

Protected Disclosure/Whistleblower Policy

Last Review	May 2023
Next Review	May 2025
Approval	29 May 2023
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1. Commitment to Child Safety

Dilworth School is committed to providing a safe, caring and nurturing environment and school climate to ensure the wellbeing and prevent the harm of tamariki, rangatahi, their whānau/family and staff. This is our single greatest priority and responsibility.

- Dilworth is alert to potential child safety risks and takes immediate action when issues are identified.
- There is zero tolerance for abuse of any kind.
- All stakeholders are to report any child safety allegations, disclosures or concerns.
- All staff must adhere to and abide by the Student Safety Code of Conduct.
- We seek, value and respect diverse representation, views and experiences in tamariki/rangatahi and encourage individuality and choice.
- Tamariki/Rangatahi are empowered and encouraged to speak up and speak out.
- All services adhere to child rights principles of partnership, protection and participation; and the rights and responsibilities accorded by Te Tiriti o Waitangi.

The full version of our Statement of Commitment to Child Safety can be viewed on our [website](#).

2. Purpose

Dilworth recognises that all Dilworth staff, students and whānau/families have a right to a safe and high functioning school and school community. All Dilworth staff, students and whānau/families also have a right to express their views, give feedback, make complaints or report concerns when these rights or standards have not been upheld or represented.

This Protected Disclosure/Whistleblowing Policy has been developed in accordance with the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#), best practice and as a further means of upholding Dilworth’s safeguarding culture and commitment to providing a safe environment for all.

We trust this policy will provide encouragement to any person who may have knowledge of or concerns relating to serious wrongdoing within or associated with Dilworth to express these concerns without fear.

3. Scope

3.1 Policy Remit

This policy does not supersede or diminish, in any way, any person's legal rights or Dilworth's existing safeguarding structures or processes. This policy is designed to work in conjunction with these rights and structures to encourage and support disclosures relating to serious wrongdoing.

For a disclosure to be protected, as per the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#), the following requirements must be met:

- The information must be about serious wrongdoing in, by or associated with Dilworth.
- The person must have a good reason to believe the information is true or likely to be true.
- The person wants the serious wrongdoing to be investigated and is willing to cooperate.

The scope of this policy also includes all recorded means for which a disclosure may be received and responded to. This includes but is not limited to:

- Emails and other correspondence.
- Recordings, photographs, etc.
- Text messages, screenshots, etc.
- Websites, social media sites, etc.
- Databases, spreadsheets and reports.

Any person with a complaint or concern not meeting these protected disclosure requirements is encouraged to share that information via Dilworth's other reporting structures:

- [Dilworth's Complaints Policy](#)
- [Dilworth's Student Protection Policy](#)

In addition to the above reporting avenues, Dilworth staff can also report a complaint or concern not meeting these protected disclosure requirements via [Dilworth's Reporting Policy](#).

3.2 People

This policy applies to all Dilworth staff (as per Dilworth's definition of staff) and encompasses all Dilworth sites and environments (including online environments).

In accordance with the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#), as well as Dilworth's definition of Staff, this policy applies to the following:

- Any former staff (paid, voluntary or contracted).
- Any homeworkers (as per [Section 5 of the Employment Relations Act 2000](#)).
- Any secondee to the school.
- Any person concerned in or formerly concerned in the management of the school, e.g. Trustees, etc.

This policy can also support any student and whānau/family involved or otherwise connected to the school.



STAFF

We define "Staff" as any person serving, working at or representing the Dilworth Trust Board. Inclusive of whether that person is in a paid, voluntary or contracted position; a permanent or temporary role and a teaching or non-teaching position.

Due to the nature of being a school, it is also irrelevant whether that person is in a direct or non-direct student facing position.

4. Values

This policy is reflective of Dilworth's values:

Compassion <input checked="" type="checkbox"/>	To help, empathise with, care about and embrace differences.
Excellence <input checked="" type="checkbox"/>	To apply and challenge yourself to be your best in all areas.
Integrity <input checked="" type="checkbox"/>	To apply and challenge yourself to be your best in all areas.
Respect <input checked="" type="checkbox"/>	To treat others with courtesy, to honour, and to care about yourself, others and the environment.
Service <input checked="" type="checkbox"/>	To use one's strengths and abilities for the benefit of others.

