



PROTECTED DISCLOSURES POLICY

February 2013

Purpose:

This policy is to meet North Shore Playcentre's requirement under the Protected Disclosures Act 2000 ("the Act") to provide an internal procedure to receive an deal with information about serious wrongdoing within the organisation.

The purpose of this policy is to promote the public interest –

- a) By facilitating the disclosure and investigation of matters of serious wrongdoing in or by the organisation; and
- b) By protecting employees and volunteers, who in accordance with the Act, make disclosures of information about serious wrongdoing in or by an organisation.

Application

This policy applies to:

- a) Current and former employees
- b) Current and former volunteers
- c) Any individual who is engaged or contracted under a contract for services to do work for North Shore Playcentre Association Inc.

Definition of Serious Wrongdoing:

"Serious wrongdoing" as defined in the Act includes any serious wrongdoing of the following type:

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

Note: A disclosure relating to an act of wrongdoing which occurs prior to Jan 1st 2001 is still covered by this act.

Conditions for Disclosure:

Before making a disclosure the employee/volunteer should be sure the following conditions are met:

- a) The information is about serious wrongdoing in or by the North Shore Playcentre Association Inc or a Playcentre in the North Shore Playcentre Association Inc.;
- b) The employee / volunteer believes on reasonable grounds the information to be true or is likely to be true;
- c) The employee / volunteer wishes the wrongdoing to be investigated; and
- d) The employee / volunteer wishes the disclosure to be protected.

Protection for employees and volunteers:

If a disclosure about serious wrongdoing is made in accordance with this policy, then the employee/volunteer may be protected under the provisions of the Act.

Procedure:

Any employee or volunteer of the North Shore Playcentre Association Inc. who wishes to make a protected disclosure should do so using the following procedure.

They should submit the disclosure in writing.

The disclosure should contain detailed information including the following:

- the nature of the serious wrongdoing
- the name or names of the people involved
- surrounding facts including details relating to the time and/or place of the wrongdoing if known or relevant.

The disclosure must be sent in writing to one of the trustees of the organisation, being the Association President /Association Secretary Licensee /Association Treasurer who have been nominated by the North Shore Playcentre Association under the provisions of Section 11 of the Protected Disclosures Act 2000 for this purpose.

OR

If you believe that one of the trustees of the organisation, being Association President /Association Secretary/Licensee /Association Treasurer is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the North Shore Playcentre Association Solicitor (the name of the Association's Solicitor and contact information is in the Association Address Book).

On receipt of a disclosure,

The trustee(s) will acknowledge in writing the receipt of a disclosure to the person who has made the disclosure.

The trustee(s) must within **20 working days** examine seriously the allegations of wrongdoing made and, in consultation with the NSPA Solicitor, decide whether a full investigation is warranted. If warranted, a full investigation will be undertaken by the trustee(s) or arranged by them as quickly as practically possible, through an appropriate authority.

All disclosures will be treated with the utmost confidence. When undertaking an investigation, and when writing the report, the trustee(s) will make every endeavour possible not to reveal information that can identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential:

- to ensure an effective investigation of the allegations
- to prevent serious risk to public health or public safety or the environment
- to have regard to the principles of natural justice.

At the conclusion of the investigation, the trustee(s) will prepare a report of the investigation with recommendations for action if appropriate, which will be presented to the Management Team of the North Shore Playcentre Association.

Disclosure to another appropriate authority:

A disclosure may be made to an appropriate authority (including those listed below) if the employee/volunteer making the disclosure has reasonable grounds to believe:

- the person in the organisation responsible for handling the complaint is -or may be involved in the wrongdoing; or
- the immediate reference to another authority is justified by urgency or exceptional circumstances; or
- there has been no action or recommended action within 20 working days of the date of disclosure.

Appropriate Authorities include (but are not limited to)

- Commissioner of Police
- Controller and Auditor General
- Director of the Serious Fraud Office
- Inspector General of Intelligence and Security
- An Ombudsman
- Parliamentary Commissioner for the Environment
- Independent Police Conduct Authority
- Solicitor General
- State Service Commissioner
- Health and Disability Commissioner
- The head of every public sector organisation.

A disclosure may be made to a Minister or an Ombudsman if the employee/volunteer making the disclosure

- has made the same disclosure according to the internal procedures and clauses of this policy
- reasonably believes that the person or authority to whom the disclosure was made:
 - has decided not to investigate; or
 - has decided to investigate but not made progress with the investigation within reasonable time; or
 - has investigated but has not taken or recommended any action; and
- continues to believe on reasonable grounds that the information disclosed is true or is likely to be true.

Protection offered under the Act:

Where an employee makes a protected disclosure and claims to have suffered retaliatory action from the organisation, then the Act states:

- a) if that retaliatory action consists of or includes dismissal, an employee may have a personal grievance because of a claim of unjustifiable dismissal and Part 9 of the Employment Relations Act 2000 applies; and
- b) if the retaliatory action consists of action other than dismissal or includes action in addition to dismissal, an employee may have a personal grievance, and the Employment Relations Act 2000 applies.

An employee or volunteer is also protected from 'victimisation' within the meaning of section 66 of the Human Rights Act 1993 (which is a form of unlawful discrimination).

The Association wishes to make it clear that it will not tolerate any attempt of any employee, volunteer or contractor to apply any sanction or detriment to any person who has reported serious wrongdoing.

Where an employee or volunteer

- a) makes a protected disclosure of information in accordance with this policy; or
- b) refers a protected disclosure of information to an appropriate authority for investigation;

the employee or volunteer will not be liable to any civil or criminal proceeding or to a disciplinary proceeding because the employee/volunteer made or referred that disclosure of information.

The protection given under the Act does not apply where an employee or volunteer makes an allegation they know to be false, or if an employee or volunteer acts in bad faith. Such false allegations will be viewed very seriously by North Shore Playcentre Association Inc.

The protections extend to persons whom volunteers supporting information as if the information were a protected disclosure.

A person volunteers supporting information if the person –

- a) provides information, in support of a protected disclosure made by another person, to –
 - i) a person investigating the disclosure; or
 - ii) the person who made the disclosure; and
- b) is an employee of the organisation in respect of which the disclosure was made; and
- c) wishes to provide the supporting information so that the serious wrongdoing can be investigated.

However, a person does not volunteer supporting information if the person provides the supporting information only after being –

- a) Required to do so under an enactment, rule of law or contract for the purposes of the investigation; or
- b) Approached during the course of the investigation by, or on behalf of, the person investigating the matter.

Internal Communication:

The Management Team will republish this policy and include it on the agenda of an Association general meeting at least once a year.

All new employees of the North Shore Playcentre Association will be advised of this policy.

Centres must ensure that all new centre members and employees are aware of this policy.

Relevant Regulations and References:

Protected Disclosures Act 2000

Human Rights Act 1993

Employment Relations Act 2000

<p>Policy Accepted: Approved Association Meeting February 2013, Review Date: 2016</p>
