

PROTECTED DISCLOSURE / WHISTLEBLOWING POLICY

Level	Governance
Responsibility of	Governance and Risk Manager
Approver/Owner	Trust Board
Contact	Linda Noble
Approval Date	2022
Next Review	2024

1. Introduction

1.1. Purpose

The Auckland Museum is committed to maintaining the highest standards of honesty, openness and accountability and fosters a ‘speak up’ culture that encourages the identification and prevention of any serious wrongdoing (as defined in this policy) that may affect this commitment.

The purpose of this policy is to ensure that the Museum operates an appropriate internal procedure for receiving and dealing with information about serious wrongdoing in or by the Museum in accordance with the provisions of the Protected Disclosures Act 2000.

The purpose of the Protected Disclosures Act is to promote the public interest:

1. By facilitating the disclosure and investigation of matters of serious wrongdoing in or by an organisation; and
2. By protecting staff who, in accordance with the Act, make disclosures of information about serious wrongdoing in or by an organisation.

1.2. Scope

This policy applies to all workers of the Auckland War Memorial Museum (Auckland Museum).

This policy applies to all Museum Workers and includes:

- former employees
- homeworkers
- contractors
- people seconded to the Museum
- volunteers
- person those who hold an interest in the management and governance of the Museum

This Policy is monitored and reviewed regularly by the Director, People and Organisation and the Governance and Risk Manager.

1.3. Objectives

The policy aims to facilitate disclosure of questionable practices, encourage proper individual conduct and alert the Chief Executive and/or Trust Board Chair of potential problems before they have serious consequences.

2. Protected Disclosure / Whistleblowing Policy Statements

Auckland Museum takes all malpractice very seriously. Auckland Museum is committed to complying with the laws and practices that protect the rights of people who raise concerns about serious wrongdoings in or by Auckland Museum, including the Protected Disclosures Act (2000). The Act establishes "whistle-blower" protections designed to facilitate the disclosure and investigation of serious wrongdoing by or within organisations. It provides immunity from civil, criminal or disciplinary proceedings for workers who make a disclosure in accordance with the provisions of the Act. The Act also protects whistle-blowers against retaliatory action by their employer so long as the whistle-blower has acted in accordance with the Act. The protection afforded by the Act does not apply to a person who makes an allegation that they know to be false or otherwise acts in bad faith.

The Media does not qualify as an appropriate authority under the act.

This policy is intended to complement the statutory protection provided by the Act and, for the avoidance of doubt, statutory rights are not to be affected in any way by this policy. If any Auckland Museum Worker becomes aware of any such activities or other possible malpractices they are encouraged to follow the procedures set out below. It will not always be clear that a particular action falls within one of these categories however, if the worker believes the matter to be serious, the Museum would prefer that concerns are reported.

3. Protected Disclosure / Whistleblowing Policy Criteria

A disclosure will be protected if:

- the information is about serious wrongdoing in or by the Museum
- the whistle-blower reasonably believes the information is true or likely to be true, and
- the whistle-blower wants the serious wrongdoing to be investigated

A disclosure won't be protected if:

- the whistle-blower knows the allegations are false
- the whistle-blower is acting in bad faith, or
- the information being disclosed is subject to legal professional privilege

4. Procedure

4.1 Reporting Concerns

Auckland Museum Workers are expected to use judgement to enhance trust, respect and the reputation of Auckland Museum, including taking action to prevent the occurrence of a serious wrongdoing.

To the extent that an Auckland Museum Worker becomes aware of any activities of serious wrongdoing, they should follow the process set out in this policy.

If you want to make a disclosure about a serious wrongdoing, you can report in writing it to any of the following Auckland Museum Workers:

- Your Manager
- Director, People and Organisation
- Director, Enterprise, Finance and Property Services
- Governance and Risk Manager

In the following circumstances disclosures may be made to the Chief Executive or Trust Board:

- a) The Auckland Museum Worker making the disclosure has reason to believe that the person to whom the serious wrongdoing should be reported in accordance with this policy may be involved in the alleged serious wrongdoing; or
- b) The Auckland Museum Worker making the disclosure has reason to believe that the person to whom the serious wrongdoing should be reported in accordance with the policy has a relationship or association with a person or may be involved in the alleged serious wrongdoing.

5. Anonymity and Confidentiality

Disclosures and the investigation process will remain confidential between the parties as far as reasonably practicable and if required by legal statute, unless the whistle-blower consents to the disclosure or if disclosure is essential to:

- the effective investigation of the allegations
- prevent serious risk to public health or safety or the environment
- comply with the principles of natural justice

Auckland Museum encourages its people to be open about their concerns and strives to create a culture where problems can be discussed and addressed without fear of retaliation. However, if a person is unwilling to put their name to concerns, the Museum will take all reasonable steps to investigate and address anonymous allegations.

6. Investigation Process

Investigation processes will vary depending on the precise nature of the conduct reported. All investigations must be conducted in a manner that is fair, objective and affords natural justice to all people involved.

On written receipt of an allegation of serious wrongdoing the disclosure must be escalated and in accordance with this policy the Chief Executive must be advised immediately unless the complaint is covered under clause 4(a). Within 20 working days of receipt of the disclosure, the Chief Executive will ensure the disclosure is assessed and a decision made about whether a full investigation is warranted.

