

# Yachting New Zealand Protected Disclosures Policy

<b>Review Protocol</b>	Policy Reviewed By:	Yachting New Zealand Board
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## 1. PURPOSE

The Protected Disclosures (Protection of Whistleblowers) Act 2022 and this policy provide protections for employees who follow the approach set out in this policy to disclose information about serious wrongdoing within Yachting New Zealand.

The Act provides an employee immunity from civil and criminal proceedings where they have made a protected disclosure or referred concerns about serious wrongdoing to an appropriate authority for investigation, unless the information is legally privileged. Employees who do so are also protected from retaliation or victimisation.

The purpose of this policy is to:

- comply with the Protected Disclosures (Protection of Whistleblowers) Act 2022
- provide a procedure for making and dealing with protected disclosures.

## 2. APPLICATION

A disclosure of information will be a protected disclosure if:

- the information is about a serious wrongdoing in or by Yachting New Zealand
- 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
- the employee wishes the disclosure to be protected.

This policy applies to all employees (also referred to as Disclosers) of Yachting New Zealand.

Any other employee of Yachting New Zealand who voluntarily provides supporting information to the Discloser, or anyone involved in investigating it, will be provided with the same protections.

If the issue relates to conduct in the workplace, this should be raised in accordance with Yachting New Zealand's [e.g. Bullying and Harassment, Complaints] policies.

If Yachting New Zealand fails to take appropriate action in relation to an employment issue, this may give rise to a personal grievance.

If an employee raises a protected disclosure and employment issues, the employment issues will be dealt with through the relevant process, separate from the protected disclosure process. They may be dealt with at the same time.

## 3. DEFINITIONS

**Appropriate authority**

An appropriate authority is any of the following:

- Commissioner of Police
- Controller and Auditor-General
  
- Director of the Serious Fraud Office
- Inspector-General of Intelligence and Security
- Ombudsman
- Parliamentary Commissioner for the Environment
- Independent Police Conduct Authority
- Solicitor-General
- State Services Commissioner
- Health and Disability Commissioner
- head of any public sector organisation
- a private sector body comprising members of a particular profession or calling, having the power to discipline its members.

Ministers of the Crown, Members of Parliament (MPs) or media organisations are not an ‘appropriate authority’ for the purposes of a disclosure. A disclosure made to an MP or to the media can never be a protected disclosure.

### **Employee**

For the purposes of the Act and this policy, an ‘employee’ includes:

- a current or former employee of Yachting New Zealand
- a home worker
- a person seconded to Yachting New Zealand
- an individual engaged or contracted under a contract for services to do work for Yachting New Zealand
- a person concerned in the management of Yachting New Zealand (including a member of a Board or governing body) or
- a person who is engaged by Yachting New Zealand as a volunteer.

### **Receiver**

Receiver means the person receiving an internal protected disclosure, being the Chief Executive Officer, or the Chair of the Board of Yachting New Zealand.

### **Retaliation**

Retaliation means suffering some adverse decision or action by any person on behalf of Yachting New Zealand because an employee has made or intends to make a disclosure.

Employees of Yachting New Zealand who experience retaliation will have grounds for a personal grievance under the Employment Relations Act 2000.

### **Serious wrongdoing**

Serious wrongdoing includes an act, omission or course of conduct that is:

- an offence
- a serious risk to public health or public safety or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences or the right to a fair trial
- an unlawful, corrupt or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent, or constitutes gross mismanagement by persons discharging public powers or functions.

### **Victimisation**

Victimisation means the Discloser has suffered disadvantage or been threatened with suffering disadvantage either in the workplace or access to services provided by Yachting New Zealand because they have made, intend to make, or have assisted the making of a disclosure under this policy.

Any person who experiences victimisation in these circumstances can make a claim of victimisation under the Human Rights Act 1993.

## **4. ALTERNATIVE REPORTING PROCEDURES**

If an employee's concern does not fall within the definition of 'serious wrongdoing', or they do not want the protections, or to follow this process, the employee may have other options for bringing the information to Yachting New Zealand's attention.

Yachting New Zealand has other policies and procedures which may apply, for example:

- YNZ Discrimination, Harassment, Bullying and Victimisation Prevention Policy
- YNZ Reporting Concerns Policy
- YNZ Anti Match Fixing and Sport Betting Policy.

