



**SOUTH WAIRARAPA  
DISTRICT COUNCIL**

*Kia Reretahi Tātau*

# Protected Disclosures Procedure

Date of Approval	14-08-2024
Next Review	01-08-2027
Business Owner	Manager, Corporate Support
Version History	1.0

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# 1. Purpose

To provide guidance to all disclosers on the implementation of the Protected Disclosures Policy in alignment with the Protected Disclosures (Protection of Whistleblowers) Act 2022 (the Act).

## 2. Operating Procedure

### 2.1 Making a protected disclosure – standard approach

2.1.1 The potential discloser must ensure that the following statements are true:

- The disclosure is about serious wrongdoing in or by South Wairarapa District Council (SWDC); and
- there are reasonable grounds to believe the information is true, or likely to be true; and
- the potential discloser wants to disclose the information in good faith so that serious wrongdoing may be investigated; and
- the potential discloser wants the disclosure to be protected.

2.1.2 Any potential discloser who intends to make a protected disclosure should, in the first instance, contact one or more of the following appropriate council officers:

- Chief Executive Officer (for the purposes of reporting any issues relating to an Elected or Appointed Member)
- any Group Manager;
- Chief Financial Officer;
- Manager, Corporate Support;
- Manager, Stakeholder Relationships;
- Manager, Community Operations;
- Manager, Wairarapa Library Service;
- Manager, Environmental Services;
- Manager, Planning;
- Manager, Building Services;
- Lead Advisor, People and Culture;
- Privacy Officer;
- any other staff member with significantly similar position titles established in the future.

2.1.3 The potential discloser intending to make a protected disclosure should inform the appropriate council officer that he or she wishes the disclosure to be protected.

2.1.4 The disclosure may be made to the appropriate council officer verbally or in writing. The Protected Disclosure Form (Schedule 2) can be used to record the disclosure.

2.1.5 Information and advice for those considering making a disclosure can also be sought from an Ombudsman.

2.1.6 SWDC will also provide a mechanism for anonymous reporting. This can encourage issues to be dealt with internally by providing a safe mechanism for individuals who are reluctant to use other channels to raise concerns. Anonymous disclosures may be difficult to fully

investigate, and disclosers may be encouraged to make a confidential disclosure in order to investigate the matter more thoroughly. Options for anonymous reporting are:

- a) By mail to: The Chief Executive Officer, South Wairarapa District Council, PO Box 6, Martinborough 5741 – please mark **Private and Confidential**
- b) By calling the Ombudsman on 0800 802 602 and stating that you want to make an anonymous disclosure.

## 2.2 Making a protected disclosure – escalated approach

2.2.1 If a discloser, for any reason, does not feel it is appropriate to make the disclosure to any of the appropriate council officers listed above, the disclosure can be made at any time to:

- a) The Chief Executive Officer;
- b) The Mayor; or
- c) An appropriate authority.

2.2.2 A further disclosure can be made to a Government Minister if the discloser feels inadequate action has been taken.

2.2.3 Disclosures to the Chief Executive Officer, the Mayor, an appropriate authority or a Government Minister should be in writing.

## 2.3 Receiving a protected disclosure

2.3.1 The above procedures require the discloser making the protected disclosure to recognise it as such. However, this might not always be the case. As such, if there is any doubt, a disclosure should be treated as a protected disclosure until such time as that doubt is removed. The first response to a discloser is likely to set the tone for how they perceive their treatment throughout the process, and whether they are satisfied by the outcome.

2.3.2 The person receiving the protected disclosure should within 20 working days:

- a) Inform the person making the disclosure of the rights and protections (including the exceptions to those protections) offered by the Act, together with the circumstances where information may be shared with another appropriate authority under that Act;
- b) Acknowledge in writing the date the disclosure was received (and, if it was made orally, summarise the receiver's understanding of the disclosure) and the fact that it is made in accordance with the Act;
- c) Check with the discloser whether the disclosure has been made elsewhere (and any outcome); and
- d) Check if any other council policies relate to the issue of disclosure (e.g. a matter of a serious risk to the health or safety of an individual may have been reported under the Process for Handling Harassment, Bullying and Discrimination in the Code of Conduct for Council Employees, or the Elected Member Code of Conduct).