5. Principles

Dilworth trusts this policy is a further means of demonstrating how Dilworth seeks to be transparent and continuously ensure its safeguarding culture is upheld. Although not exclusive, this policy reflects the following Dilworth principles:

- Our commitment to developing and maintaining a safeguarding culture that safeguards everyone.
- Us taking every measure possible to ensure Dilworth is a safe school.
- A zero tolerance for harm, abuse and neglect, including child abuse.
- To provide a comfortable and supportive environment that removes or reduces any barriers to a person making a disclosure.
- To have transparent policies and processes that help to remove any fear associated with making a disclosure (e.g. fears of retribution, lost opportunities and experiences being contingent on not providing negative feedback, etc.).
- Being advocates for human and child rights.
- Being legally compliant and exceeding these requirements where possible by promoting best practice.

6. Definitions

For the purposes of this policy, unless otherwise stated, the following definitions shall apply:

Protected Disclosure	<p>A Protected Disclosure is a declaration made by a person (usually staff) where they believe serious wrongdoing has occurred. Those making such disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.</p> <p>Under Section 9 of the Protected Disclosures Act 2022, 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 this Act; and ▪ does not disclose it in bad faith.
Safeguarding Complaint/ Disclosure	<p>Any complaint that indicates or refers to the following would be considered a safeguarding complaint/disclosure:</p> <ul style="list-style-type: none"> ▪ Misconduct in relation to student safety, ▪ Non-compliance with safeguarding policies, ▪ Child abuse ▪ A belief(s), concern(s), suspicion(s) or allegation(s) related to child safeguarding misconduct/ non-compliance ▪ A belief(s), concern(s), suspicion(s) or allegation(s) related to child abuse
Serious Wrongdoing	<p>In relation to Dilworth, Section 10 of the Protected Disclosures Act 2022 describes serious wrongdoing as any act, omission, or course of conduct in (or by) the school 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, or the health or safety of any individual; or the environment. ▪ a serious risk to the maintenance of law, including— <ul style="list-style-type: none"> (i) the prevention, investigation, and detection of offences; or (ii) the right to a fair trial: ▪ Unlawful, corrupt or irregular use of public money or resources
Whistleblower	<p>A person (usually staff) who reports information or activities that are deemed illegal or incorrect in an organisation.</p>

7. Legislation

7.1 International Legislation

Under the [United Nations Convention on the Rights of the Child 1989 \(UNCRC\)](#) and the [Human Rights Act 1993](#), all people have the right to protection from risks of harm, abuse and neglect.

Dilworth takes the implementation and advocacy of these rights seriously, and child rights are at the very core of our policy framework.

7.2 New Zealand Legislation

The [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#) replaced the Protected Disclosures Act 2000 on 1st July 2022. It applies to public and private sectors across New Zealand and is the primary New Zealand legislation guiding this policy.

The purpose of the act is to support the facilitation of protected disclosures and investigations of serious wrongdoing in a workplace/organisation and to provide protection for those who report concerns. The key changes in the 2022 Act are:

- Extending the definition of serious wrongdoing to cover private sector use of public funds and authority and to cover behaviour that is a serious risk to the health and safety of any individual.
- Allowing people to report serious wrongdoing directly to an appropriate authority at any time while clarifying the ability of the appropriate authority to decline or refer the disclosure.
- Strengthening protections for disclosers by specifying what a receiver of a disclosure should do.
- Clarifying internal procedure requirements for public sector organisations and requiring them to state how they will provide support to disclosers.
- Clarifying the potential forms of adverse conduct disclosers may face.

Other relevant legislation and guidance underpinning this policy and Dilworth’s reporting policies, procedures, and structures include but are not exclusive to:

Employment Relations Act 2000	Prescribes a “Good Faith” relationship between the Employee and Employer and options for redress or resolution of employment-related problems as they may arise in the workplace.
Health and Safety at Work Act 2015	Details protection requirements for all parties in a working environment in relation to their mental, physical and psychological safety.
Human Rights Act	Ensures protection of all people, including in employment, against a range of discrimination activities
The Privacy Act 2020	Details protection requirements surrounding the gathering, holding, sharing and storing of personal information.
The Teaching Council Rules 2016	Details rules and mandatory reporting requirements relating to teacher disciplinary bodies, functions and expected practices and procedures.

