

Code of Conduct

*Mā te kimi ka kite, Mā te kite ka mōhio, Mā te mōhio ka marama.
Seek and discover. Discover and know. Know and become enlightened.*

Purpose

1. The Code of Conduct outlines the standards of behaviour that are expected of our people.
2. It is important that our people understand what minimum standards of behaviour and performance are expected of them while they are undertaking work for Te Whatu Ora - Health New Zealand.
3. Our Code is important because it reflects our legal obligations as an organisation through the Public Service Act 2020 to maintain high standards of integrity and conduct as a representative of the Crown and a public service. Te Whatu Ora needs to observe and comply with all applicable laws, regulations, policies, processes, and guidelines and as a result we expect our people to do the same.
4. It is our people's responsibility to act within the relevant legislation, regulations, policies, processes, and guidelines that apply to them and their work. If there is a difference between a legal requirement and our Code, the legal requirements are to be adhered to.
5. The Code of Conduct applies in addition to our other policies, procedures, and any job specific requirements our people may have.
6. Failure to meet the minimum standards of behaviour in the code may be classified as misconduct or serious misconduct, for which disciplinary action may be taken in line with our Investigations and Disciplinary Policy.
7. This policy supports the Health Sector Principles as set out in the Pae Ora (Healthy Futures) Act 2022 (the Act) and will be updated to reflect the requirements of the New Zealand Health Charter once it has been established. The Charter is a statement of the values, principles, and behaviours that our people throughout the health sector are expected to demonstrate.
8. The examples in this Code are not intended to create a complete and exhaustive list of minimum standards of behaviour.
9. The Code of Conduct relating to Board members is outlined in the Board Governance Manual.

Application

10. This policy applies to everyone in Te Whatu Ora National Office, including permanent, seconded, and temporary employees and contractors (referred to as our people).
11. For other parts of Te Whatu Ora, the corresponding policies that were in place before 1 July 2022 continue to apply until changed by the Board of Te Whatu Ora or its delegate.

Definitions

12. The following definitions are used for the purposes of this policy:

**Te Whatu Ora
National Office**

- a) Staff who are working in roles that would **not** have been District Health Board, Te Hīringa Hauora/Health Promotion Agency or Shared Services Agency roles under the previous health system (including staff employed/engaged on or after 1 July 2022); and
- b) For operational policies other than employment policies, staff who have transferred from the Ministry of Health (MoH) under the Act.

13. This policy is an employment policy and does not apply to staff who have transferred from the Ministry of Health (MoH) under the Act.

Key Principles

14. This section summarises the general principles which guide our disciplinary and investigation processes.

Restorative Approach: The emphasis will be to resolve issues at the lowest level possible and a focus will be placed on restoring relationships.

Fairness: We will act in accordance with our legal obligations and recognise the impact that disciplinary action has on our people.

Te Tiriti o Te Waitangi: We recognise our obligations as a partner under Te Tiriti o Te Waitangi as per the Pae Ora (Healthy Futures) Act 2022

Alignment to Te Whare Tapa Whā

15. This policy is underpinned by the focus that every interaction with our people should be done in a mana enhancing way, guided by Te Whare Tapa Whā specifically:

- Taha Tinana – we aspire to promote and develop conducive environments for our people to flourish;
- Taha Hinengaro – we provide support and care for our people’s wellbeing;
- Taha Wairua – we acknowledge and respect our people’s diversity and spiritual needs, ensuring a safe workplace;
- Taha Whānau – we are committed to looking after our people by creating an inclusive, whānau orientated and supportive environment; and
- Whenua – we are respectful of our environment and the role we, as an organisation and our people play to ensure healthy, sustainable environments.

16. Enacting such values serves as a means and commitment made by Te Whatu Ora to educate, promote, and develop Te Whatu Ora’s workforce, and provide the necessary tools, resources, and training to enable and uphold Te Whatu Ora’s commitment to Te Tiriti o Waitangi as the founding document of Aotearoa.

17. This approach enables the reformed health system to provide culturally appropriate care to all New Zealanders who use Te Whatu Ora's services in all settings, with a focus on providing a culturally safe environment for our people.

Policy

18. **Minimum standards of behaviour**

Our Minimum Standards of Behaviour are set out in this Code of Conduct, as well as our other policies and procedures. All our people have a responsibility to meet the minimum standards of behaviour set out in this Code of Conduct.

18.1. **Responsibility**

- All our people have a responsibility to meet the minimum standards of behaviour set out in this Code of Conduct.
- Our people have a responsibility to assist others to act in accordance with relevant laws, policies, procedures and guidelines and a duty of fidelity to report instances of abuse, fraud or unlawful conduct to a manager or People and Capability.

19. **Obligations in respect of Conduct**

19.1. **Treat people fairly and with respect**

- Our people are known for treating people fairly, this helps us create a good environment for our people and visitors. Treating people fairly means that we do not show any favouritism, bias, or self-interest in our work. We must avoid any perceived unfairness that could arise from having any personal interest in decisions we make or from working on matters where we have a close relationship with those involved.
- Therefore, our people have an obligation to treat other employees, contractors, visitors, and members of the public with respect and courtesy.

19.2. **Be professional and responsive**

- People should be mindful that they are representatives of a government entity and Te Whatu Ora at all times, and refrain from conduct that may bring Te Whatu Ora or the government into disrepute.
- It is important that our people are professional and responsive. This is because they are representatives of the government and of our health service.
- Therefore, our people have an obligation to be professional in their dealings with colleagues, contractors, visitors, and members of the community. They have an obligation to be responsive in their communications and ensure that health services are delivered in a timely way.

