

Protected Disclosures (Protection of Whistleblowers) Policy

Team/Directorate	Assurance and Risk
Approved/Adopted by	Council
Effective date	12 December 2024
Next review	12 December 2027

1. PURPOSE

The purpose of the Protected Disclosures (Protection of Whistleblowers) Policy (this policy) is to:

- define serious wrongdoing,
- provide procedures for disclosing alleged serious wrongdoing in compliance with the Protected Disclosures (Protection of Whistleblowers) Act 2022, which requires public sector organisations to have an internal procedure in which employees can disclose alleged serious wrongdoing,
- provide clarity about how to disclose an alleged serious wrongdoing,
- outline how people who report alleged serious wrongdoing will be protected,
- set out responsibilities for investigating alleged serious wrongdoing.

2. OVERVIEW

Queenstown Lakes District Council (the Council) is committed to fostering an environment where the rights and interests of whistleblowers are protected. This policy outlines the Council's position on protected disclosures, also known as whistleblowing, and provides information on how to make a disclosure, how disclosures will be managed and investigated, and the protections available to whistleblowers.

This policy supports the Council's commitment to integrity, ethical behavior, and accountability. It encourages the reporting of alleged serious wrongdoing, provides avenues for such reporting, and aims to ensure that those who disclose alleged wrongdoing are treated fairly and do not suffer detriment.

3. DEFINITIONS

Term	Definition
Act	In this policy, 'Act' refers to the Protected Disclosures (Protection of Whistleblowers) Act 2022.
Discloser	Any person to whom this Policy applies (as provided in Section 4).
Fraud	Fraud is defined in accordance with the Fraud Policy .
Protected disclosure	<p>A disclosure of information is a protected disclosure if the discloser:</p> <ul style="list-style-type: none"> • believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the discloser's organisation; and • discloses information about that in accordance with the Act; and • does not disclose it in bad faith.
Serious wrongdoing	<p>Serious wrongdoing includes any act, omission, or course of conduct in (or by) the Council that is one or more of the following:</p> <ul style="list-style-type: none"> • an offence • a serious risk to public health, or public safety, or the health or safety of any individual, or the environment • a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences • fraud • oppressive, unlawfully discriminatory, grossly negligent, or gross mismanagement. <p>Serious wrongdoing is not:</p> <ul style="list-style-type: none"> • Something that is not unlawful or offensive but which you may not approve of. • Something which may constitute a dispute or personal grievance in your employment, but does not reach the threshold of serious wrongdoing. <p>Not sure?</p> <p>If you are not sure whether a matter may constitute serious wrongdoing, you may still make a disclosure under this Policy. The person responsible for reviewing your disclosure can determine whether or not the alleged conduct constitutes serious wrongdoing.</p>
Council	Means the Queenstown Lake District Council (QLDC)

Receiver	Means the Internal Audit Manager, Assurance and Risk Manager, QLDC Chief Executive, General Managers, Seniors Managers, Independent Whistleblower Supplier.
Council Employee	Means current, former and temporary employees.

4. SCOPE

This policy applies to:

- Council employees including former employees of QLDC,
- Elected Members,
- Any person engaged or contracted directly by the Council, or employed by an entity contracted under a contract for goods, services, and/or works,
- any person who is engaged as a volunteer for Council.

5. MAKING DISCLOSURES

When should a disclose be made?

A disclosure should be made when a discloser is aware of alleged serious wrongdoing involving the Council. This includes actions that may: be an offense, pose a serious risk to public health, safety, or the environment, endanger the enforcement of laws (e.g., fraud), Involve gross mismanagement or unlawful discrimination.

If a discloser is unsure, a disclosure can still be made. The responsible person will review the disclosure and determine if it qualifies as serious wrongdoing. For a full definition of serious wrongdoing, refer to Section 3 of this Policy.

Why should a disclose be made?

Disclosing alleged serious wrongdoing helps uphold the Council's commitment to integrity, ethics, and accountable behaviour.

What protection will be provided to a discloser?

Anyone making a protected disclosure, is entitled to:

- **Confidentiality:** Every effort will be made to maintain the confidentiality of a discloser's identity, in accordance with legislative protections.
- **Protection from retaliation:** A discloser cannot be treated unfairly or threatened for making a disclosure.
- **Immunity:** A discloser is protected from civil, criminal, or disciplinary actions related to your disclosure.



More details about protections can be found in Section 7 of this Policy.

5.1 EMPLOYEES AND VOLUNTEERS

Use Council's management lines first.