## **5. PROCEDURE FOR PROTECTED DISCLOSURES**

### **Making a protected disclosure**

If an employee reasonably and genuinely believes there has been serious wrongdoing by or within Yachting New Zealand, they should immediately report it. The sooner something of serious concern is raised and investigated, the better.

Protected disclosures should be made in writing (and can use the Reporting Form available on the [Sport NZ website](#)) and must be provided to:

- the Chief Executive or
- if the Chief Executive is or may be involved in the serious wrongdoing or is close to the people involved in the serious wrongdoing, the Chair of the Board.

### **Confidentiality**

Yachting New Zealand will use its best efforts to keep the Discloser's identity confidential, unless:

- the Discloser consents in writing to their identity being disclosed
- Yachting New Zealand reasonably believes disclosing the Discloser's identity:
  - a) is essential to the investigation by it, law enforcement or regulatory agencies, of the allegations in the protected disclosure

- b) is essential to prevent serious risk to public health or public safety or the health or safety of any individual or the environment
- c) is required for a fair process to be followed.

### **Receiving a protected disclosure**

Whichever Receiver is approached, the same process will be followed.

If the disclosure is not made in writing, the Receiver will discuss the information with the Discloser (face-to-face, by phone or email) and record it in writing. The information will then be checked with the Discloser to ensure its accuracy.

### **Acknowledgement and assessment**

Within twenty working days of receiving a notification, the Receiver will write to the Discloser to:

- acknowledge receipt and the date of receipt
- consider whether the disclosure warrants investigation
- check with the Discloser whether the disclosure has been made elsewhere (and any outcome).

The Receiver will also make best endeavours to deal with the matter within those twenty days by doing any one or more of the following:

- investigating the disclosure
- taking or recommending action to address a serious wrongdoing
- seek the Discloser's views on referral of the disclosure to another organisation
- decide that no action is required, giving reasons
- advise the Discloser of any other process or policy which may apply.

If, after twenty days, the Receiver is unable to complete dealing with the disclosure, the receiver will at that point inform the discloser how long they expect to take and thereafter keep the Discloser appropriately updated and informed of the selected course of action and reasons.

If a complaint is not a protected disclosure, Yachting New Zealand will not retaliate against any person who raises a genuine concern and reasonably believes the information to be true.

### **Investigating a disclosure**

Where a protected disclosure warrants investigation, the process will vary, depending on: the nature of the serious wrongdoing alleged; the information provided by the Discloser; the particular circumstances of the allegation and the people involved.

The following principles will apply to an investigation:

- Confidentiality will be maintained to the fullest extent possible.
- The process will be undertaken and completed as soon as possible.
- A fair, reasonable and respectful approach will be taken in relation to the Discloser, the person(s) the disclosure relates to, and any person involved in the process as a witness.
- The investigation will be as thorough as necessary to determine the truth of the disclosure.
- The process will involve only those most likely to have information relevant to determining the truth of the disclosure.
- Full written records will be kept.
- The person investigating the disclosure will have access to all relevant documents and information held by Yachting New Zealand.
- All people involved may rely on a family/whānau support person to represent or assist them.

- A thorough report will be prepared, setting out the process, findings and conclusions. The report must state:
  - a) serious wrongdoing has been established; or
  - b) serious wrongdoing has not been established; or
  - c) the investigation has identified less serious matters of concern, with recommendations for appropriate action by Yachting New Zealand

The Chief Executive or Chair of Board will decide on the appropriate next steps.

### **Dealing with serious wrongdoing**

If serious wrongdoing is found to have occurred, whether or not an investigation is required, further processes may be started, which can include disciplinary action, internal or external audit, or a complaint to the Police.

Where less serious matters of concern are identified, appropriate action may include: disciplinary action, counselling, or training in order to decrease the likelihood of the issue occurring again.

## **6. DISCLOSURE TO AN APPROPRIATE AUTHORITY**

An employee may make a disclosure to an appropriate authority at any time including where a protected disclosure has already been made to Yachting New Zealand yet there has been no action or recommendation taken.

## **7. REFERENCE**

Further information regarding protected disclosures can be found:

[Protected Disclosures Act 2022](#)

[Ombudsman: Guide to Protected Disclosures / Whistleblowing](#)