



19 August 2025

Tēnā koe

Official Information Act request

Thank you for your email of 30 July 2025 requesting the following information:

Please provide CultureShift NZ Ltd with MSD's offices policy/procedures for addressing Protected Disclosure cases that have been raised under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

I have considered your request under the Official Information Act 1982 (the Act).

The attached documents are released to you in full and provide you with:

- MSD's Disclosures and Protected Disclosures Policy
- MSD's Disclosures and Protected Disclosures Procedure

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

pp.

Anna Graham
General Manager
Ministerial and Executive Services

Speak Up: Disclosures and Protected Disclosures Policy

Last Review Date:	June 2025
Next Review Date:	June 2028
Approved by:	DCE Organisational Assurance and Communication
Owner:	Workplace Integrity

Purpose

1. The Ministry is committed to ensuring any wrongdoing is dealt with promptly and encourages its staff to speak up and raise any concerns.
2. The purposes of this policy are:
 - a. to inform Ministry staff as to how the Ministry will respond to concerns of wrongdoing within the Ministry, and to assure staff they can do so without fear of punishment or reprisal
 - b. to provide specific information as to how staff can make 'protected disclosures' about *serious* wrongdoing, and gain legislation-backed protections under the Protected Disclosures (Protection of Whistleblowers) Act 2022 ('the Act').

Introduction

3. The Ministry is committed to ensuring that all staff have a safe and effective means of speaking up and reporting their concerns about wrongdoing within the Ministry, whether the reported concerns are covered under the Act or not.
4. The Act promotes the public interest by helping organisations to create an environment that supports staff to speak up in relation to wrongdoing concerns that could damage the integrity of State services (commonly known as 'whistle blowing'). The Act also requires disclosures that meet the requirements ('protected disclosures') to be properly considered and acted upon within set timeframes.
5. This policy provides information and annexes the internal procedure for staff who wish to report wrongdoing concerns within or by the Ministry. All Ministry staff need to know about the operation of the Act and the protections that the Act provides.
6. While staff must use the internal procedures referred to in this policy, or as otherwise permitted by the Act, to report their concerns of wrongdoing within or by the Ministry, staff are encouraged to confidentially discuss any concerns they may have with their manager even if the staff member does not think their concern may amount to serious wrongdoing under the Act.
7. Where staff members raise issues which are not covered by the Act, they will still be dealt with although the Act and its protections may not apply.

8. The Office of the Ombudsman can be approached for further information and guidance about the Act. Details are:

Office of the Ombudsman
0800 802 602
info@ombudsman.parliament.nz
www.ombudsman.parliament.nz

9. This policy is issued in compliance with the Act and will apply from 1 July 2022.

Who can make a disclosure?

10. Any staff member, at any time, can speak up about wrongdoing within the Ministry and make a disclosure. This includes (whether current or former):
 - a. permanent or temporary employees;
 - b. homeworkers;
 - c. contractors;
 - d. consultants;
 - e. secondees to the Ministry; and
 - f. volunteers.
11. Where a staff member is participating in cross agency work, such as through a secondment to another agency, that staff member may raise concerns about wrongdoing (either within the affected agency or within the Ministry), through the channels provided to all Ministry staff members.

When is a disclosure a 'protected disclosure'?

12. Anytime a staff member speaks up the Ministry will endeavour to protect them from any negative impact. For 'protected disclosures', the Act provides a notifying staff member with specific protections.
13. A disclosure of information by a staff member will be a 'protected disclosure' under the Act if it meets all of the following criteria:
 - a. the notifying staff member believes on reasonable grounds that there is, or has been, 'serious wrongdoing' in or by the Ministry
 - b. the notifying staff member discloses information about that in accordance with the Act;
 - c. the notifying staff member does not disclose it in bad faith
14. Other staff members who disclose information in support of, or relating to, a protected disclosure will also be entitled to the protections of the Act (as if they had made a protected disclosure), provided that they:
 - a. do not disclose the supporting information in bad faith; and
 - b. make the supporting disclosure in accordance with the Act

15. For the avoidance of doubt, information that supports or is related to protected disclosure may not necessarily itself be about serious wrongdoing in the Ministry. Extra information that tends to support the original protected disclosure may be supporting information (for example, because it relates to a pattern of behaviour), even if it does not itself reveal any wrongdoing.

What is 'serious wrongdoing'?