<u>Children's Act 2014</u>	The Act introduced requirements for organisations, including schools to have a Child Protection Policy and to apply recruitment Safety Check processes.
<u>Crimes Act 1961</u>	This Act holds people to account for and deters offences. It sets out offences and penalties for harm committed against another person, e.g. murder, manslaughter, assault and crimes relating to family and sexual violence.
<u>Harmful Digital Communication Act 2015</u>	Acknowledges the ways people can use technology to hurt others and includes 'causing harm by digital communication' as a criminal offence. It aims to prevent and reduce the impact of online bullying, harassment and other forms of abuse and intimidation.
<u>Education and Training Act 2020</u>	The Act came into effect on 1 st August 2020 and incorporates and replaces the Education Acts 1964 and 1989 and implements changes from the Education Work Programme.
<u>Oranga Tamariki Act 1989</u>	The Oranga Tamariki Act 1989 (Children's and Young People's Well-being Act 1989) defines child abuse, identifies reporting processes and governs our state care services.
<u>Te Tiriti o Waitangi/Treaty of Waitangi</u>	A constitution promising to protect Māori and Māori culture. Dilworth expects all students, staff and its community to embrace difference and diversity and promote inclusivity, including the rights and responsibilities accorded by <u>Te Tiriti o Waitangi/Treaty of Waitangi</u> . Any failure to do so within the school is a failure to represent Dilworth.

8. Roles and Responsibilities

Any person, as per Section 3, the Scope of this policy, have an encouraged responsibility to disclose any awareness or knowledge of serious wrongdoing at or associated with Dilworth.

Specific staff responsibilities relating to this policy include:

8.1 Designated Safeguarding Trustee

- Will serve as a primary Dilworth representative to receive any protected disclosures.
- Will acknowledge the receipt of a protected disclosure within 20 working days of receiving a protected disclosure.
- When leading the school's response to a protected disclosure, they will confirm that the received disclosure meets or has the potential to meet this policy's and the Protected Disclosures Act 2022 definition of serious wrongdoing and all other applicable requirements.
- Where applicable, will apply Dilworth's Investigation Policy when responding to any protected disclosures received.
- Unless reflected differently within an Investigation Report, the Designated Safeguarding Trustee is responsible for sharing the Investigation Report with the Headmaster, Chairman of the AFR Committee. If noted differently, the Designated Safeguarding Trustee will share the Investigation Report as per the reports recommendations.

8.2 Chairman of Dilworth's Audit, Finance and Risk (AFR) Committee

- Will lead as Dilworth's representative in receiving any protected disclosures that may relate to any of the named primary contacts detailed in this policy, e.g., the Headmaster, Designated Safeguarding Trustee or Director of Human Resources.
- Will acknowledge the receipt of a protected disclosure within 20 working days of receiving a protected disclosure.
- When leading the school's response to a protected disclosure, they will confirm that the received disclosure meets or has the potential to meet this policy's and the Protected Disclosures Act 2022 definition of serious wrongdoing and all other applicable requirements.
- Will apply Dilworth's Investigation Policy when responding to any protected disclosures received.
- Unless reflected differently within an Investigation Report, the Chairman is responsible for sharing the Investigation Report with the Chair of the Trustees. If noted differently, the Chairman will share the Investigation Report as per the reports recommendations.
- Will lead on monitoring and reviewing Dilworth's Register of Protected Disclosures at their regular meetings.

8.3 Headmaster

- Will serve as a primary Dilworth representative to receive any protected disclosures.
- Will acknowledge the receipt of a protected disclosure within 20 working days of receiving a protected disclosure.
- When leading the school's response to a protected disclosure, they will confirm that the received disclosure meets or has the potential to meet with this policy's and the Protected Disclosures Act 2022 definition of serious wrongdoing and all other applicable requirements
- Will apply Dilworth's Investigation Policy when responding to any protected disclosures received.
- Unless reflected differently within an Investigation Report, the Headmaster is responsible for sharing the Investigation Report with the Designated Safeguarding Trustee and Chairman of the AFR Committee. If noted differently, the Designated Safeguarding Trustee will share the Investigation Report as per the reports recommendations.
- Will maintain a Register of Protected Disclosures and report on this register to Dilworth's AFR Committee at their regular meetings.