19.3. **Act lawfully**

- As government employees, it is important that our people act within the laws relevant to their role.
- Therefore, our people have an obligation to take actions in their role that ensure that Te Whatu Ora acts lawfully.

- Our people also have an additional obligation to report unlawful conduct that they see to their manager or People and Capability.

19.4. **Integrity**

- As public servants, it is important that we engage with integrity in our dealings. This allows us to build confidence in our health service.
- Therefore, our people are required to act with honesty and integrity in all their dealings, whether this is with other employees, contractors, visitors, or members of the community.
- Our people will not knowingly mislead or engage in dishonest practices.

19.5. **Harassment and Bullying**

- It is important that we protect the health and safety of those who work for us.
- Therefore, our people are required to refrain from harassing or bullying behaviour. Further details are available in our Bullying, Harassment, and Discrimination Policy.
- We also recognise that there is a range of inappropriate behaviours that may fall short of harassment and bullying thresholds. These include, but are not limited to, poor tone, manner and style as well as being confrontational or adversarial. It can include snide remarks or small comments and people should be conscious of the way their tone, manner, and style impacts on their colleagues.

19.6. **Racism and Discriminatory Behaviour**

- Our people welcome people regardless of their nationality, ethnicity, sexuality, disability, gender identity and other personal attributes.
- Therefore, we will not discriminate against people based on prohibited grounds of discrimination under Human Rights legislation. Further details are available in our Diversity and Inclusion policy.

19.7. **Social Media**

- It is important that we are able to maintain confidence in our public service and in our health system. Social media allows for wide communications to be sent but posts can quickly become available to wider audiences than are intended.
- Therefore, our people must not post or disclose any private or confidential information of the employer on social media, and anything that may bring Te Whatu Ora or the government into disrepute. Further details are available in our Media and Use of Social Media policy

20. **Obligations in respect of impartiality**

20.1. **Political Neutrality**

- As public servants, our people must maintain a politically neutral approach at work to enable us to work with the current and any future governments. Practically, this means that while our people are entitled to have freedom of political expression and association, we must not bring our political views into our work roles.

20.2. Recruitment

- Where engaging in recruitment processes, our people must consider all candidates in a way that is free from bias and prejudice. They will make decisions in accordance with the principles of fairness, equity, equal opportunity employment and in alignment with our organisational values.

21. Professional Standards

21.1. Best Interests

- As a health organisation, our primary focus is on the planning, funding, and delivery of personal and public health services, and disability support services.
- Therefore, our people must act in a way that is in the best interests of this focus.

21.2. Maintaining necessary qualifications to enable you to perform your role

- Our people must maintain any necessary qualifications to enable them to perform their role, including practicing certificates and mandatory learning.

21.3. Obligation of disclosure

- Our people will immediately disclose any situations they become aware of which may mean they cannot maintain a valid practicing certificate or other professional certification which is a requirement of their position.
- Our people will be supported to disclose any situation that changes their ability to practice.

21.4. Obligation of compliance

- Our people must comply with any rules and regulations of any professional body to which they are a member.

22. Privacy and Confidentiality

22.1. Confidential Information

- Our people will keep work-related confidential information private and confidential. They must not discuss confidential information in a public setting without appropriate delegated authority. They must also only access or disclose private and confidential information in accordance with applicable law.

22.2. Disclosure of Private Health Information

- Our people must treat information with care and use it only for proper purposes.
- Our people must not access or disclose private health information except where it is lawful to do so.
- Where there is concern or uncertainty as to what may be disclosed, people are encouraged to speak with their manager of People and Capability.

22.3. Media Statements

- Our people must seek and gain approval before sharing information on behalf of Te Whatu Ora and/or engaging in any requests to share internal information. See the Media and Use of Social Media policy.

23. **Conflicts of Interest**

23.1. **Definition**

- A conflict of interest occurs when someone is compromised when their personal interests or obligations conflict with responsibilities of their job or position. Refer to the Conflict of Interest Policy for more information.

23.2. **Acting with Integrity**

- Conflicts of Interest must be disclosed in a timely manner in line with the Conflict of Interest Policy.

23.3. **Acceptance of Gifts or Benefits**

- Our people must not use their official position for personal gain. Our people must not provide, solicit, receive gifts and/or benefits without appropriate delegated authority – see the Sensitive Expenditure Policy and Koha and Gifts/Hospitality Policy.

Non-Compliance with the Code of Conduct

24. Our people are expected to conduct themselves in accordance with this Code. Failure to meet the minimum standards of behaviour in the code may:

- for employees, result in disciplinary action in line with our Investigations and Disciplinary Policy.
- for independent contractors, failure to meet the minimum standards of behaviour in the Code may result in termination of their contract for services.

25. If any of our people considers that the standards set out in this Code may have been breached by another person, then the matter can be raised with their manager or People and Capability.

Roles and Responsibilities

26. All our people must:

- abide by the Code of Conduct and other policies and procedures of Te Whatu Ora;
- comply with the Public Service Commission Standards of Integrity and Conduct; and
- act in line with Te Mauri o Rongo – NZ Health Charter.