The disclosure and the evidence provided will be considered in an unbiased and fair manner and an internal investigation will be undertaken unless there is evidence that the allegation is frivolous or vexatious. At or before the end of the 20 working days, the Museum is to advise the 'whistle-blower' on the outcome of their examination and the Museum's decision regarding the investigation process.

If an individual is concerned with the way the investigation is progressing or the outcome of an investigation there are avenues for them to raise their concerns with an appropriate authority. Future information is available on the Office of the Ombudsman website.

Substantiated allegations of serious wrongdoing against Auckland Museum workers will be treated as serious misconduct and action taken in accordance with the Museum's Discipline Policy.

7. External Investigation

Where the Auckland Museum worker making the disclosure believes on reasonable grounds that:

- The Chief Executive or Trust board Chair is or may be involved in the serious wrongdoing alleged in the disclosure; or
- The immediate reference to an appropriate authority is justified by reason of the urgency of the matter to which the disclosure relates or some other exceptional circumstance; or
- There has been no action or recommended action on the matter to which the disclosure relates within 20 working days after the time on which the disclosure was made;
- Disclosure of the information by be made to the Ombudsman or another “appropriate authority” [refer Clause 9 (f)].

8. Non-Retaliation

It's is in the Auckland Museum's best interests that the Auckland Museum workers report serious wrongdoings. Auckland Museum will not tolerate any behaviour that discourages someone from reporting a serious wrongdoing or is seen as retaliation to a reported serious wrongdoing. Allegations of serious wrongdoings should be made in good faith and not be vexatious or frivolous or without good reason. Auckland Museum workers are protected from disciplinary action and disadvantage on the grounds that they have reported a serious wrongdoing in good faith. If a whistle-blower is victimised in this way, the legal remedies under the Human Rights Act may be available to them.

9. Legislative Compliance

No civil, criminal, or disciplinary proceedings can be taken against a person for making a protected disclosure or for referring one to an appropriate authority.

The Museum is required to manage its policy documentation within a legislative framework. The legislation directing this policy is the [Protected Disclosures Act 2000](#).

If a person suffers retaliatory action from the Museum for making a protected disclosure, they can take personal grievance proceedings under the [Employment Relations Act 2000](#).

Under the [Human Rights Act 1993](#) a whistle-blower can't be treated less favourably than others in the same or similar circumstances. If a whistle-blower is victimised in this way, they may have legal remedies under the [Human Rights Act](#).

10. Definitions

Serious Wrongdoing:

A serious wrongdoing includes any of the following types:

An unlawful, corrupt, or irregular use of Museum funds or Museum resources

An act, omission, or course of conduct that constitutes a serious risk to Museum people or public safety or the environment

An act, omission, or course of conduct that constitutes a serious risk to the Museum's funding, operations or reputation

An act, omission, or course of conduct that constitutes a criminal offence

An act, omission or course of conduct by a Museum worker that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

Museum means the Auckland War Memorial Museum / Tāmaki Paenga Hira and includes all subsidiaries.

Auckland Museum Worker or ‘worker’ includes employees, external contractors, volunteers (including interns), Trust Board members and advisory group members who work in, with or on behalf of the Museum.

Employee (as defined in the Protected Disclosures Act 2000): The Act also gives an extended meaning to “Employee” so as to include a former employeeworker; a person seconded to the Museum; an individual who is engaged or contracted under a contract for services to do work for the Museum; and a person concerned in the management and governance of the Museum.

Protected disclosure / whistle blowing: when an worker reports any serious wrongdoing in the workplace that they reasonably believe is true or likely to be true. If an worker makes a protected disclosure under the [Protected Disclosures Act 2000](#) their employer can’t take disciplinary (or other) action against them.

Appropriate authority includes:

- Ombudsman
- [Commissioner of Police](#)
- [Controller and Auditor-General](#)
- [Director of the Serious Fraud Office](#)
- [Inspector-General of Intelligence and Security](#)
- [Parliamentary Commissioner for the Environment](#)
- [Independent Police Conduct Authority](#)
- [Solicitor-General](#)
- [State Services Commissioner](#)
- [Health and Disability Commissioner](#)
- head of every public sector agency
- heads of certain private sector professional bodies with the power to discipline their members

It does not include a Minister of the Crown or a Member of Parliament.

11. Responsibilities

Executive Team

All Executive Team members are responsible for:

- ensuring their managers follow this Policy and its associated processes
- championing an inclusive and transparent work environment

Governance and Risk Manager

The Governance and Risk Manager is responsible for:

- establishing a Whistleblowing Policy and associated systems to monitor progress
- reporting to the Board annually on any examples of whistleblowing occurring within the organisation
- reviewing this Policy

Managers

Each Manager is responsible for:

- ensuring that this Policy is followed by their teams.

All Staff

All staff are responsible for:

- being aware of the Museum's commitment to ensuring Auckland Museum workers feel confident about raising concerns regarding the actual, suspected or anticipated serious wrongdoings within the Auckland Museum
- adhering to the Policy

12. Authorities / Approval Process

Executive Team

The Executive Team is responsible for the review and maintenance of this policy.

Trust Board

The Trust Board is responsible for approving this Policy.

13. Review Process

This policy will be reviewed on a two-year cycle.

Approved by the Trust Board – 14 April 2022