In general, normal management reporting lines will be appropriate for reporting alleged serious wrongdoings. In most instances a discloser will be able to achieve a satisfactory outcome by reporting the alleged serious wrongdoing to their own Manager, the General Manager of their Directorate, Assurance and Risk Manager, or other senior Manager. For volunteers, the Council's contact point should be used for reporting.

However, there may be occasions when an employee or volunteer may believe on reasonable grounds that utilising the previously mentioned reporting channels could result in one of the following scenarios:

- The issue remains unresolved or escalates into a more serious wrongdoing.
- They face retaliatory measures.
- The Manager designated to receive the disclosure is implicated or closely linked to those involved in the alleged serious wrongdoing.

If any of the above circumstances apply the employee or volunteer can make use of the alternative internal procedure for making a disclosure outlined below.

- Direct an email to protected.disclosure@qldc.govt.nz, or
- Direct an email to the [QLDC Chief Executive](#), or
- Direct an email to the [People and Capability Director](#), If the alleged serious wrongdoing is related to bullying or harassment, including sexual harassment, or
- Direct an email to speakout@hrassociate.co.nz, the Independent Whistleblower Supplier.

5.2 ELECTED MEMBERS AND CONTRACTED PARTIES

Use Council's management first.

In general, Council's internal management channels will be appropriate for reporting alleged serious wrongdoings. In most instances a discloser will be able to achieve a satisfactory outcome by reporting the alleged serious wrongdoing to Council's General Managers, the Assurance and Risk Manager, or another senior Manager within Council.

However, there may be occasions when an elected member or contracted party may believe on reasonable grounds that utilising the previously mentioned reporting channels could result in one of the following scenarios:

- The issue remains unresolved or escalates into a more serious wrongdoing.
- They face retaliatory measures.

- The Manager designated to receive the disclosure is implicated or closely linked to those involved in the alleged serious wrongdoing.

If any of the above circumstances apply the discloser can make use of the alternative internal procedure for making a disclosure outlined below.

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5.3 ESCALATION

Where an employee, volunteer, elected member, or contracted party believes on reasonable grounds either that the Council's internal management or the people outlined in the alternative's procedure are or may be involved in the alleged serious wrongdoing or are closely associated with the people involved in the alleged serious wrongdoing, the discloser may make the disclosure to an outside authority (see below).

5.4 DISCLOSURE TO AN OUTSIDE AUTHORITY (EXTERNAL DISCLOSURE)

All the individuals covered by this policy may be protected by the Act when making disclosure to an 'appropriate authority' outside QLDC where the person believes on reasonable grounds:

- that Council's internal management lines (General Managers, Assurance and Risk Manager, other senior Managers) are or may be involved in the alleged serious wrongdoing;
- QLDC's Chief Executive, Internal Audit Manager, Independent Whistleblower Supplier are or may be involved in the alleged serious wrongdoing;
- that immediate reference to an 'appropriate authority' (as defined below) is justified by the urgency of the matter or some other exceptional circumstances; or
- there has been no action or recommended action on the matter to which the disclosure relates within 20 working days of the discloser having made the disclosure in accordance with Council's internal procedure.

Appropriate Authority

The discloser may choose the authority or authorities most relevant to the nature of the alleged serious wrongdoing that is disclosing. The Act provides that an 'appropriate authority', without limiting the meaning of that term, includes:

- the head of any public sector organisation; and
- any officer of Parliament; and

- (as examples) the persons or bodies listed in the second column of Schedule 2 - Protected Disclosures (Protection of Whistleblowers) Act 2022; and
- includes the membership body of a particular profession, trade, or calling with the power to discipline its members.

The Act specifically states that 'appropriate authority' does not include a Minister of the Crown or a member of Parliament. Similarly in a local government context elected members or the Mayor should not be considered an 'appropriate authority.'

QLDC as an appropriate authority

In some circumstances, QLDC may be an appropriate authority, as defined in the Act, which is able to receive protected disclosures relating to alleged serious wrongdoing in respect of other organisations. Any disclosure of this nature that is received will be dealt with in accordance with the relevant statutory requirements.

6. TREATING DISCLOSURES

GUIDANCE: WHAT COUNCIL SHOULD DO

The steps outlined below detail the process and estimated timeline for investigating an alleged serious wrongdoing disclosure, as specified in the Serious Wrongdoing Guidance.

1. Acknowledge Receipt and Verify Details (*Within 3 Working Days*)

Upon receiving the disclosure, the receiver should contact the discloser using their preferred communication channel to:

- Acknowledge the date the disclosure was received.
- Summarise the receiver's understanding of the disclosure if it was made orally.
- Verify whether the disclosure has been made elsewhere and inquire about any outcomes.
- Gather all necessary details about the alleged serious wrongdoing.