Related Policies and Procedures

- Bullying, Harassment and Discrimination Policy
- Diversity and Inclusion Policy
- Privacy Policy
- Investigations and Disciplinary Policy
- Conflict of Interest Policy
- Media and Use of Social Media Policy
- Sensitive Expenditure
- Koha and Gifts/Hospitality Policy

- Public Service Commission Standards of Integrity and Conduct

Related Legislation

- Employment Relations Act 2000
- Privacy Act 2020
- Public Service Act 2020

OWNER: People and Capability

CONTACT: Rosemary Clements

ENDORSED: 15 July 2022

TO BE REVIEWED: June 2023

Conflict of Interest Policy

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Purpose

1. This Conflict of Interest Policy describes how Te Whatu Ora - Health New Zealand will ensure staff:
 - recognise, disclose and manage any conflict of interest they have; and
 - act in a manner consistent with their responsibilities with Te Whatu Ora.
2. This Conflict of Interest Policy supports the Health System Principles as set out in the Pae Ora (Healthy Futures) Act 2022 (Pae Ora Act).

Application

3. This policy applies to everyone in Te Whatu Ora National Office, including permanent, seconded, and temporary employees and contractors (referred to as our people).
4. For other parts of Te Whatu Ora, the corresponding policies that were in place before 1 July 2022 continue to apply until changed by the Board of Te Whatu Ora or its delegate.
5. The conflict of interest policy relating to Board members is outlined in the Board Governance Manual.

Definitions

6. The following definitions are used for the purposes of this policy:

Conflict of interest	<p>A perceived, potential or actual conflict between the private or personal interests and the official responsibilities of someone in a position of trust.</p> <ul style="list-style-type: none">• A perceived conflict of interest can exist where it could be perceived, or appears, that a staff member's private interests could improperly influence the performance of their duties, whether or not this is the case.• A potential conflict of interest arises where a staff member has private interests that could conflict with other official duties.• An actual conflict of interest involves a direct conflict between a staff member's current duties and responsibilities and existing private interests.
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**Te Whatu Ora
National Office**

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- b) For operational policies other than employment policies, staff who have transferred from the Ministry of Health (MoH) under the Pae Ora Act.

What is a conflict of interest?

- 7. A conflict of interest (or potential conflict of interest) occurs when any of the following apply:
 - a) A person is in a position to derive personal benefit from actions or decisions made in their official capacity;
 - b) A person's responsibilities are, or could be, affected by some other personal or financial interest or duty. This can include family members, close friends or associates benefiting from the official responsibilities undertaken by a person in their official capacity; or
 - c) A person's activities outside their employment with Te Whatu Ora lead, or could lead, to material benefit for the person concerned, either directly or indirectly, to the detriment, or potential detriment, of Te Whatu Ora.

Principles

- 8. At all times, people acting on behalf of Te Whatu Ora must behave, and be seen to behave, in an impartial and transparent manner in line with the Code of Conduct.
- 9. Our people will be supported and encouraged to fully disclose perceived or potential conflicts of interest in an open and transparent manner to ensure the integrity and ethics of public service are conducted and upheld in a fair and principled way.
- 10. The existence of a perceived or potential conflict of interest does not necessarily imply wrongdoing on the part of any person. However, any interests which could give rise to a potential conflict of interest must be promptly disclosed, and managed and documented in accordance with this policy.
- 11. Our people must consider how an impartial observer might reasonably perceive a potential conflict of interest situation or relationship, whether or not any wrongdoing is involved.
- 12. Managers need to be alert to situations in which they, or people that they manage, may have a conflict of interest and ensure that the situation is recognised and handled appropriately.
- 13. Our people have an ongoing obligation to disclose any conflict of interest. If a person has any doubt as to whether a potential conflict of interest exists, they must disclose the matter to their manager.

14. Potential conflicts of interest may raise complex issues. Staff members and their manager must judge each situation that arises in a prudent manner.
15. Disclosure of potential conflicts of interest may involve disclosing personal information. This information must be handled with due regard to the privacy of all individuals concerned and in accordance with the Privacy Act and Te Whatu Ora's Privacy Policy.
16. If a person has a potential conflict of interest in a matter under consideration, they must not take part in any decision on the matter giving rise to the conflict, unless their manager decides otherwise.
17. All decisions regarding how conflicts of interest are to be managed must be documented.
18. Where a person has direct or indirect financial interest (excluding superannuation funds managed by independent third parties) in a matter being considered, they must not take part in any decision about the matter unless authorised to do so.
19. Individuals who do not comply with Te Whatu Ora's requirements regarding the management of conflicts of interest, as described in this policy or other Te Whatu Ora policies or procedures, may be subject to disciplinary action.

Identifying a conflict of interest

20. It can often be difficult to determine whether an actual, potential or perceived conflict of interest exists. If any of our people answers yes to any of the following questions, it indicates that a conflict of interest may exist and further advice should be sought from HR:
 - a) Would a fair and reasonable person perceive that I was influenced by personal interest in performing my responsibilities?
 - b) Do I, a relative, friend or associate stand to gain or loss in any way from Te Whatu Ora's decision or action on this matter?
 - c) Am I in a position to influence decision making about a matter related to a personal interest?
 - d) Have I made any promises or commitments in relation to this matter?
 - e) Have I received a benefit or hospitality from someone who stands to lose or gain from Te Whatu Ora's decision or action?
 - f) Am I a member of an association, club or professional organisation, or do I have particular ties or affiliations with such organisations or individuals, who stand to lose or gain from Te Whatu Ora's consideration of the matter?
 - g) Could there be benefits for me in the future that could cast doubt on my objectivity?
 - h) Might I be perceived as favouring a particular person or firm because of a personal friendship or long-standing association?
 - i) Am I in a position to influence development of a particular strategy or policy that will guide future decisions from which I may benefit personally?
 - j) Am I concerned about my ability to act impartially and in the public interest?

