



## PROTECTED DISCLOSURE POLICY AND REPORTING PROCEDURE

<b>Section</b>	Organisation management and governance
<b>Contact</b>	Director Governance and Assurance
<b>Last Review</b>	October 2013
<b>Next Review</b>	October 2024
<b>Approval</b>	Council C19/146
<b>Effective Date</b>	November 2019

### Purpose:

Massey University is required under the Protected Disclosures Act 2000 to have appropriate internal procedures in operation for receiving and dealing with information about serious wrongdoing in or by the University.

The purpose of this policy is to:

1. Support and facilitate the disclosure and investigation of matters of Serious Wrongdoing in or by Massey University;
2. To set out the protections for employees who make disclosures of Serious Wrongdoing;
3. Specify the process for making a disclosure
4. To clearly state the rights and responsibilities associated with protected disclosures.

### Definitions:

**Serious Wrongdoing** is defined under the Act as:

- An unlawful, corrupt, or irregular use of public funds or public resources; or
- An act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- 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; or
- An act, omission, or course of conduct that constitutes an offence; or
- An act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

An **employee** is defined under the Act as including:

- a current employee
- a former employee
- a home-worker
- a person seconded to the University

- a contractor to the University
- a person involved in the management of the University

### **When an employee may make a Protected Disclosure**

A protected disclosure may only be made where:

- the disclosure is about Serious Wrongdoing (refer to Definitions) in the University or by the University; and
- the staff member believes on reasonable grounds that the information he/she wishes to disclose is true or likely to be true; and
- the staff member wishes to disclose this information so that the serious wrongdoing can be investigated; and
- the staff member wishes the disclosure to be protected.

### **How to make a Protected Disclosure:**

All disclosures of Serious Wrongdoing, should be submitted in writing using the report form attached as Appendix 1. Disclosures may be submitted verbally, but in these instances should be recorded in writing.

An employee who has information about serious wrongdoing and who believes that the information is likely to be true and wishes to make a protected disclosure rather than using any other University reporting or complaints process, is encouraged to make the disclosure to their line manager in the first instance. If the employee prefers to make a protected disclosure to someone other than their line manager, they may make the disclosure to any one of the following:

- A member of the Senior Leadership Team;
- The Director Governance and Assurance; or
- The Employment Relations Manager.

If the employee making the disclosure believes on reasonable grounds that these persons are involved in the Serious Wrongdoing; or are associated with a person who is or may be involved in the Serious Wrongdoing, then the employee may make the disclosure to the Vice-Chancellor.

If the employee making the disclosure believes on reasonable grounds that the Vice-Chancellor is involved in the Serious Wrongdoing; or are associated with a person who is or may be involved in the Serious Wrongdoing, then the employee may make the disclosure to any member of the University Council, via the Council Secretary.

### **Disclosing to External Authorities**

If the staff member believes they cannot approach any of the above persons, including the Vice-Chancellor or Council, because they may be involved in the Serious Wrongdoing; or believe on reasonable grounds that immediate reference to an appropriate authority is justified due to the urgency of the matter to which the disclosure relates, or some other exceptional circumstance, they may make the disclosure to one of the following external authorities.

- 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;
- Police Complaints Authority;
- Solicitor General;
- State Services Commissioner;
- Health and Disability Commissioner;
- Head of any Public Sector organisation.

### **Receiving a Protected Disclosure**

Once a disclosure has been submitted the manager receiving the report must formally acknowledge receipt of it within 48 hours of receiving it.

The manager should assess whether the protected disclosure meets the criteria of the Act and if it does, initiate an investigation following advice from their HR Advisor or the Employment Relations Manager into the facts of the disclosure. The staff member should be informed, within seven days after receipt of the disclosure, whether or not the matter is to be investigated. If the matter is not to be investigated, the manager must detail the reasons why.

### **Investigating a Protected Disclosure**

Where the manager considers the disclosure meets the criteria of the Act, they should initiate an investigation.