8.4 Director of Human Resources

- Will serve as a primary Dilworth representative to receive any protected disclosures.
- Will acknowledge the receipt of a protected disclosure within 20 working days of receiving a protected disclosure.
- When leading the school's response to a protected disclosure, they will confirm that the received disclosure meets or has the potential to meet with this policy's and the Protected Disclosures Act 2022 definition of serious wrongdoing and all other applicable requirements
- Will apply Dilworth's Investigation Policy when responding to any protected disclosures received.
- Unless reflected differently within an Investigation Report, the Director of Human Resources is responsible for sharing the Investigation Report with the Headmaster, Designated Safeguarding Trustee and Chairman of the AFR Committee. If noted differently, the Director of Human Resources will share the Investigation Report as per the reports recommendations.

9. Who Can Make A Protected Disclosure?

As per Section 3 the Scope of this policy, any Dilworth staff or individuals noted below share an encouraged responsibility to disclose any awareness or knowledge of serious wrongdoing at or associated with Dilworth.

- Any former staff (paid, voluntary or contracted).
- Any homeworkers (as per [Section 5 of the Employment Relations Act 2000](#)).
- Any secondee to the school.
- Any person concerned in or formerly concerned in the management of the school, e.g. Trustees, etc.
- Any student and whānau/family involved or otherwise connected to the school.

10. Protected Disclosure Under the Act?

For a disclosure to be protected under the Act, the disclosure must:

- Be about serious wrongdoing in, by or associated with Dilworth.
- The person disclosing must have a good reason to believe the information is true or likely to be true.
- The person disclosing wants the serious wrongdoing to be investigated and is willing to cooperate.

If the person disclosing believes, on reasonable grounds, that the information disclosed is about serious wrongdoing as defined by the Act, but that belief is mistaken, the information will nevertheless be treated as a Protected Disclosure under the Act.

If the person disclosing knows the allegations are false, acts in bad faith or the information is protected by legal professional privilege; the disclosure will not be protected.

11. What Protection Does the Act Offer?

A discloser is entitled to protection for a protected disclosure made to their organisation if it is made:

- In accordance with any internal policies and procedures; or
- To the head or a deputy head of the organisation (or others as highlighted within this policy).
- To an appropriate authority at any time. This applies whether or not the discloser has also made the disclosure to their organisation or to another appropriate authority.

A discloser remains entitled to protection even if:

- They are mistaken, and there is no serious wrongdoing; or
- They do not refer to the name of the Protected Disclosures Act 2022 when making the disclosure; or
- They technically fail to comply with [Section 11](#) (Discloser's Entitlement to Protection) or [Section 14](#) (Disclosure's Entitlement to Disclose Further) of the Act (as long as they have substantially complied); or
- They also make the disclosure to another person, as long as they do so on a confidential basis and for the purposes of seeking advice about whether or how to make a protected disclosure in accordance with the Protected Disclosures Act.
- If the disclosure is/includes intelligence, security or international relations information.

Protections under the Act also extend to staff who volunteer information in support of a protected disclosure (made by another person) as if the information volunteered were a protected disclosure.

The Act clearly states that no civil, criminal or disciplinary action can be taken against whistleblowers or potential whistleblowers for making a protected disclosure. Employers who discriminate or mistreat staff that have disclosed information about serious wrongdoing could face serious legal consequences.

Should any staff making a protected disclosure face or believe they have faced any form of retaliation from Dilworth, they can submit a personal grievance claim under the [Employment Relations Act 2000](#).

11.1 Limitation on Protections

The protections conferred by the Protected Disclosures Act 2022, this policy, and by section 66(1)(a) of the [Human Rights Act 1993](#) do not apply:

- Where the person makes a disclosure of information or allegation known to that person to be false or otherwise acts in bad faith; or
- Where the person provides information in support of a Protected Disclosure only after being required to do so by law; or after being approached during the course of an investigation of the matter, in this case, the person has not volunteered supporting information.