Management of conflicts for the Chief Executive

21. The Chief Executive must immediately inform the Chair if they may have an interest in any matter.
22. If the Chair decides there is no conflict of interest requiring any conflict of interest management steps to be taken, that information must be recorded and provided to the Board.
23. If the Chair decides there is a conflict of interest requiring conflict of interest management steps to be taken:
 - a) a conflict of interest management plan must be decided and recorded;
 - b) the conflict of interest management plan should address whether the matter on which the Chief Executive is conflicted is a significant matter requiring oversight by the Board or a subcommittee of the Board;
 - c) the conflict of interest management plan must be provided to the Board; and
 - d) the conflict of interest management plan must be kept under review.

Roles and Responsibilities

24. The Chief Executive is responsible to the Board for ensuring compliance with the Conflict of Interest Policy.
25. Managers are responsible for supporting and ensuring their staff declare any actual, perceived or potential conflicts of interest, and that any conflicts of interest are documented and managed appropriately.
26. Our people are responsible for promptly declaring any actual, perceived or potential conflicts of interest at any time during their employment.
27. People and Capability will be responsible for maintaining and updating a register of conflicts of interest.

Non-compliance with policy

28. Failure by our people to fully declare or knowingly withhold a conflict of interest, or who are found to have acted to their own advantage, may result in Te Whatu Ora taking disciplinary action in accordance with the Code of Conduct.

Related Policies and Legislation

- Code of Conduct
- Privacy Policy
- Pae Ora (Healthy Futures) Act 2022
- Privacy Act 2020

OWNER: People and Capability
CONTACT: Rosemary Clements
ENDORSED: 15 July 2022
TO BE REVIEWED: June 2023

Privacy Policy

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Purpose

1. This policy describes how Te Whatu Ora-Health New Zealand will collect, store, use, disclose, retain, and protect personal information, ensuring we meet the requirements of the Privacy Act 2020 and the Health Information Privacy Code (HIPC) 2020, and the spirit of the Data Protection and Use Policy (DPUP).

Context

2. Te Whatu Ora is entrusted with significant amounts of personal information (including health information). Personal information is a valuable asset that must be handled with care. Mishandling of personal information, or lack of transparency with how it is handled, can cause significant harm to individuals, and may result in widespread media interest and a loss of trust and confidence in the agency.
3. The Privacy Act 2020 sets out 13 Information Privacy Principles (IPPs) which cover the collection, storage, use and disclosure of personal information, and give people the right to access and correct their information. The HIPC 2020 is a code of practice that sets specific rules for agencies in health sector. These rules replace the IPPs for the health sector.
4. The DPUP is a Cabinet-endorsed policy which recommends good practice above and beyond the minimum legal requirements of the Privacy Act 2020. The policy comprises five principles, which articulate the values and behaviours that underpin the respectful and transparent use of data across the social sector.

Application

5. This policy applies to everyone in Te Whatu Ora National Office, including permanent, seconded, and temporary employees and contractors (referred to as our people).
6. For other parts of Te Whatu Ora, the corresponding policies that were in place before 1 July 2022 continue to apply until changed by the Board of Te Whatu Ora or its delegate.

Definitions

7. The following definitions are used for the purposes of this policy:

Health Information “Health information” is a subset of personal information, where the information is about an identifiable individual’s health. This includes information about their health or disabilities, their medical history, health or disability services provided to them, and information collected while providing health and disability services, such as addresses for billing purposes or information relevant to funding. Examples of health information are: clinical notes, genetic information, test results, diagnostic images, verbal discussion and records of conversations. This includes information about living individuals and can include information about deceased individuals.

Personal Information “Personal information” means information about a living identifiable individual. This information can be in any form, including paper and electronic documents and files, emails, personnel records and patient records, and can include images such as photos, an image of a pathology report or a diagnostic image. It can also include video recordings and audio recordings. Examples of personal information include an individual’s name, telephone number, address (email and postal), date of birth, ethnic origin, tax number and Health Information.

Even if an individual’s name does not appear in information, but there is a reasonable chance that an individual could be identified from the information (including where information can be combined with other information to identify a person), it can still be personal information for the purposes of the Privacy Act.

Privacy Breach	A “privacy breach” occurs when personal information held by Te Whatu Ora is accessed, disclosed, altered, lost or destroyed without authorisation or by accident, or when requests for access or correction to personal information are not processed in a timely manner. This includes internal misuse of information, such as browsing of personal information or inappropriate sharing of personal information with colleagues who have no work-related purpose to access it. A privacy breach may also be something that prevents Te Whatu Ora from accessing the information on a temporary or permanent basis.
Privacy Incident	A “privacy incident” is any incident that may be, or that could have led to, a privacy breach. This includes near misses. Examples include that personal would have been disclosed by accident but for security measures (e.g., password protection).
Te Whatu Ora National Office	<ul style="list-style-type: none">a) Staff who are working in roles that would not have been District Health Board, Te Hiringa Hauora/Health Promotion Agency or Shared Services Agency roles under the previous health system (including all staff employed/engaged by Te Whatu Ora on or after 1 July 2022); andb) For operational policies other than employment policies, staff who have transferred from the Ministry of Health (MoH) under the Pae Ora (Healthy Futures) Act 2022 (Pae Ora Act)

Policy

8. Te Whatu Ora will only collect personal information where it is necessary for lawful purposes connected with its functions and activities under the Pae Ora Act.

