

PROTECTED DISCLOSURES [WHISTLEBLOWER] POLICY

Scope

This policy applies to Dilworth Trust Board and Dilworth School (“Dilworth”).

It should be read in conjunction with other policies which relate to complaints and disputes of a less serious nature.

Purpose

The purpose of this policy is to provide guidance on the protections available and procedures for making a Protected Disclosure under the Protected Disclosures Act 2000 (‘the Act’). This policy applies to trustees, employees, former employees, contractors, persons concerned with the management of Dilworth and volunteers, who raise concerns about serious wrongdoing at or by Dilworth under the Act.

Impact of Policy

This policy does not supersede or diminish in any way, any of the existing legislation that protects children. This includes but is not limited to:

- NZ Teachers Council – Mandatory Reporting Requirements
- Reporting requirements under the Crimes Act.

Definitions

For the purposes of this policy, unless otherwise stated, the following definitions shall apply:

Employee: Any existing or former employee, or a person seconded to Dilworth, or a contractor to Dilworth, or a person involved in the management of Dilworth (including trustees), or a person who works for Dilworth as a volunteer without reward or expectation of reward for that work.

Protected Disclosure: A Protected Disclosure is a declaration made by an Employee where they believe serious wrongdoing has occurred. Employees making such disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

Serious Wrongdoing: Includes any serious wrongdoing of the following types:

- (a) An unlawful, corrupt, or irregular use of funds or resources; or

- (b) An act, omission, or course of conduct that constitutes a serious risk to health or safety or the environment; or
- (c) 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 and the right to a fair trial; or
- (d) An act, omission, or course of conduct that constitutes an offence; or
- (e) An act, omission, or course of conduct by an Employee that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement;
- (f) Matters of a serious nature relating to conduct of a sexual nature.

Policy Content and Guidelines

1) Who Can Make A Disclosure?

Any Employee can make a disclosure.

When making a disclosure of serious wrongdoing under the Act, the Employee should advise that the disclosure is made under the Act for it to qualify as a Protected Disclosure though failure to do so does not preclude a disclosure being later considered as protected under the provisions of the Act.

2) Protected Disclosures under the Act

Before making a disclosure, the Employee should be sure the following conditions are met:

- the information is about serious wrongdoing in or by Dilworth;
- the Employee believes on reasonable grounds the information to be true or likely to be true;
- the Employee wishes the wrongdoing to be investigated; and
- the Employee wishes the disclosure to be protected.

If an Employee believes, on reasonable grounds, that the information disclosed is about serious wrongdoing as defined by the Act, but that belief is mistaken, the information will nevertheless be treated as a Protected Disclosure under the Act.

3) Making a Disclosure

A person who has knowledge of or information about any serious wrongdoing should report the misconduct in writing to the Headmaster or General Manager or HR Manager with as much detail as possible.

If the allegation relates to one of those three, a written complaint should be made to the Chairman of the Audit, Finance and Risk (AFR) Committee. You may contact the Chairman of the AFR as follows:

whistleblower@dilworth.school.nz or,

Chairman of the AFR (Whistleblower)
Dilworth Trust Board
Private Bag 28 904
Remuera
Auckland 1541

If the allegation relates to the Chairman or a Trustee, a written complaint should be made to any or all of the other Trustees of Dilworth Trust Board as follows:

Trustees of Dilworth Trust Board (Whistleblower).
Dilworth Trust Board
Private Bag 28 904
Remuera
Auckland 1541

If the reporting person desires anonymity, the report should be in writing and delivered via regular mail, to the address shown above.

A disclosure may be made to an appropriate authority (including those listed below) if the Employee making the disclosure has reasonable grounds to believe:

- The Board is or may be involved in the wrongdoing;
- Immediate reference to another authority is justified by urgency or exceptional circumstances; or
- There has been no action or recommended action within 20 working days of the date of the disclosure.

Appropriate authorities include (but are not limited to):

- Commissioner of Police
- Director of the Serious Fraud Office
- Parliamentary Commissioner for the Environment

If an Employee making a Protected Disclosure acts in a manner which is inconsistent with section 4 below, this may be dealt with under Dilworth Disciplinary Rules & Procedures (if relevant), a copy of which is in the staff section of the Dilworth Policies Manual.

A Register of Complaints made under the Act shall be maintained by the General Manager and reported to the AFR Committee at their regular meetings.

4) Obligations of Employees Who Make Disclosure

When making a Protected Disclosure, Employees should consider the core ethical values of respect, responsibility, fairness, integrity and empathy.

In that regard, it is not appropriate nor protected by the Act or this policy, for an Employee to report alleged serious wrongdoing to a recipient who is not authorised to receive that disclosure such as the media or members of the public. In addition, Employees who are reporting serious wrongdoing are required to act professionally and with due regard to the potential seriousness of the allegations, including maintaining appropriate confidentiality.

5) Investigation of a Disclosure

On receipt of a disclosure, the recipient must examine seriously the allegations of wrongdoing within 20 working days and decide whether a full investigation is warranted. If warranted, a full investigation will be undertaken. If felt beneficial, the matter may be referred to a more suitable person or entity.

All investigations will be conducted in accordance with the principles of natural justice.

The investigator will determine whether or not the allegation of wrongdoing is substantiated, and if so, recommend the action to be taken if appropriate. The report of the investigator will be sent to all trustees.

Any disciplinary action taken will follow the processes set out under the Dilworth Disciplinary Rules and Procedures.

6) Escalation

If the investigation into a disclosure has not been commenced within the timeframe specified in section 5, the Employee may refer the disclosure to the Chairman of the AFR Committee for consideration by them or their delegate as soon as practicable.

Where appropriate and at an appropriate time, Dilworth may refer a matter to the Police where the matter disclosed may give rise to a criminal offence.

7) Protections for Employees Who Make Disclosures

Protections under the Act extend to:

- Employees who make a protected disclosure; and
- Employees who volunteer information in support of a protected disclosure (made by another Employee) as if the information volunteered were a protected disclosure of information.

Every person to whom a disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the Employee who made the disclosure or an Employee who volunteers information in support of that disclosure unless:

- That Employee consents in writing to the disclosure of their identity; or

- The person who has acquired knowledge of the disclosure reasonably believes that disclosure of identifying information is essential:
 - to the effective investigation of the allegations; or
 - to prevent serious risk to public health or public safety or the environment; or
 - in regard to the principles of natural justice.

Subject to section 8, no Employee who:

- makes a protected disclosure of information or who volunteers information in support of a protected disclosure; or
- refers a protected disclosure of information to an appropriate authority for investigation

is liable to any civil or criminal proceeding or to a disciplinary proceeding by reason of having made or referred that disclosure of information.

8) Limitation on Protections

The protections conferred by the Act, this policy, and by section 66(1)(a) of the Human Rights Act 1993 do not apply:

- where the Employee who makes a disclosure of information makes an allegation known to that Employee to be false or otherwise acts in bad faith; or
- where the Employee provides information in support of a Protected Disclosure only after being required to do so by law or after being approached during the course of an investigation of the matter. In this case, the Employee has not volunteered supporting information.

9) Retaliatory Action and Victimisation

Where an Employee feels they have been victimised or retaliated against for making a general disclosure or a Protected Disclosure under the Act, they may take a personal grievance under the Employment Relations Act 2000 or make a complaint under the Human Rights Act 1993.

Dilworth treats any allegation of victimisation or retaliation seriously. Allegations of this nature that are established may result in disciplinary action under Dilworth's Disciplinary Rules and Procedures.

