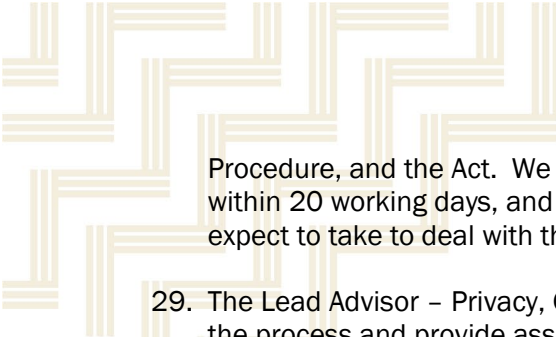
Tauaki Kaupapa Here | Policy Statements

Tō Tātou Ngākau nui ki Te Tiriti o Waitangi/Our commitment to Te Tiriti o Waitangi

18. The Council recognises Te Tiriti o Waitangi as a founding document of our nation. Te Tiriti o Waitangi provides a structure for power-sharing and relationships and a place in that for all who came after.
19. The articles of Te Tiriti o Waitangi are the foundation of this policy. They require governance, self-determination, equity, cultural and spiritual affirmation.
20. The values of the teaching profession anchor the practical application of this policy. Those values are Whanaungatanga, Manaakitanga, Pono, and Whakamana.
21. The Council encourages disclosers to make protected disclosures in accordance with this policy, the Council's organisational values, the Procedure, and the Act as this helps promote integrity, accountability and good management within the organisation and the profession.
22. The Council takes all protected disclosures seriously. It will respond to the disclosure in accordance with this policy and the Act and will ensure the discloser is updated regularly and provided support throughout the process.
23. Any potential discloser may seek advice from an Ombudsman (www.ombudsman.parliament.nz) at any time and still receive the protections set out in this policy. They will also be protected to make a disclosure to another person on a confidential basis for the purposes of seeking advice on how to make a protected disclosure in accordance with the Act (e.g., a union organiser, lawyer etc).

Who to make a protected disclosure to at the Council, and how

24. The Lead Advisor – Privacy, Government & Information is the Council's dedicated receiver of protected disclosures. Those wishing to make a disclosure should contact the Lead Advisor via the confidential e-mail address protecteddisclosures@teachingcouncil.nz. Alternatively, a protected disclosure can be sent to the Council's Chief Executive or any of the Deputy Chief Executives.
25. If, in any case, it would not be appropriate for the Lead Advisor – Privacy, Government & Information to be the recipient of a disclosure about a member of the profession, the Chief Legal Officer will be the recipient.
26. The disclosure should include all relevant information. This should include a description of what has happened and how it amounts to serious wrongdoing. Provide the names of who was involved, when the events that give rise to the disclosure happened, and attach or refer to any relevant documents or information. The more specific the discloser can be, the easier the Council can identify and investigate the concerns.
27. People can make an anonymous disclosure; however, this can limit the Council's ability to identify and understand the concerns raised, investigate fairly, and provide the discloser with information on how their concerns have been dealt with. If the discloser would like to receive updates and information on the concerns raised, they will need to provide contact information.
28. The Council takes all protected disclosures seriously. We will acknowledge receipt of, and then consider and deal with, all protected disclosures we receive in accordance with this policy, the



Procedure, and the Act. We will endeavour to undertake the actions set out in section 13 of the Act within 20 working days, and where this is impractical, we will inform the discloser of how long we expect to take to deal with the matter and ensure they are appropriately updated.

29. The Lead Advisor – Privacy, Government & Information will keep the discloser informed throughout the process and provide assistance to ensure they are aware of their rights and protections during this process.
30. The Council will tell the discloser what it has done or is doing to deal with the disclosure and provide the rationale for its decision. This could include (but is not limited to) deciding that no action is required or referring the disclosure to an appropriate authority (after consulting with the discloser).
31. The Ombudsman's [Guide to Making Protected Disclosures](#) and the Public Service Commission's [Speaking Up Standards](#), provide guidance on how to make a protected disclosure.

How will disclosers be protected?

32. Disclosers are entitled to have their confidentiality protected, to not be victimised, and are immune from criminal, civil and disciplinary proceedings in relation to making the disclosure, provided that the disclosure has been made in accordance with the Act and not in bad faith. Council employees can raise a personal grievance if they are treated less favourably, retaliated against, or threatened with retaliation for making or considering making a protected disclosure.
33. The Council will use its best endeavours to keep discloser's identity confidential unless they consent to the release of their identity, or one of the exceptions in the Act applies. The Council will consult with disclosers in accordance with the Act should this be required.
34. A person who discloses information in support of or relating to a protected disclosure is also entitled to the protections set out in paragraph 31 above, provided they do not disclose in bad faith and make the disclosure to the Council or an Appropriate Authority in accordance with these procedures and the Act.