Key Principles

Collection of personal/health information

9. Personal information must be collected from the individual who the information is about, or from another source with that individual’s authority. Te Whatu Ora may collect information from a third party if permitted by law, for example, by one of the exceptions in the Privacy Act or HIPC (see IPP2 and rule 2 of the HIPC).
10. When collecting personal information, Te Whatu Ora commits to being transparent with the individual involved about why the information is being collected, who will receive it, whether collecting it is voluntary and what will happen if it is not collected, as well as informing them of their rights of access and correction.

11. Te Whatu Ora will only collect personal information in a way that is lawful, fair, open and transparent. This is particularly important when collecting information about a child, young person or vulnerable adult.

Storage and security of personal/health information

12. Te Whatu Ora is committed to taking all reasonable steps to ensure that personal information held about an individual is protected against loss, unauthorised access, misuse, modification or disclosure. This applies to information held in Te Whatu Ora's electronic systems and all personal information held in hard copy.
13. Appropriate security measures will depend on the sensitivity of information involved and potential consequences if it is not kept secure. Security steps may include having appropriate access controls and auditing processes, confirming the identity of an individual before releasing information to them, checking addresses (email or physical) before sending, use of password protection.
14. Electronic personal information must only be stored in approved Te Whatu Ora systems of record that have undergone appropriate information security testing and privacy risk assessment.

Access to and correction of personal information

15. Everyone has the right to access information about themselves. Te Whatu Ora will provide people with access to their personal information, in a timely manner, except in limited circumstances where a withholding ground applies.
16. Everyone has the right to request that information held about them is corrected. Te Whatu Ora will make such corrections by amending, deleting or adding information, if the request is reasonable and necessary to ensure accuracy. If Te Whatu Ora does not believe the information needs correcting, or is unable to make the requested changes, Te Whatu Ora will take reasonable steps to attach a statement of correction to ensure that the individual's views are read alongside the disputed information.
17. Te Whatu Ora will give reasonable assistance to the individual who wishes to access or correct their information, working with them to refine the scope of the request and resolve any concerns. Te Whatu Ora must not charge any individual for access to, or correction of, their personal information.
18. Te Whatu Ora will take reasonable steps to ensure that the person requesting access to or correction of information is that person or their approved representative. This verification may include viewing identification and/or answering security questions.

Retention of personal information

19. Te Whatu Ora will only keep personal information for as long as it is necessary for the purpose it was collected, or as long as is allowed or required by legislation (for example the Public Records Act 2005 and the Health (Retention of Health Information) Regulations 1996).

Use and disclosure of personal information

20. Te Whatu Ora will only use or disclose personal information for the same purposes for which it was collected, unless the individual has authorised a different use or disclosure, if permitted by law, for example by one of the exceptions in the Privacy Act or HIPC (see IPP10 and 11 and rules 10 and 11 of the HIPC), or another law requires disclosure.
21. Te Whatu Ora will take reasonable steps to check personal information before use or disclosure to ensure that it is accurate, up to date, complete, relevant, and not misleading. Where appropriate, this may include contacting the individual to confirm their address or other details.
22. Where using or disclosing personal information, Te Whatu Ora will take care to ensure that only the information necessary to fulfil the requirement is used/disclosed.
23. Te Whatu Ora will only disclose information overseas if the overseas recipient (a foreign person or entity) is subject to the Privacy Act 2020 or comparable privacy laws/safeguards, or if the individual involved authorises the disclosure after being expressly informed that the overseas recipient organisation may not be required to protect the information in a way that provides comparable safeguards to the Privacy Act 2020.

Unique Identifiers

24. Te Whatu Ora will only use unique identifiers where necessary, and in the context that they are created. Unique identifiers must not be used or shared for other reasons.

Staff information

25. Te Whatu Ora will ensure that the personal information of our people is treated with the utmost care and respect, in accordance with legislative requirements and this policy.

Information held by Te Whatu Ora as an agent

26. The Privacy Act provides that, if an agency holds information as an agent or to process the information for another agency, and does not disclose the information for its own purposes the information is deemed to be held by the agency on whose behalf the information is held. Te Whatu Ora must take that into account in relation to information that it holds on behalf of another agency. If, for example, Te Whatu Ora receives a request for such information, Te Whatu Ora will need to engage that agency on whose behalf Te Whatu Ora holds the information.

Privacy breaches

27. Te Whatu Ora has a clear process for reporting, managing and escalating privacy incidents, including privacy breaches and possible breaches.
28. Internal misuse of personal information by staff will be considered a privacy breach. This includes browsing or accessing information that they do not need to access, or sharing information with others who have no purpose to receive it.
29. Suspected or actual privacy incidents must be responded to immediately to minimise the harm to affected individuals. Being transparent, clear and open with the impacted individuals is critical to maintaining their trust.

30. Full reporting of all incidents provides Te Whatu Ora with an opportunity to improve processes or systems to avoid future breaches.
31. All breaches that have or are likely to cause 'serious harm' will be notified to the Office of the Privacy Commissioner and the affected individual as soon as practicable (unless one of the exceptions to the requirement to notify affected individuals in the Privacy Act applies). The notifications will include the information required by the Privacy Act.
32. When assessing whether a breach is likely to cause serious harm, Te Whatu Ora will consider actions taken by Te Whatu Ora to reduce the risk of harm, whether the information is sensitive, the nature of the harm that may be caused to affected individuals, who has or may have obtained information as a result of the breach, whether the information was protected by a security measure (e.g., a password), and any other relevant matters. In some case, it may be necessary to give public notice of a breach.

