

# Protected Disclosures Policy

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## Purpose

To define the procedures to be followed by Hutt Valley DHB Employees when seeking protection from liability or unfavourable treatment by the organisation when disclosing information about alleged 'serious wrongdoing' within or by Hutt Valley DHB.

## Policy

Employees of Hutt Valley DHB who disclose information about 'serious wrongdoing' by Hutt Valley DHB (HVDHB) or its representatives will be protected from disciplinary action, civil or criminal proceedings if :

- The disclosure is in regard to 'serious wrongdoing' within or by HVDHB;
- The Employee believes, on reasonable grounds, that the information is true or likely to be true;
- The employee wishes to disclose the information so that the serious wrongdoing can be investigated; and
- The employee wishes the disclosure to be protected.

In making a disclosure under the Protected Disclosures Act 2000, the Employee must follow the internal procedures as listed below.

- For the purposes of this policy, an Employee of HVDHB is:
- A current employee
- A former employee
- A person seconded into the organisation
- Independent contractors who are contracted to work for HVDHB

Serious Wrongdoing includes:

- An unlawful, corrupt or irregular use of public funds or public resources
- Acts, omissions or conduct that constitute a serious risk to public health or safety or the environment
- Acts, omissions or conduct that constitute as serious risk to the maintenance of law and detection of offences and the right to a fair trial

Acts, omissions or conduct that constitutes an offence

Acts, omission or conduct by a public official that is oppressive, improperly discriminatory, grossly negligent, or that constitutes gross mismanagement.

## Procedure on how to raise serious wrongdoing within or by the organisation.-

1. In the first instance, the Employee making the disclosure will report the alleged serious wrongdoing to his or her:

1. (a) Line Manager; or
2. (b) Service Manager.

2. Where disclosure to a Line Manager or Service Manager is inappropriate due to the nature of the allegation, or the Employee reasonably believes that the Line Manager or Service Manager may be involved (either directly or by reason of relationship or association), the Employee making the disclosure will report the serious wrongdoing to:

0. (a) the General Manager, Human Resources; or
1. (b) the Chief Operating Officer ; or
2. (c) the Director of Planning and Funding, and Public Health;
3. (d) the Chief Financial Officer
4. (e) the Chief Executive Officer of Hutt Valley DHB if the employee making the disclosure believes on reasonable grounds that a person listed in 2 (a) –(d) is or may be involved in the alleged serious wrong-doing or is, by reason of any relationship or association with a person who is or may be involved in the serious wrongdoing alleged in the disclosure, not a person to whom it is appropriate to make the disclosure.

3. The Manager who receives the allegation will:

0. (a) Confirm with the Employee in writing as to whether they are seeking protection in making the disclosure under the Protected Disclosures Act 2000.
1. (b) Inform appropriate senior personnel of the allegation. (This will usually include the CEO and Legal Counsel. The CEO may choose to inform the Board);
2. (c) Be careful to avoid disclosing the information inappropriately to those with a potential or actual conflict regarding the alleged serious wrongdoing;
3. (d) Conduct an investigation;
4. (e) Inform the personnel who are being investigated of:
  1. (i) the investigation;
  2. (ii) the right to comment on the allegations;
  3. (iii) the right to have a representative;
  4. (iv) the possible outcome of the investigation;
  5. (v) the conclusions of the investigation
5. (f) Maintain thorough records of the allegation and investigation;
6. (g) Report back to the Employee making the disclosure in regard to the progress and outcome of the investigation.
7. (h) Facilitate the implementation of any recommendations arising from the investigation.

4. Where an Employee making an allegation of serious wrongdoing wishes to use a representative to effect disclosure, that representative is bound by this policy. Where it appears a complaint falls within the ambit of the Protected Disclosures Act, but the complaint does not refer to this, the relevant manager will contact the Employee to confirm whether the Employee is relying on the Protected Disclosures Act.

5. **Disclosure to the Chair (and Deputy) of the Board**

Should the Employee reasonably believe that the person to whom the wrongdoing should be reported, as stated in the internal process, is or may be involved (either directly or by reason of relationship or association) in the serious wrongdoing being disclosed, the employee may disclose the information to the Chair or Deputy Chair of the Board.

6. **Disclosure to an Appropriate Authority:**

The Employee may choose to disclose the information regarding serious wrongdoing at an appropriate authority in circumstance where:

0. the Chair of the Board is or may be involved in the serious wrongdoing alleged
1. there is a matter of urgency or exceptional circumstances
2. there has been no action or recommended action in relation to the disclosure within 20 days of the allegation of serious wrongdoing being made.

**Should employees chose to disclose in these circumstances, they will only be covered by the Protected Disclosures Act if they disclose to the following appropriate authorities**

**An Appropriate Authority includes:**

3. the Health and Disability Commissioner;
4. the Medical Council;
5. the Nursing Council;
6. the Midwifery Council;
7. Other professional bodies
8. an Ombudsman;
9. the Commissioner of Police;
10. the State Services Commissioner;
11. the Director of the Serious Fraud Office;
12. the Solicitor General.
13. the Controller and Auditor-General
14. the Parliamentary Commissioner for the Environment
15. the Police Complaints Authority
16. all heads of public sector organisations including the Director General of Health

Employees will not be covered by the protected Disclosures Act should they disclose to the following authorities or any other body such as the media.

17. Members of Parliament;
18. Ministers of the Crown;

7. **Disclosure to a Minister of the Crown or Ombudsman:**

Where an employee has made a disclosure, through internal procedures, to the Chair (or Deputy) of the Board, or to an Appropriate Authority (except when that Appropriate Authority is the Ombudsman), but reasonably believes that the party to whom the disclosure was made:

0. Has decided not to investigate the matter; or
1. Has decided to investigate the matter but has not progressed with the investigation within a reasonable timeframe of the disclosure being made; or
2. Has investigated the matter but has not taken or recommended any action as may be require

The employee may choose to disclose the information directly to a Minister of the Crown or Ombudsman.

### **Confidentiality**

Where an Employee discloses serious wrongdoing under The Protected Disclosures Act 2000, every endeavour will be made by the party to whom the disclosure is made to not disclose information that may identify the Employee unless;

- The Employee consents in writing to the disclosure of the information
- The party to whom the disclosure is made reasonably believes that the disclosure of the identifying information is essential to an effective investigation of the allegations or is essential to prevent serious risk to public health, public safety or the environment; or
- It is necessary with regard to the principles of natural justice.

### **Reference**

The Protected Disclosures Act 2000