12. Confidentiality

Every receiver of a protected disclosure must use their best endeavours to keep confidential information that might identify the discloser or any person who volunteers information in support of that disclosure.

There are exceptions to the confidentiality rule in the Protected Disclosure Act 2022, which means certain information can be used if:

- The discloser consents (Dilworth's preference is in writing) to the release of the identifying information.
- 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 or safety of any individual, or the environment; or
- To avoid potential bias and comply with the principles of natural justice; or

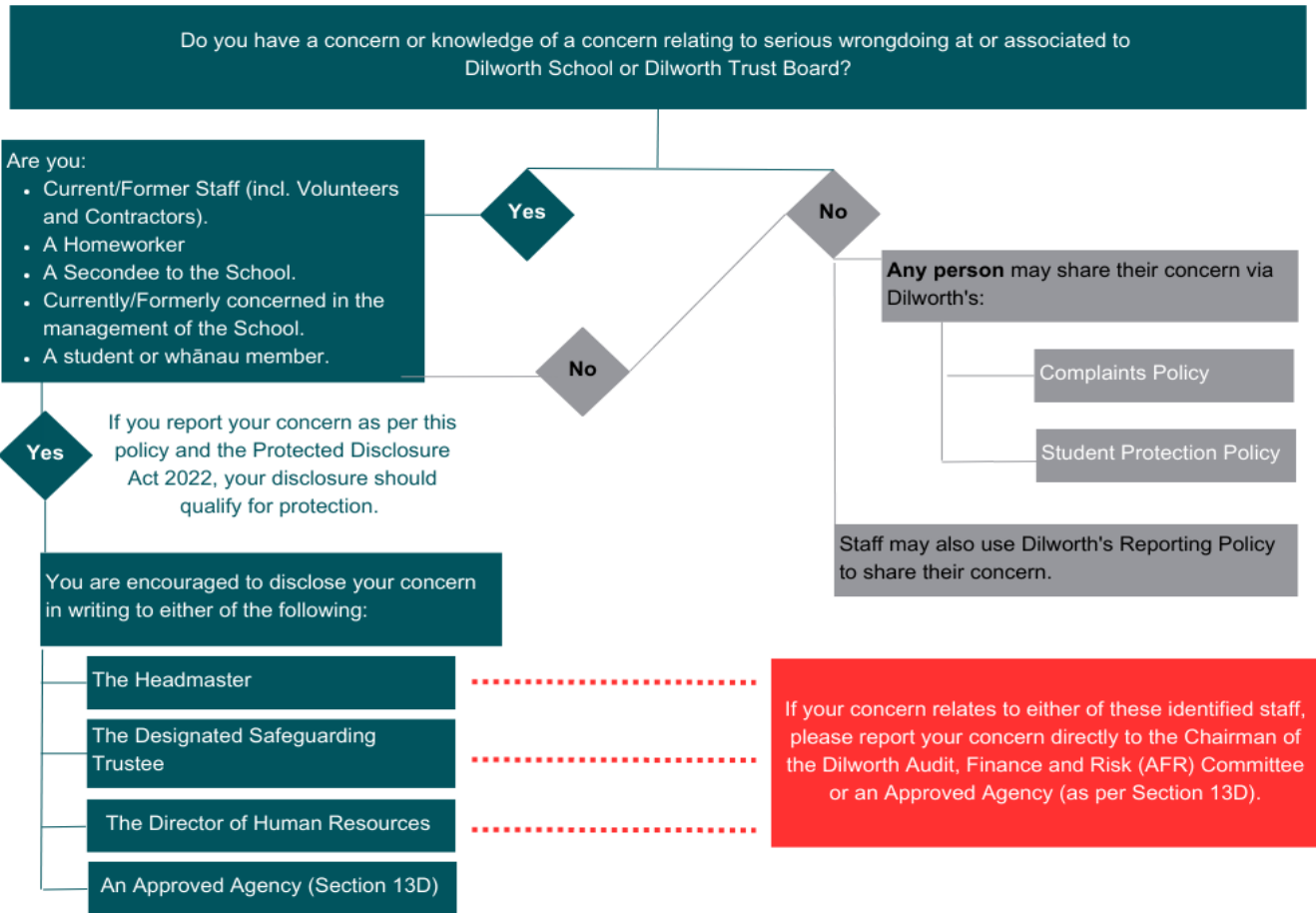
However, before releasing any identifying information for the reason described above, the receiver must consult the discloser about the release; or the receiver must, if practicable, consult the discloser about the release. After releasing identifying information, the receiver must inform the discloser.