Privacy complaints

33. Te Whatu Ora has a clear process for escalating complaints about privacy or complaints alleging a breach of the Privacy Act 2020 or HIPC 2020 to the Te Whatu Ora Privacy Team. Te Whatu Ora will aim to work with individuals to resolve their concerns.

Privacy Impact Assessments

34. Te Whatu Ora has a clear process to assess privacy risk where a proposed project, policy, service change or facility design or build may affect the collection, storage, security, access, retention, use or disclosure of personal or health information.
35. Te Whatu Ora aims to embed privacy throughout the product or service lifecycle from design to disposal. Privacy risks and enhancements must be considered from the start of the project and the privacy assessment completed prior to implementation.

Privacy culture and training

36. Te Whatu Ora is committed to providing appropriate privacy training and support to all Te Whatu Ora staff. This includes a privacy learning module as part of all staff's mandatory learning, and availability of privacy advice from a dedicated privacy team
37. Privacy training will be regularly reviewed to ensure it is fit for purpose. Additional targeted training will be provided, as required, based on identified risks and trends.

Roles and Responsibilities

Te Whatu Ora Board	<ul style="list-style-type: none"> Accountable to the Privacy Commissioner for Te Whatu Ora’s performance in respect of the Privacy Act 2020 and this policy Responsible for promoting a culture of openness and transparency, by championing positive engagement with privacy legislation and best practice
Chief Executive	<ul style="list-style-type: none"> Responsible for promoting a culture of openness and transparency, by championing positive engagement with privacy legislation and best practice. Make clear regular statements to staff and stakeholders in support of the appropriate management of personal information and reminding staff of their obligations
Chief Information Officer	<ul style="list-style-type: none"> Responsible for implementing security functions to ensure electronic personal information is adequately secured against loss and protected against unlawful access, misuse and disclosure
Privacy Officer	<ul style="list-style-type: none"> Responsible for the Privacy Policy, strategy, and programme of work Protects and promotes privacy by encouraging compliance with the Privacy Act 2020, HIPC and DPUP Oversees external and internal communication and information sharing in the event of a privacy breach or incident Manages external relationships with the Government Chief Privacy Officer and the Office of the Privacy Commissioner
Senior Leaders	<ul style="list-style-type: none"> Responsible for promoting a culture of openness and transparency, by championing positive engagement with privacy legislation and best practice. Make clear regular statements to staff and stakeholders in support of the appropriate management of personal information and reminding staff of their obligations

Managers	<ul style="list-style-type: none"> • Responsible for promoting a culture of openness and transparency, by championing positive engagement with privacy legislation and best practice. Make clear regular statements to staff and stakeholders in support of the appropriate management of personal information and reminding staff of their obligations • Demonstrate clear knowledge and support for the Privacy Act and internal processes for managing personal information • Ensure staff complete internal training modules on privacy, and have access to internal guidance and tools • Ensure staff report all breaches or other privacy incidents through the privacy incident reporting process. Oversee and support staff's investigation into the cause of the breach and provide recommendations for remediation
Our people	<ul style="list-style-type: none"> • Understand and comply this policy, and related policies and procedures, when handling personal information • Manage personal information safely and with integrity, respecting others' information and being mindful when discussing personal information that this is appropriate and in the correct forum • Responsible for the identification, escalation and initial response to privacy breaches • Report all breaches or near misses through the privacy incident reporting process, as soon as they become aware of it. Where allocated, investigate the cause of the breach and provide recommendations for remediation

Non-compliance with policy

38. Failure by staff to fully comply with this policy may result in Te Whatu Ora taking disciplinary action in accordance with the Code of Conduct.
39. An individual is entitled to complain to the Office of the Privacy Commissioner if they consider that an action of Te Whatu Ora is an interference with their privacy. For an action to be an interference with privacy, there must have been a breach of one or more of the IPPS (or of an information sharing or matching agreement), or a failure to give notice of a privacy breach. The action must also have caused loss, detriment, damage, or injury to the individual, adversely affected (or may adversely affect) their rights, benefits, obligations, or interests, or resulted in (or may result in) significant humiliation, significant loss of dignity, or significant injury to the individual's feelings. The Privacy Commissioner may investigate

such complaints, may try to settle the complaint, and may refer complaints to the Director of Proceedings.

40. Failure to comply with the Privacy Act 2020 may result in Te Whatu Ora receiving a fine or compliance notice from the Office of the Privacy Commissioner.