Who to escalate concerns to

35. Disclosers may make a protected disclosure to an appropriate authority at any time. A protected disclosure may only be made to a government minister if the discloser has reasonable grounds to believe that the Council has not responded in accordance with the Act, or that the Council has not addressed the serious wrongdoing.
36. Disclosers can also make a complaint to the Council's Governing Council about how the Council has handled their disclosure. Alternatively, they can also complain to the Ombudsman.

Where can I get advice?

37. The Lead Advisor – Privacy, Government & Information can provide advice and guidance on how to make a protected disclosure at the Council. Prospective disclosers can have a confidential conversation with the Lead Advisor if unsure whether their concerns meet the requirements of a protected disclosure. The Lead Advisor will also ensure the prospective discloser is aware of other organisations that can provide advice.
38. Any potential discloser may seek advice from an Ombudsman at any time and still receive the protections set out in the Act and these procedures. A discloser will also be protected if they make a disclosure to another person on a confidential basis for the purposes of seeking advice on how to make a protected disclosure in accordance with the Act (e.g., a union organiser, lawyer etc).

What happens after a disclosure is made to the Council

39. After making a disclosure to the Council, the Lead Advisor – Privacy, Government & Information will consider the disclosure and engage with the discloser.
40. Unless the disclosure does not meet the requirements of the Act, or should be considered by another appropriate authority, disclosures about a registered teacher or holder of a LAT will be referred to a professional responsibility investigator to investigate. Disclosures received from Council staff will be investigated by the Lead Advisor – Privacy, Government & Information and the Chief Legal Officer.
41. The aim of the investigation is to collate all relevant information, consider whether there is evidence of serious wrongdoing, and to provide a report summarising the matter to assist decision-makers.
42. In the context of disclosures about members of the profession, the investigator's role is not to conclusively prove whether the conduct occurred or provide recommendations of next steps. Rather, it is to verify whether there is sufficient non-confidential evidence that may justify a referral to the Complaints Assessment Committee for a full investigation.
43. Once the investigator has concluded their investigation, they will report to the Lead Advisor – Privacy, Government & Information who will update the discloser.
44. The Lead Advisor - Privacy, Government & Information and the Chief Legal Officer should then make a recommendation to the Chief Executive about how to respond to the disclosure by:
 - (a) referring the matter to the Complaints Assessment Committee under s 496(2) of the Education and Training Act 2020; or
 - (b) referring the matter to another organisation or authority; or
 - (c) deciding to initiate an internal investigation; or
 - (d) taking no action.

Tūranga mahi me te Haepapa | Roles and Responsibilities

45. The Lead Advisor – Privacy, Government & Information is the Council's designated recipient of protected disclosures under the Procedures. This role is responsible for ensuring that protected disclosures are dealt with promptly and effectively, and the disclosers are protected and receive updates and outcomes according to this policy.
46. If, in any case, it would not be appropriate for the Lead Advisor – Privacy, Government & Information to be the recipient of an internal disclosure about the Council, a member of the Executive team will be the recipient.
47. The Chief Executive and the Deputy Chief Executives are responsible for receiving protected disclosures made to them pursuant to the Act and ensuring that they are dealt with promptly and effectively.
48. The Chief Executive, or the delegate empowered to refer matters to the Complaints Assessment Committee under r 14 of the Teaching Council Rules 2016, is also responsible for determining whether to refer a disclosure to the Complaints Assessment Committee, or other agency.
49. The Lead Advisor - Privacy, Government & Information and the Chief Legal Officer are responsible for making a recommendation to support the determination in paragraph 44 above.
50. Delegated investigators are responsible for investigating (without using or purporting to use, for example, the power in s 497 of the Education and Training Act 2020) a disclosure to assist with a determination as to whether a disclosure has merit, and whether there is sufficient non-confidential evidence to justify a referral to the Complaints Assessment Committee.

51. The Deputy Chief Executive is responsible for reviewing this policy and these procedures and ensuring they are up to date, working effectively, and that they are accessible to all potential disclosers.

Ōna Herenga | Related Documents

- Protected Disclosure Procedure
- Protected Disclosures (Protection of Whistleblowers) Act 2022
- Public Service Commission Code of conduct
- Public Service Commission Speaking Up model standards.
- Health, Safety & Wellbeing Policy
- Bullying, Discrimination, Harassment and Violence Prevention Policy
- Bullying, Discrimination, Harassment and Violence Prevention Procedure
- Privacy Act 2020
- Human Rights Act 1993
- Official Information Act 1982

Arotake o tēnei Kaupapa Here | Review of Policy

This policy and the Procedure will be reviewed by the Deputy Chief Executive every three years, or sooner if warranted by internal or external events or changes.

Breach of policy

Disclosers who knowingly make a protected disclosure in bad faith, or who breach this policy, or who make a disclosure to someone external other than an appropriate authority in circumstances where the Act's protections do not apply, will not enjoy the protection of the Act or this policy. Council employees may face disciplinary action up to and including serious misconduct, or in the case of other disclosers, termination of their contractual relationship with the Council.

If an individual becomes aware of a breach or possible breach of this policy, they must raise it with the Lead Advisor – Privacy, Government & Information, a Deputy Chief Executive or the Chief Executive.