2.3.3 The person receiving the protected disclosure should immediately inform the Chief Executive Officer (unless the Chief Executive Officer is implicated in any alleged wrongdoing covered by the disclosure).

- 2.3.4 If the Chief Executive Officer is implicated in any alleged wrongdoing covered by the disclosure the person receiving the protected disclosure should immediately inform the Mayor.
- 2.3.5 The Chief Executive Officer (or the Mayor in circumstances addressed by section 2.3.4 above) is responsible for initiating whatever investigative processes he or she considers appropriate in the circumstances.
- 2.3.6 The Chief Executive Officer (or the Mayor in circumstances addressed by section 2.3.4 above) should within 20 working days of the original disclosure:
- a) Consider the disclosure and whether it warrants investigation;
  - b) Deal with the matter by doing one or more of the following:
    - i. notifying the Chair of the Assurance, Risk and Finance Committee and the External Auditor when a disclosure will be subject to investigation
    - ii. investigating the disclosure
    - iii. addressing any serious wrongdoing by acting or recommending action
    - iv. referring the disclosure as outlined in 2.4
    - v. deciding that no action is required as outlined in 2.5; and
  - c) Inform the discloser (with reasons) about what the receiver has done or is doing to deal with the matter in accordance with paragraph 2.3.6 b).
- 2.3.7 However, when it is impracticable to complete these actions within 20 working days, the receiver should carry out the actions described in 2.3.2 a) to d) and the Chief Executive Officer (or Mayor) should carry out 2.3.6 a) within 20 working days of the original disclosure and then should:
- a) Inform the discloser how long they expect to take to deal with the matter;
  - b) Appropriately update the discloser about progress;
  - c) Deal with the matter as described in subsection 2.3.6 b); and
  - d) Inform the discloser (with reasons) about what the receiver has done or is doing to deal with the matter in accordance with subsection 2.3.6 b).

## 2.4 Referring a protected disclosure

- 2.4.1 A disclosure may be referred to an appropriate authority (on more than one occasion) in certain circumstances, such as where it relates to:
- a) An offence
  - b) An unlawful, a corrupt, or an irregular use of public funds or public resources
  - c) Any other circumstance determined as high risk to the integrity of the council.
- 2.4.2 The discloser and the intended recipient will be consulted before the disclosure is referred.
- 2.4.3 If an appropriate authority receives a disclosure, they may refer the disclosure back to the council or to another appropriate authority. If an appropriate authority refers a disclosure back to the council, the council must inform the authority about what the council has done or is doing to deal with the matter (at the same time as the council informs the discloser of that).

## 2.5 When no action is required

2.5.1 A receiver may decide that no action is required if:

- a) The disclosure does not involve serious wrongdoing, is not considered a protected disclosure, or is not made by a discloser
- b) The length of time between the alleged serious wrongdoing and the disclosure makes an investigation impracticable or undesirable
- c) The matter is better addressed by other means.

2.5.2 The receiver must inform the discloser of the reasons no action is required.

## 2.6 Practical assistance and advice for disclosers

2.6.1 A discloser will be offered practical assistance and advice as follows:

- having a support person accompany them when making a disclosure
- having a support person identify, assess and mitigate any risks to the discloser
- reminding the discloser that information and advice can also be sought from an Ombudsman
- reminding the discloser of the general support and guidance available through the employee assistance programme
- peer support of an employee not involved in investigating the disclosure in any way
- identifying a senior contact within the organisation to whom the employee can escalate any concerns or issues

2.6.2 SWDC may contribute towards reasonable costs incurred by a discloser in making a protected disclosure (such as seeking advice related to the disclosure). This will be determined on a case-by-case basis.

## 2.7 Duty of confidentiality

2.7.1 The receiver must engage the SWDC Privacy Officer at the earliest opportunity following the receipt of a disclosure.