Related Policies and Procedures

- Code of Conduct
- Information Management Policy
- Information Security and Acceptable Use of IT Policy
- Official Information Act Policy
- Use of Social Media Policy

Related Legislation

[Privacy Act 2020](#)

[Health Information Privacy Code 2020](#)

[Official Information Act 1982](#)

[Public Records Act 2005](#)

[Public Service Act 2020](#)

[Health Act 1956](#)

[Health \(Retention of Health Information\) Regulations 1996](#)

[Family Violence Act 2018](#)

[Oranga Tamariki Act 1989](#)

Related Guidance

[Data Protection and Use Policy](#)

[HISO 10064:2017 Health Information Governance Guidelines](#)

OWNER: Governance, Partnerships and Risk

CONTACT: Deborah Roche

ENDORSED: July 2022

TO BE REVIEWED: June 2023

Protected Disclosure Policy

Purpose

1. This policy sets out the processes for disclosing serious wrongdoing by or within Health New Zealand | Te Whatu Ora (Health NZ), in accordance with the Protected Disclosures (Protection of Whistleblowers) Act 2022 (the Act).
2. The policy has been guided by the health sector principles as set out in the Pae Ora (Healthy Futures) Act 2022 and enables Health NZ to support the Crown's responsibilities under the Treaty of Waitangi / Te Tiriti o Waitangi (Te Tiriti). The health sector principles underpin the transformation of our health system to create a more equitable, accessible, cohesive and people-centred system that will improve the health and wellbeing of all New Zealanders.

Application

3. This policy applies to everyone in Health NZ, including board members, and current and former permanent, seconded, and temporary employees, volunteers, contractors, and students (referred to as our people).
4. This policy will assist our people when making a protected disclosure and ensure that they receive support during the process.
5. This policy acknowledges the importance of our people making protected disclosures when they feel they need to.

Definitions

6. The following definitions are used for the purposes of this policy:

Appropriate Authority	An appropriate authority includes the: <ul style="list-style-type: none">• Commissioner of Police• Controller and Auditor-General• Director of the Serious Fraud Office• Inspector-General of Intelligence and Security• Ombudsman• Ministry for the Environment• Ministry of Health• Independent Police Conduct Authority• Solicitor-General• Public Services Commissioner• Health and Disability Commissioner; and• Chairperson of Health New Zealand.
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	<p>An appropriate authority does not include:</p> <ul style="list-style-type: none"> • A Minister of the Crown; or • A member of Parliament.
Discloser	<p>In relation to Health NZ, this means an individual who is, or was formerly:</p> <ul style="list-style-type: none"> • An employee • A secondee • A contractor • A member of the Health New Zealand Board • A student, or • A volunteer.
Protected Disclosure	<p>A protected disclosure is a disclosure of information by one or more of our people about serious wrongdoing by or within Health NZ, which the individual(s) believes on reasonable grounds to be true or likely to be true and which the individual(s) wishes to disclose in accordance with the Act, so that the serious wrongdoing can be investigated, with the protections of the Act.</p>
Serious Wrongdoing	<p>Serious wrongdoing includes any act, omission, or course of conduct by or within Health NZ that is one or more of the following:</p> <ul style="list-style-type: none"> • An offence, • A serious risk to public health, public safety, the health or safety of an individual, or the environment, • A serious risk to the maintenance of law, including the prevention, investigation and detection of offences and the right of a fair trial, • An unlawful, corrupt, irregular use of public money or public resources, • Conduct that is oppressive, unlawfully discriminatory grossly negligent, or constitutes gross mismanagement; and is done by: <ul style="list-style-type: none"> ○ An employee; or ○ A person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of Health NZ, a public sector organisation or the Government.

Policy statement

7. The purpose of the Act is to promote the public interest by:
 - a. Facilitating the disclosure and timely investigation of matters of serious wrongdoing by or within an organisation; and
 - b. Protecting people who disclose in accordance with the Act (Discloser).

Principles

8. A Discloser is entitled to the protections provided in this policy and the Act, even if:
 - a. They are mistaken and there is no serious wrongdoing; or
 - b. They do not refer to this policy or the name of the Act when making the disclosure.
9. Any other person who discloses information in support of, or relating to, a protected disclosure having already been made, is also entitled to protection under the provisions of this policy and the Act if that Discloser:
 - a. Discloses in accordance with this policy; and
 - b. Does not disclose information in bad faith.
10. Health NZ will not retaliate against any of our people for making, or intending to make, a protected disclosure.
11. Health NZ will not treat, or threaten to treat, a person less favourably than others in similar circumstances for intending to make or having made a protected disclosure, encouraging another person to make a protected disclosure, or for giving information in support of a protected disclosure.
12. Under the Act, neither a Discloser who makes a protected disclosure, nor a receiver who refers the disclosure, is liable to any civil, criminal or disciplinary proceeding because of making or referring the disclosure.

Procedures

Making a disclosure

13. If a Discloser wishes to make a protected disclosure of serious wrongdoing by or within Health NZ, they should do so in writing (including via email) or verbally via or to one of the following:
 - a. Health NZ's Health Integrity Line (phone 0800 424 888)
 - b. The Chief Legal Counsel
 - c. The Chief People Officer or
 - d. The Chief of Assurance, Audit and Risk.

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14. A Discloser or potential Discloser may also approach an Appropriate Authority (including the Ombudsman) for advice, support and practical assistance, as well as to assist in assessing any risks to the Discloser in making a protected disclosure.
15. If a Discloser believes, on reasonable grounds, that one or more of the persons named in paragraph 13 above are, or may be, either involved in the serious wrongdoing or by reason of any relationship or association with a person who is, or may be, involved in the serious wrongdoing, the Discloser may make the protected disclosure to the Chief Executive.
16. A Discloser who wishes to make a protected disclosure may also choose to report it directly to an Appropriate Authority at any time, including (without limitation) circumstances where:
 - a. The Discloser is of the view that reporting to an Appropriate Authority is justified due to the urgency of the matter or other exceptional circumstances.
 - b. The Chief Executive may be involved in the alleged serious wrongdoing; or
 - c. There has been no action or recommended action on the matter to which the disclosure relates within 20 working days after the date on which the disclosure was made.