16. Only disclosures that relate to potential 'serious wrongdoing' are capable of being treated as 'protected disclosures'.
17. 'Serious wrongdoing' is defined in the Act and includes any act, omission, or course of conduct in (or by) the Ministry that is:
- a. an offence;
 - b. a serious risk to public health, public safety, or the health or safety of any individual, or to the environment;
 - c. a serious risk to the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial;
 - d. unlawful, corrupt or irregular use of the public funds or resources
 - e. oppressive, unlawfully discriminatory, or grossly negligent, or that constitutes gross mismanagement
18. It does not matter when the serious wrongdoing is alleged to have occurred.
19. Examples of serious wrongdoing may include:
- a. covering up a crime or offence;
 - b. planting or making up evidence;
 - c. assaulting or coercing a Ministry client/staff;
 - d. engaging in conduct that poses a serious risk to the safety of clients, children, young people or the public;
 - e. selling client information;
 - f. widespread discriminatory practice;
 - g. unlawfully destroying official documents; and
 - h. using public funds for private expenses.

20. Concerns Ministry employees have about their employment relationship with the Ministry and rights and responsibilities under the Employment Relations Act 2000 should generally be raised in accordance with the terms of the employee's employment agreement and applicable HR policy¹. Consequently, such matters will not often be treated as a disclosure protected by the Act.

Disclosures by staff that are not protected under the Act

21. The protections under the Act will not be available to staff who:
- a. Do not have reasonable grounds to believe there is, or has been, serious wrongdoing, in or by the Ministry i.e. the allegation relates to an action which, if true, would constitute wrongdoing that does not amount to serious wrongdoing.
 - b. make allegations knowing them to be false or where they have acted in bad faith;
 - c. disclose information protected by legal professional privilege; or
 - d. disclose information to the media or a Member of Parliament who is not a Minister of the Crown.
22. **Note** if the notifying staff member making the protected disclosure subsequently discloses that information to the media or Members of Parliament who are not Ministers of the Crown, they will no longer be protected under the Act.
23. Staff can still make disclosures about wrongdoing, where the staff member has no reasonable grounds to believe that the conduct reaches the threshold of 'serious wrong-doing'. Such disclosures:
- a. are not 'protected disclosures' and will not have the protections of the Act.
 - b. should be raised (in accordance with the Ministry's Code of Conduct) with your Manager in the first instance.
24. Wrongdoing that could be the subject of such disclosures might include, for example, any staff member failing to act with honesty, integrity and respect or acting inconsistently with the Ministry's Code of Conduct.

¹ See [Your employment - HR policies - Doogle \(ssi.govt.nz\)](https://www.ssi.govt.nz/your-employment/hr-policies)

Protection of staff members making protected disclosures and disclosures

All Disclosures

25. The Ministry will endeavour to protect all staff members who make genuine reports of wrongdoing within the Ministry to the extent available under the law.

Protected Disclosures

26. If a staff member makes a 'protected disclosure' in accordance with the Ministry's internal procedure, or as otherwise permitted under the Act, they will have the benefit of specific protections under the Act. These protections are that the notifying staff member:
- a. cannot be dismissed, disadvantaged, or otherwise retaliated against in their employment because they have made or intend to make a disclosure;
 - b. may bring a personal grievance under the Employment Relations Act 2000 in respect of any retaliatory action (for example dismissal) from the employer;
 - c. cannot be treated less favourably, or otherwise victimised because they have made or intend to make a disclosure (and are protected under the Human Rights Act 1993 from such);
 - d. has immunity from civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred a disclosure; and
 - e. can expect confidentiality unless exceptional circumstances apply (see "Confidentiality of protected disclosures", below).

Support available for staff making disclosures

27. If staff members require practical assistance or advice about making a disclosure (whether protected or not), they should seek advice from a manager. However, in relation to staff seeking to make a protected disclosure, this must be done on a strictly confidential basis, and only for the purpose of seeking advice about whether or how to make the disclosure. Failure to do so, may mean the staff member does not qualify for the protections provided for by the Act.
28. If staff members require emotional support or counselling they should seek advice from their Manager, a member of the Human Resources team or they can access the Ministry's Employee Assistance Programme (**EAP**). EAP is a confidential service. The details of EAP are on the Ministry's Doogle intranet.
29. If any staff member believes that they have experienced any retaliatory action because of making a protected disclosure, we recommend the staff member seeks independent legal advice.