2.7.2 Where a disclosure is made to an appropriate council officer, Chief Executive Officer or Mayor in accordance with the policy, he or she will use their best endeavours not to disclose any information that might identify the individual making the disclosure unless:

- a) the individual consents in writing; or
- b) the appropriate council officer, Chief Executive Officer or Mayor have reasonable grounds to believe that the release of the identifying information is essential:
  - i. To the effective investigation of the allegations in the protected disclosure; or
  - ii. It is essential to prevent serious risk to public health or public safety, or to the environment, or the health or safety of any individual; or
  - iii. Having regard to the principles of natural justice; or
  - iv. To an investigation by a law enforcement or regulatory agency for the purpose of law enforcement.

2.7.3 Disclosers are encouraged to obtain legal advice prior to consenting to the disclosure of any identifying information.

- 2.7.4 SWDC will consult with disclosers before any information is released if for the reason described in 2.7.2 (b) (i) or (iii) and will consult if practicable for reasons 2.7.2 (b) (ii) or (iv).
- 2.7.5 SWDC will inform the discloser after releasing identifying information unless there is an urgent need to disclose, and consultation is not practical (e.g. where there is an immediate risk to health and safety of a person or the environment).
- 2.7.6 The council will meet its duty of confidentiality by ensuring:
  - a) All information is managed as restricted documents in the council's document management system. Access will be limited to those managing the disclosure.
  - b) All disclosers will be able to request to view information they have disclosed and update or correct it at any time.
  - c) Information is only shared with officers who will be managing the serious wrongdoing.
  - d) As soon as a disclosure has been made, the appropriate council officer, Chief Executive Officer or Mayor will assign a pseudonym to the discloser. All communications or documents pertaining to the disclosure will omit the discloser's name or use the pseudonym, and omit the discloser's position.

## 2.8 Raising awareness of the policy and procedure

- 2.8.1 The policy and procedure will be available on the council public website.
- 2.8.2 The policy and procedure will be published widely on all internal communication platforms with information shared about how to use the procedure (such as inductions, staff communications, newsletters, Executive Stand Ups and Chief Executive Officer updates).
- 2.8.3 At least every six months communication will go out to all employees to raise awareness.
- 2.8.4 Where possible, positive reinforcement and reporting on the outcomes of concerns that have been raised within the organisation will be shared, without disclosing identifying information.
- 2.8.5 Training on protected disclosures will be provided to all employees when they commence working at the council.
- 2.8.6 Specialist training will be provided to people leaders and those appropriate council officers who will be receiving and handling protected disclosures, including information about who can be approached for confidential legal advice.

## 3. Relevant Delegations

- 3.1 Except with respect to circumstances addressed by section 2.3.4, the Chief Executive Officer is responsible for the implementation of these procedures. The Chief Executive Officer may delegate any or all responsibilities to whomsoever he or she deems appropriate in the circumstances.
- 3.2 With respect to circumstances addressed by section 2.3.4, the Mayor is responsible for the implementation of these procedures and may delegate any or all responsibilities to whomsoever he or she deems appropriate in the circumstances.

## 4. References and Relevant Legislation

- Protected Disclosures (Protection of Whistleblowers) Act 2022
- Privacy Act 2020
- Employment Relations Act 2000
- Human Rights Act 1993
- Local Government Official Information and Meetings Act 1987
- Office of the Auditor-General: Putting integrity at the core of how public organisations operate

