

# Complaints and Disclosures Policy **The New Zealand Union of Students' Associations**

Approved Date	October 2020
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## 1. Purpose

- 1.1. This policy outlines the processes for NZUSA personnel, including elected representatives, staff, contractors, and volunteers, to complain about or disclose matters of serious wrongdoing in a safe and protected way.
- 1.2. This policy shall be read in conjunction with any employment agreement, and at all times, NZUSA will act in accordance with New Zealand law.

## 2. Definitions

- 2.1. Serious Wrongdoing, as defined in the Protected Disclosures Act 2000, includes:
  - 2.1.1. An unlawful, corrupt, or irregular use of NZUSA funds or resources;
  - 2.1.2. An act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment;
  - 2.1.3. An act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial;
  - 2.1.4. An act, omission, or course of conduct that constitutes an offence; or
  - 2.1.5. An act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

## 3. Making a Complaint or Disclosure

- 3.1. Complaints or disclosures may be made where:
  - 3.1.1. The complaint or disclosure is about serious wrongdoing in NZUSA or by NZUSA;
  - 3.1.2. The complainant believes on reasonable grounds that the information they wish to disclose is true or likely to be true;
  - 3.1.3. The complainant wishes to disclose this information so that the serious wrongdoing can be investigated; and
  - 3.1.4. The complainant wishes the disclosure to be protected.

- 3.2. All complaints or disclosures should be submitted in writing to:
- 3.2.1. The National President;
  - 3.2.2. The National Vice President where someone does not feel comfortable approaching the National President; or
  - 3.2.3. The Chair of the Finance, Risk and Audit Committee (FRAC) where someone does not feel comfortable approaching the National Vice President.
- 3.3. If the complainant reasonably believes that they cannot approach any of the above people because they may be involved or associated with serious wrongdoing, the complainant may approach an appropriate external authority, including but not limited to the Police or the Director of the Serious Fraud Office.
- 3.4. At all times, the complainant has the right to seek external support, request a support person or seek help from your union representative and/or Worksafe.

#### **4. Receiving a Complaint or Disclosure**

- 4.1. Once a complaint or disclosure has been made, the person receiving the report (recipient) must formally acknowledge receipt of it within 48 hours and undertake an investigation into the facts of the disclosure.
- 4.2. The complainant should be informed, within seven days after receipt of the complaint or disclosure, whether or not the matter is to be investigated. If the matter is not to be investigated, the recipient must detail the reasons why.
- 4.3. The complainant can appeal any decision to another person or authority listed in clause 3.2 of this policy.

#### **5. Investigating a Complaint or Disclosure**

- 5.1. Any investigation conducted to examine allegations of serious wrongdoing by within or by NZUSA is an employment investigation and must be conducted within the terms of the applicable employment agreement and the principles of natural justice. Before conducting an employment investigation, the recipient should seek advice.
- 5.2. The preliminary findings of the investigating shall be made within 20 working days of the commencement of the investigation into the complaint or disclosure, unless the circumstances of the investigation are such that a longer time frame is necessary. If more time is required, the complainant should be notified when the preliminary finding is expected and why the timeframe has been extended.

#### **6. Confidentiality**

- 6.1. NZUSA shall keep the identity of the complainant confidential unless otherwise required.
- 6.2. If an employment investigation results from a complaint or disclosure, NZUSA is required to provide the alleged wrongdoer with any information or allegation relating to them in accordance with the principles of natural justice. This may include the identity of the complainant who alleged the serious wrongdoing and the information recorded on the complaint or disclosure.

## **7. Protections**

- 7.1. Any person who makes a complaint or disclosure under this policy is immune from criminal or civil proceedings.
- 7.2. NZUSA will treat any allegation of victimisation or retaliation against a complaint seriously, and where a complainant feels they have been victimised or retaliated against for making a complaint or disclosure, they may take a personal grievance under the Employment Relations Act 2000 or make a complaint under the Human Rights Act 1993.
- 7.3. Any complainant who makes a complaint or disclosure knowing that it is false or makes the complaint or disclosure in bad faith will not be protected.

## **8. Appeals**

- 8.1. Where NZUSA decides not to take action in respect of a complaint or disclosure it has investigated, or does not make progress on an investigation in accordance with clause 5.2, the complainant may make their disclosure to an appropriate external authority.