Confidentiality of protected disclosures

30. The Ministry will use its best endeavours to keep information that might identify staff who raise protected disclosures ("identifying information") confidential, except where:
- a. the staff member consents to the release of that information; or
 - b. there are reasonable grounds to believe that the release of the identifying information is essential:
 - i. for effective investigation of the disclosure; or
 - ii. to prevent a serious risk to public health, public safety, the health or safety of any individual, or the environment; or
 - iii. to comply with the principles of natural justice; or
 - iv. to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement
31. Where the Ministry is considering releasing identifying information about a discloser it will:
- a. consult with the staff member before the information is released, unless it is impracticable to do so where release is essential:
 - i. to prevent a serious risk to public health, public safety, the health or safety of any individual, or the environment; or
 - ii. to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement
 - b. In all cases, inform the staff member after the information is released.
32. In the interests of natural justice, the information disclosed, and any other information uncovered by the investigation, will usually be given to the alleged wrongdoer (if any) for their response. Information that identifies the discloser will be withheld except to the degree that the above circumstances in paragraph 30 apply.
33. To maintain confidentiality, the Ministry will ensure that identifying information will only be accessible to those receiving, advising on, or making decisions about, the protected disclosure. Information received or collected during any investigation will be stored in a secure part of the Ministry's information management system.

Official Information Act

34. The Ministry must refuse a request for information under the Official Information Act 1982 if the information might identify the discloser of a protected disclosure.

Anonymous Disclosures

35. If a staff member wishes to make a protected disclosure anonymously, they should seek guidance and information from the Ombudsman as to how to do so.

How to make a disclosure or protected disclosure?

36. Any staff member who wishes to make a disclosure or protected disclosure should do so using the "Disclosures and Protected Disclosures procedure" annexed to this Policy.

Appendix

- **Appendix 1: Disclosures and Protected Disclosures procedure**

Speak Up

Disclosures and Protected Disclosures Procedure

Introduction:

1. The Ministry wants any staff member who wishes to raise genuine concerns of wrongdoing within the Ministry to do so without fear of punishment or reprisal. The Ministry will treat all concerns seriously.
2. This procedure informs staff as to how and to whom they should raise concerns of "serious wrongdoing" where they wish for their disclosure to be treated as a "protected disclosure", and gain the protections of the Protected Disclosures (Protection of Whistleblowers) Act 2022 ("the Act").
3. Further guidance on the definitions of "protected disclosures", "serious wrongdoing", and the protections of the Act, are set out in the Ministry's Speak Up: Disclosures and Protected Disclosures Policy. Any staff member wishing to make a disclosure should first refer to this policy.
4. 'Chief Executive' means either the Chief Executive personally, the Director of the Chief Executive's Office or nominee.

Not looking to make a protected disclosure?

5. If you do not wish for your disclosure to be a protected disclosure under the Act, or your concerns do not relate to serious wrongdoing, your disclosure should be raised (in accordance with the Ministry's Code of Conduct) with your Manager in the first instance.

Not sure?

6. If, having read this procedure, you are unsure about whether you should engage with the Protected Disclosures Procedure, or to whom you should be making a disclosure if you do, you can discuss it with a person you trust.
7. However, this **must** be done on a confidential basis, and only for the purpose of seeking advice about whether or how to make the disclosure. Failure to do so, may mean you do not qualify for the protections provided for by the Act.

How to make a disclosure

8. Subject to seeking advice where you are unsure as per paragraph 6 above, where you want your concerns to be considered as a protected disclosure you must make the disclosure only to the persons specified below. Making the disclosure more widely may mean that the disclosure does not qualify as a protected disclosure under the Act:

Who to disclose to within the Ministry

9. A protected disclosure can be made to the Chief Executive, the Chief Executive's Office, any Deputy Chief Executive, your Group General Manager, General Manager, Regional Commissioner or Regional Director.
10. If for any reason you are concerned about making a protected disclosure to your Group General Manager, General Manager or Regional Commissioner (for example the allegation you are making involves that person) you can make your disclosure directly to a Deputy Chief Executive, the Director of the Chief Executive's Office or Chief Executive.
11. All protected disclosures made within the Ministry will be forwarded to the Chief Executive's Office who will oversee the Ministry's response to the disclosure in accordance with this Procedure.

Who to disclose to outside of the Ministry

12. If for any reason you are concerned about making a disclosure within the Ministry (for example, because the allegation you are making involves the Chief Executive) then you can make your disclosure to an external person, provided they are an "appropriate authority" under the Act.
13. An appropriate authority under the Act includes:
 - a. the head of any public sector organisation; and
 - b. any officer of Parliament (e.g., the Ombudsman and the Auditor-General); and
 - c. the persons or bodies listed at Appendix 1 of this Procedure; and
 - d. the membership body of a particular profession, trade, or calling with the power to discipline its members;
14. Note that appropriate authority does not include a Minister or Member of Parliament.
15. This procedure relates to how the Ministry will respond to your disclosure. Information about how appropriate authorities will consider your disclosure can be obtained from those authorities directly.