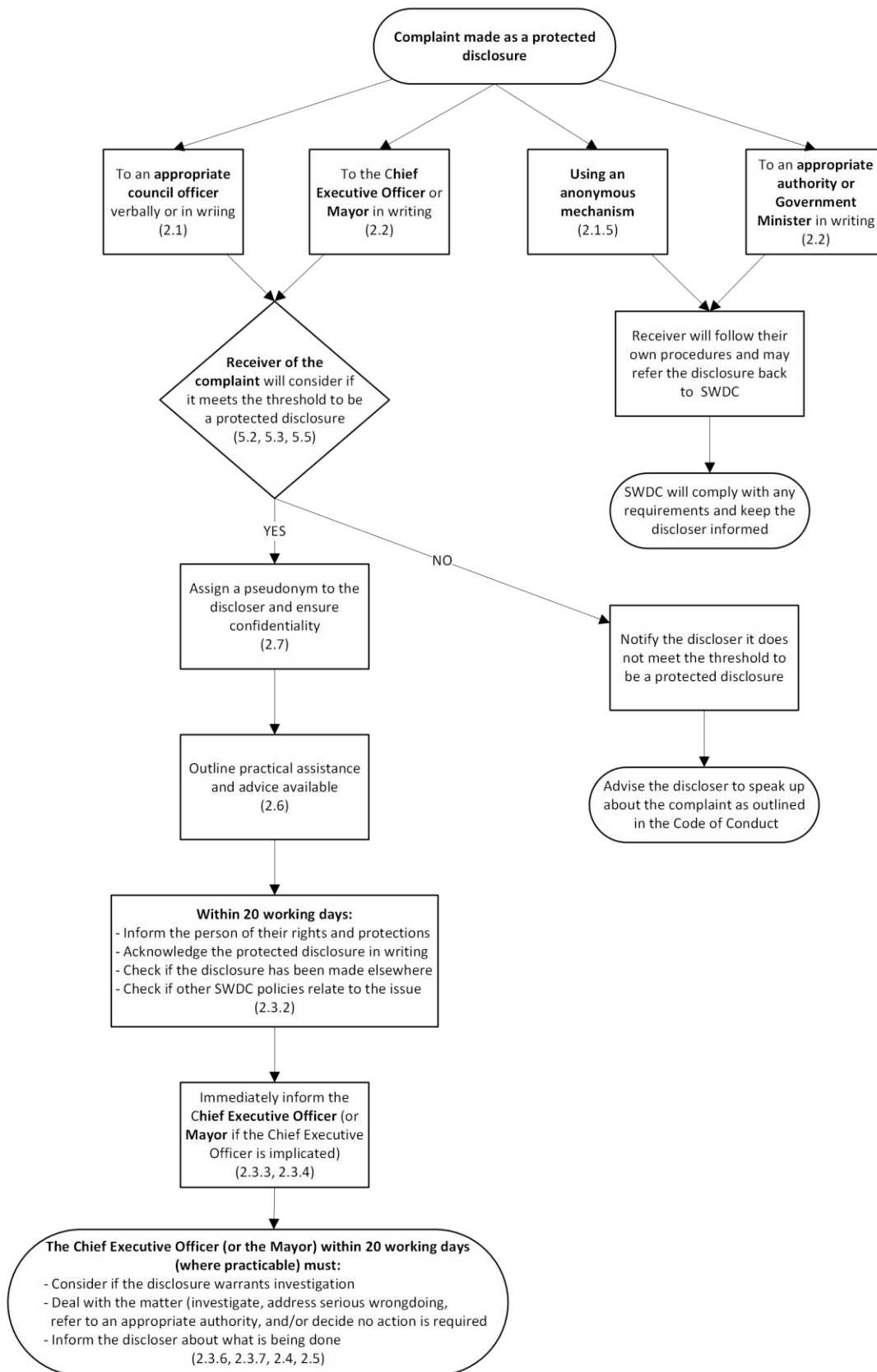
## 5. Associated Policies/Procedures

- Protected Disclosures Policy
- Code of Conduct for Council Employees
- Code of Conduct for Elected Members
- Standing Orders



# Schedule 1: Protected Disclosure Procedure Flow Chart

Please refer to the relevant section of the procedure for more details.



# Schedule 2: Protected Disclosure Form

## Section 1 – Summary of facts (to be completed by the Receiver)

Please describe the act, omission or misconduct in as much detail as possible. Consider what happened, and when and where the incidents occurred. Who was involved? Additional information can be attached.

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## Section 2 (To be signed by the Discloser)

I \_\_\_\_\_ agree that my reasonable belief concerning the alleged wrongdoing has been recorded above, that I understand the procedures which will be followed and that I consent to the investigation into the disclosure above proceeding.

This disclosure is made in good faith and on the understanding that I will not be liable to any civil or criminal proceeding or to disciplinary proceeding by reason of having made the disclosure and that no retaliatory action will be taken by my employer for making this disclosure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

ACTION	DATE
Disclosure Lodged	
Facts verified by Discloser (above)	
Investigation Completed	
Action Plan Initiated	
Discloser Informed of Outcome	