Procedure for receiving a disclosure

17. If a person within Health NZ receives, or is approached for advice or support about a protected disclosure and:
 - a. They are aware they may have some involvement in the alleged serious wrongdoing; or
 - b. They have any relationship or association with an alleged wrongdoer, they must immediately advise the person to talk to another person listed in paragraph 14.
18. When a protected disclosure is received, the receiver will notify:
 - a. The Chief Executive, unless the disclosure indicates on reasonable grounds that the Chief Executive is, or may be, involved in the serious wrongdoing; and
 - b. The senior manager of the service or function in which the serious wrongdoing is alleged to have occurred, unless the disclosure indicates on reasonable grounds that the senior manager is, or may be, involved in the serious wrongdoing.
19. Within 20 working days of receiving the disclosure, Health NZ should:
 - a. Acknowledge to the Discloser the date of receipt (and if the disclosure was made orally, summarise its understanding of the disclosure); and
 - b. Consider the disclosure and whether it warrants investigation; and
 - c. Check with the Discloser whether the disclosure has been made elsewhere (and any outcome); and

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- d. Deal with the matter by doing one or more of the following:
 - i. Investigate the disclosure
 - ii. Addressing any serious wrongdoing by acting or recommending action
 - iii. Referring the disclosure to an Appropriate Authority in accordance with section 16 of the Act
 - iv. Deciding that no action is required in accordance with section 15 of the Act.
 - e. Inform the Discloser (with reasons) about what it has done to deal with the matter
 - f. Document all protected disclosures, including:
 - i. Details of the alleged serious wrongdoing
 - ii. The outcome of the investigation
 - iii. Any disciplinary action taken; and
 - iv. Follow-up action to correct any shortcomings or deficiencies in compliance processes.
20. If it is impracticable to complete the above actions in paragraph 19 within 20 working days, Health NZ should:
- a. Inform the Discloser how long it expects to take to deal with the matter; and
 - b. Appropriately update the Discloser about progress
 - c. Deal with the matter as set out in paragraph 19 d) and inform the Discloser (with reasons) what it has done or is going to deal with the matter.
21. The investigation will occur in liaison with appropriate staff and will be undertaken in accordance with the principles of natural justice. These principles require any person alleged to be involved in serious wrongdoing to be informed of the complaint and given an opportunity to respond to it.
22. The results of the investigation will be reported back to:
- a. The Chief Executive or other senior manager as appropriate; and
 - b. The Discloser.

Confidentiality

23. Health NZ must use its best endeavours to keep information that might identify the Discloser strictly confidential, unless:
- a. The individual consents in writing to the disclosure of that information; or
 - b. It reasonably believes that release of identifying information is essential:
 - i. For the effective investigation of the protected disclosure; or

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- ii. To prevent serious risk to public health or public safety, the health or safety of any individual, or the environment; or
 - iii. To comply with the principles of natural justice.
 - iv. To an investigation by a law enforcement agency for the purposes of law enforcement.
24. Where such information is to be disclosed in the circumstances outlined in paragraph 23(b)(i) or 23(b)(iii), Health NZ must consult the Discloser about the intended release.
25. However, where Health NZ considers it is impracticable in the circumstances to consult with a Discloser about the intended release due to a serious risk to public health, public safety, the health and safety of any individual, or the environment; or to an impending investigation by a law enforcement or regulatory agency for the purposes of law enforcement (reasons set out in paragraph 23 b)(ii) or paragraph 23 b)(iv)), the requirement to consult prior to the release of identifying information does not apply.

Protections

26. Any Discloser who makes a protected disclosure is protected from:
- a. Retaliatory action by Health NZ, including dismissal from employment, for making the disclosure; and
 - b. Civil or criminal liability or discipline for making the disclosure.
27. These protections will not apply if the Discloser knowingly makes a false allegation, or otherwise acts in bad faith in making the disclosure.
28. The Act provides that an employee who is subject to retaliation by their employer for making a protected disclosure can take personal grievance proceedings under the Employment Relations Act 2000.
29. It is unlawful to treat Disclosers, potential Disclosers, those who have encouraged Disclosers, or those who provide information in connection with a protected disclosure, less favourably than others in the same or similar circumstances. If a Discloser is victimised in this way, the legal remedies under the anti-victimisation protections in the Human Rights Act 1993 may be available to them.
30. Health NZ will take action to keep the Discloser safe and work with them to provide appropriate support.
31. Health NZ will provide practical assistance and advice to a Discloser about how to make a disclosure under this policy. Advice can be obtained by either discussing this with your manager or contacting Health NZ's Health Integrity Line (phone 0800 424 888).

Roles and Responsibilities

32. The Chief Executive is responsible to the Board for ensuring compliance with the Protected Disclosure Policy.
33. Our people are responsible for disclosing or managing any serious wrongdoing by or within Health NZ in line with this policy.

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Non-compliance with policy

34. Failure by staff to comply with this policy may result in Health NZ taking disciplinary action in accordance with the Code of Conduct.

Related Legislation, Policies and Procedures

- Code of Conduct
- Investigation and Disciplinary Policy
- Fraud Policy
- Employment Relations Act 2000
- Human Rights Act 1993
- Pae Ora (Healthy Futures) Act 2022
- Protected Disclosures (Protection of Whistleblowers) Act 2022

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