What to include in your disclosure

16. We ask that your disclosure be in writing, and include the following information:
 - a. That you wish for the disclosure to be considered as a protected disclosure
 - b. The nature of the serious wrongdoing
 - c. The name or names of people involved
 - d. Surrounding facts including details relating to the time and/or place of the wrongdoing
 - e. Relevant evidence supporting the allegations
 - f. Whether you have already made a protected disclosure about the matter elsewhere, and the outcome (if applicable) (for example, you may have already made a protected disclosure to an "appropriate authority")
 - g. Whether you have particular concerns about anyone involved in the protected disclosures procedure accessing the information relating to your disclosure
 - i. For example, if you have made a disclosure directly to the Chief Executive because you have concerns about your General Manager's involvement in (or association with) the serious wrongdoing, this should be made clear)

What happens after the disclosure is made?

17. Within 20 working days of your disclosure being received, the Ministry will:
 - a. Acknowledge to you the date your disclosure was received (and, if your disclosure was made orally, summarise its understanding of the disclosure);
 - b. Consider the disclosure and whether it warrants investigation (see "How your disclosure is considered by the Ministry");
 - c. Update the Deputy Chief Executive responsible for the area to which the disclosure relates
 - d. Check with you as to whether the disclosure has been made elsewhere (and any outcome);
 - e. Deal with the matter (if it is practicable to do so within this timeframe), by:
 - i. Investigating the matter
 - ii. Addressing any serious wrongdoing by acting or recommending action
 - iii. Referring the disclosure to an appropriate authority
 - f. Inform you as to what the Ministry has done, or is doing to deal with the matter (with reasons)
18. If it is impracticable to deal with the matter within this 20 working day period then, while (a)-(c) will still be done within the 20 working day period, the Ministry will then:
 - a. Inform you of the time the Ministry expects to take to deal with the matter;
 - b. Appropriately update you about progress;
 - c. Deal with the matter; and
 - d. Inform you as to what the Ministry has done, or is doing to deal with the matter (with reasons)
19. Where you believe on reasonable grounds that the Ministry has not done what it should have done (per [17]-[18] above), you will have the option to make a further disclosure (see "Making a Further Disclosure", below).

How your disclosure is considered by the Ministry

20. When you make a disclosure to a person within the Ministry, the matter will be assessed by advisors nominated by the Chief Executive for that purpose. Advice may be sourced from Workplace Integrity, MSD Legal, the People Group and other relevant specialist advisors. The advisors will consider the circumstances of the disclosure, what other, if any, Ministry policies may be engaged by the disclosure, and provide advice to the Chief Executive as to whether the disclosure constitutes a protected disclosure under the Act and warrants investigation as such.
21. The Chief Executive will ultimately decide whether the disclosure constitutes a protected disclosure and warrants investigation as such, based on the report from advisors.

What will be the outcome of making a disclosure?

22. As a result of the Chief Executive's decision, there are three possible outcomes:
 - a. The disclosure will be investigated as a protected disclosure;
 - b. The disclosure will not be investigated as a protected disclosure; or
 - c. The disclosure will be referred to an appropriate authority.

The disclosure is investigated as a protected disclosure

23. Where the Chief Executive determines that the disclosure needs to be investigated as a protected disclosure under the Act, they will consult appropriately to determine who will carry out the investigation into the disclosure.
24. A person will be appointed by the Chief Executive to conduct the investigation based on:
 - a. Whether the person is suitably qualified to investigate the alleged serious wrongdoing; and
 - b. Sufficiently independent from the circumstances giving rise to the alleged serious wrongdoing.
25. Multiple protected disclosures that relate to the same or similar claim of 'serious wrongdoing' may be the subject of single investigation by a single investigator.
26. If the investigation reveals that 'serious wrongdoing' has occurred, appropriate action will be taken, and you will be advised of this and the reasons for it. This could include the Ministry implementing appropriate procedures, improving current procedures or disciplinary action may be taken against the staff member(s) concerned.
27. If the investigation reveals no 'serious wrongdoing' the issue will still be dealt with as a disclosure of wrongdoing in the usual way according to existing Ministry policies and procedures.