2. Evaluate the Disclosure (*Within 5 Working Days*)

Evaluate the disclosure to determine if it warrants further investigation. If it is determined that an investigation is not warranted, proceed to Step 4.

3. Address the Disclosure (*Within 18 Working Days*)

Take appropriate action to address the disclosure by:

- Conducting an investigation personally or forming an investigation team.
- Addressing any alleged serious wrongdoing by taking or recommending corrective actions.
- Referring the disclosure to the appropriate authority under section 16 of the Act.
- Deciding that no action is required, in line with section 15 of the Act.



4. Inform the Discloser (*Within 20 Working Days*)

Inform the discloser of the actions taken or planned to address the matter, providing reasons for these actions. This should be done within 20 working days of receiving the disclosure.

However, when it is impracticable to complete these actions within 20 working days, the receiver should do the actions described above and then should:

- Inform the discloser how long the receiver expects to take to deal with the matter.
- Appropriately update the discloser about progress.
- Inform the discloser (with reasons) about what the receiver has done or is doing to deal with the matter in accordance with the section above (Step 3).

This section is guidance only. It does not confer a legal right (apart from the entitlements under sections 14, 32, and 33 of the Act) or impose a legal obligation on any person that is enforceable in a court of law.

7. PROTECTION

7.1 DISCLOSURES THAT ARE NOT PROTECTED

A disclosure is not protected if:

- the discloser knows the allegations are false,
- the discloser acts in bad faith,
- the information being disclosed is protected by legal professional privilege.

7.2 PROTECTION PROVIDED

If a discloser makes a protected disclosure of information in accordance with the Section 6 of this policy or refers a protected disclosure of information to an appropriate authority for investigation, the person is entitled to: confidentiality, not to be retaliated against or treated less favourably, and immunity from civil, criminal and disciplinary proceedings.

Confidentiality

Receivers of a protected disclosure must use their best endeavours to keep confidential information that might identify the discloser.

The exceptions are if the discloser consents to the release of the identifying information, or if there are reasonable grounds to believe that the release of the identifying information is essential:

- for the effective investigation of the disclosure; or
- to prevent a serious risk to public health, public safety, the health and safety of any individual, or the environment; or
- to comply with the principles of natural justice, or

- to an investigation by a law enforcement or regulatory agency for the purposes of law enforcement

The Act provides that disclosers must be consulted in these cases (if practicable in respect of serious risk to public health, public safety, the health and safety of any individual, or the environment; or to an investigation by a law enforcement or regulatory agency for the purposes of law enforcement).

The Ombudsman can provide advice to disclosers considering making an anonymous disclosure.

The release of information that might identify a discloser in breach of these provisions means a complaint may be made under the Privacy Act 2020 for interference with privacy. As a result, the Privacy Commissioner may undertake an investigation.

A receiver must refuse a request for information if that information might identify the discloser of a protected disclosure – under the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987

Obligations not to retaliate or treat less favourably

QLDC must not retaliate or threaten to retaliate against an employee because the employee intends to make or has made a protected disclosure. If this occurs the employee has a personal grievance under the Employment Relations Act 2000. Retaliate means to dismiss the employee, treat the employee less favourably than other similar employees, or subject them to any detriment or disadvantage.

A discloser, or someone who supports the discloser, who is treated less favourably than others in the same or similar circumstances may be able access the anti-victimisation protections in the Human Rights Act 1993. This applies to all types of disclosers, including persons not covered by the Employment Relations Act.

Immunity from civil, criminal and disciplinary proceedings

Neither a discloser who makes a protected disclosure, nor a receiver who refers the disclosure, under the Protected Disclosures (Protection of Whistleblowers) Act 2022 is liable to any civil, criminal or disciplinary proceeding because of making or referring the disclosure. This applies even if there is a prohibition or restriction on disclosing the information such as in any contract, agreement, procedure or practice (except where the information is covered by legal professional privilege).

These protections only apply to making the disclosure. Action can still be taken against a discloser if they were involved in the wrongdoing.

8. RELEVANT LEGISLATION

- Employment Relations Act 2000
- The Protected Disclosures (Protection of Whistleblowers) Act 2022
- Local Government Act 2002
- Local Government Official Information and Meetings Act 1987
- Ombudsmen Act 1973
- Privacy Act 2020

Note: Any legislation referred to should be interpreted as meaning the Act and its amendments.

9. RELATED DOCUMENTS

- Conflict of Interest
- Discipline and Dismissal Policy
- Employment Agreement
- Collective Agreement
- Fraud Control Plan
- Fraud Policy
- Employee Handbook
- QLDC Code of Conduct
- QLDC Code of Conduct of Elected Members
- Serious Wrongdoing Guidance
- Bullying and Harassment Policy