Any investigation initiated to examine allegations of serious wrongdoing by a staff member of the University 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, a manager should always seek advice from their HR Advisor or the Employment Relations Manager within People and Culture.

The investigating manager shall be required to make a preliminary finding within 20 working days of agreeing to conduct an investigation into the protected disclosure, unless the circumstances of the investigation are such that a longer timeframe is necessary. If more time is required, the staff member making the disclosure should be notified of when a preliminary finding is expected and why the timeframe has been extended.

### **Confidentiality**

Where an employee makes a protected disclosure, information which identifies that employee will be kept confidential, unless one of the exceptions in the Act applies. The exceptions are:

- i. if you consent to the disclosure; or
- ii. if disclosure is essential:
  - to the effective investigation of the allegations
  - to prevent serious risk to public health or safety, or the environment
  - to comply with the principles of natural justice.

### **Protections**

Any employee of Massey University who makes a disclosure under the Act is immune from criminal or civil proceedings.

Where an employee feels they have been victimized or retaliated against for making a disclosure under the Act, they make take a personal grievance under the Employment Relations Act 2000 or make a complaint under the Human Rights Act 1993. The University will treat seriously any allegation of victimization or retaliation.

Any employee who makes a disclosure knowing that it is false or makes the disclosure in bad faith will not be protected by this Act.

### **Appeals**

Where the University decides not to take action in respect of a disclosure it has investigated; or does not make progress with a disclosure investigation within the timeframes set by these procedures, or extended for good reason; or where the University has investigated the matter but has not taken any action, nor recommended the taking of any action, the employee may make their protected disclosure to a Minister of the Crown or the Ombudsman.

To make a disclosure to a Minister of the Crown or the Ombudsman, the employee must continue to believe on reasonable grounds that the information disclosed is true or likely to be true.

### **Audience:**

This Policy applies to all employees, contractors, sub-contractors, consultants, adjunct and visiting academic staff, members of the Massey University Council, University committees, Boards and Trust Boards, and any other persons or entities carrying out work for or on behalf of the University.

### **Relevant legislation:**

[Protected Disclosures Act 2000](#)

### **Legal compliance**

Massey University as a Public sector organisation is required to establish appropriate internal procedures for receiving and dealing with information about serious wrongdoing in or by the organisation. It is illegal to dismiss or otherwise punish or bring proceedings against any employee for disclosing information protected by the Act. It is also illegal to disclose information about a person who has made a protected disclosure.

### **Related procedures and documents:**

Code of Staff Conduct  
Fraud and Corruption Policy  
Fraud and Corruption Response Procedures

### **Document management control:**

Prepared by: Director Governance and Assurance  
Owned by: Vice-Chancellor



**MASSEY UNIVERSITY  
PROTECTED DISCLOSURE REPORTING FORM**

1 Is this report being made to your manager? **Yes/No**

If yes, please provide name of manager:

If no, please provide the name of the person you are making the report to and why:

2. Describe the nature of the protected disclosure

This would include the nature of any incident, the names of persons involved, the area and location and any other relevant information. You may continue on a separate sheet and/or attach evidence as necessary.

3. Please provide a list of any attachments to this report

4. In making this disclosure I understand the following:

- a) I will receive immunity from criminal and civil proceedings that may result from this protected disclosure provided I have not acted in bad faith in making the disclosure; and
- b) If I suffer any retaliatory or discriminatory action within the University as a result of making this disclosure, I can take a personal grievance or make a complaint under the Human Rights Act 1993; and
- c) Whereas the University will take all practicable steps to protect my identity, in the interests of natural justice, it may be necessary for the University to disclose my identity and the information contained in this form and its attachments.

**Signed:**

**Date:**

**Name:**

**Designation:**

**Department/Institute/School/Unit:**

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**Manager's Use only**

Disclosure Received:

Manager's Name:

Acknowledgement of receipt sent:

Decision to proceed or not to proceed with investigation made:

Your Manager and HR notified:

Reasons for decision not to proceed, if applicable (attach report):