The disclosure is not investigated as a protected disclosure

28. The Chief Executive may decide that the disclosure is not to be investigated as a protected disclosure where they determine:
 - a. The criteria for "discloser", "protected disclosure", or "serious wrongdoing" are not satisfied; or
 - b. It is no longer practicable or desirable to investigate the matter, due to the length of time between the alleged serious wrongdoing and the disclosure; or
 - c. The matter is better addressed by other means
29. Where the Chief Executive decides that no action is required you will be notified in writing of that decision, and the reasons for it.
30. You will also be advised as to what other action, if any, the Chief Executive intends to take in respect of the matter as the matter may still warrant investigation or action, even if it is not a protected disclosure.

The protected disclosure is referred to an appropriate authority

31. Where the Chief Executive has determined that the disclosure is to be treated as a protected disclosure, the Chief Executive may refer the disclosure to an appropriate authority under the Act; this may occur:
 - a. When the information disclosed can more suitably and conveniently be investigated by that appropriate authority; or
 - b. As an outcome of the Ministry's investigation into the matter
32. Referral to another public sector agency will be considered where the protected disclosure relates to that agency.

33. Before any referral occurs, you will be consulted (along with the appropriate authority).
34. Where a referral occurs, your disclosure will continue to be protected under the Act.

Making a further disclosure

35. Where you have raised a protected disclosure in accordance with the Act, you have the right to make a further disclosure to a Minister if you believe on reasonable grounds either that:
 - a. The Ministry has not acted as it should (per the steps in [17]-[18], above); or
 - b. The Ministry has not dealt with the matter so as to address the serious wrongdoing
36. Note that, under the Act, you are always able to make a protected disclosure (or further disclosure) to an appropriate authority.

The Ombudsman

37. Where you make a protected disclosure, or a further disclosure, to the Ombudsman; or where you complain to the Ombudsman about how the Ministry has dealt with your disclosure, the Ombudsman may choose to investigate the Ministry's actions under the Ombudsmen Act 1975.
38. The Ombudsman's inquiries will be managed through Ministerial and Executive Services, in accordance with the usual processes. However, to maintain the confidentiality of those involved, access to the records and responses will be restricted to Manager Client Advocacy and Review, and General Manager Ministerial and Executive Services.

Appendix 1

Examples of concerns and examples of appropriate authorities

Nature of concerns	Appropriate authority
Anticompetitive conduct	Commerce Commission
Banks (registered banks)	Reserve Bank of New Zealand
Bullying or harassment, including sexual harassment	WorkSafe New Zealand (where work-related)
Charities	Department of Internal Affairs Solicitor-General
Child welfare and child protection	Oranga Tamariki – Ministry for Children Ombudsman
Consumer protection	Commerce Commission
Crime	Commissioner of Police Director of the Serious Fraud Office
Discrimination	Human Rights Commission
Education service	Ministry of Education Education Review Office
Energy safety	WorkSafe New Zealand (where work-related)
Environment	Ministry for the Environment Department of Conservation
Financial reporting (private sector–issuers and large companies)	Financial Markets Authority
Financial reporting (public sector)	Controller and Auditor-General
Financial service providers' conduct	Financial Markets Authority
Health	Ministry of Health

Nature of concerns**Appropriate authority**

Health and Disability Commissioner

Health and safety (work-related)

Ministry of Business, Innovation, and Employment
Worksafe New Zealand

Housing

Ministry of Housing and Urban Development
Ombudsman

Insurers (licensed insurers)

Reserve Bank of New Zealand

Intelligence and security or classified information

Inspector-General of Intelligence and Security only (see **section 25**)

International relations

Ombudsman only (see **section 26**)

Local Government

Ombudsman
Controller and Auditor-General
Department of Internal Affairs

Police

Commissioner of Police
Independent Police Conduct Authority

Privacy of individuals or security of personal information

Privacy Commissioner

Professional or trade conduct

Ministry of Business, Innovation, and Employment

Prosecutions

Solicitor-General

Public sector

Ombudsman
Controller and Auditor-General

Public service

Public Service Commission

Racism

Human Rights Commission

Sector regulation

Commerce Commission

Social support or benefits

Ombudsman

State services

Public Service Commission

Nature of concerns**Appropriate authority**

The Treasury (for State-owned enterprises, Crown companies, and organisations named or described in Schedule 4 of the Public Finance Act 1989)

Transport and transport safety issues

Ministry of Transport

Whistleblowing and protected disclosures

Ombudsman

Work health and safety

Ministry of Business, Innovation, and Employment
WorkSafe

RELEASED UNDER THE
OFFICIAL INFORMATION ACT