Anyone may seek information and guidance from an Ombudsman about the duty of confidentiality.

If the release of information that might identify the discloser breaches the Protected Disclosures Act 2022 confidentiality requirements, this may also be considered a breach of the [Privacy Act 2020](#).

13. Making A Protected Disclosure

See Appendix 1 for the full copy of the Reporting A Protected Disclosure Flow Chart



- A. A person who has knowledge of or information about any serious wrongdoing should report the misconduct in writing, with as much detail as possible via regular mail, to the below contacts.
- B. The person should advise that the disclosure is being made under the Protected Disclosures Act 2022. However, failure to do so does not necessarily preclude a disclosure from being later considered as protected under the provisions of the Act.
- C. Our preference is for the disclosure to be submitted to **either** of the following three staff members:

1. The Headmaster	d.reddiex@dilworth.school.nz	The Headmaster Dilworth School Private Bag 28 904 Remuera, Auckland 1541
2. Designated Safeguarding Trustee	safeguardingtrustee@dilworth.school.nz	Designated Safeguarding Trustee (Whistleblower) Dilworth Trust Board Private Bag 28 904 Remuera, Auckland 1541

3. Director of Human Resources.	j.clark@dilworth.school.nz	The Director of Human Resources Dilworth School Private Bag 28 904 Remuera, Auckland 1541
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- D. If the disclosure relates to one of the three persons identified, the disclosure should be shared with the Chairman of the Audit, Finance and Risk (AFR) Committee, who may be contacted via:
whistleblower@dilworth.school.nz or,
Chairman of the AFR (Whistleblower)
Dilworth Trust Board
Private Bag 28 904
Remuera, Auckland 1541
- E. A disclosure may also be made to an appropriate authority (listed below) if the person disclosing has good reason to believe:
- The highlighted Dilworth authority (e.g. Headmaster and/or Board) is or may be involved in the wrongdoing;
 - Immediate reference to another authority is justified by urgency or exceptional circumstances; or
 - There has been no acknowledgement, action or recommended action within 20 working days of the date of the disclosure.
- F. Appropriate authorities include (but are not limited to):
- Ombudsman.
 - Commissioner of Police.
 - Director of the Serious Fraud Office.
 - Solicitor-General; or
 - The head of every public sector agency.
- G. When making a Protected Disclosure, the person making the disclosure has a responsibility to:
- Consider the core ethical values of respect, responsibility, fairness, integrity and empathy.
 - In that regard, it is not appropriate nor protected by the Act or this policy for the person disclosing to report alleged serious wrongdoing to a recipient who is not authorised to receive that disclosure, such as the media or members of the public.
 - The person making the disclosure of serious wrongdoing is expected to act professionally and ethically with due regard to the potential seriousness of the allegations, including maintaining appropriate confidentiality.

If a staff member making a protected disclosure acts in a manner which is inconsistent with the above points, this may be dealt with under Dilworth's Disciplinary Rules and Procedures (if relevant), a copy of which can be found in the Dilworth Policies Manual.

14. Responding To A Protected Disclosure

In being the receiver of a protected disclosure, Dilworth has organisational responsibilities under the Protected Disclosure Act 2022, which include having a policy and appropriate internal procedures, which we ensure are publicised widely.

In responding to a protected disclosure, Dilworth will:

- A. As per the Protected Disclosures Act 2022, the receiver of the disclosure will within 20 working days of receiving the disclosure:
 1. Acknowledge receipt of the disclosure and the date the disclosure was received.
 2. Confirm how the disclosure was received, e.g., in writing, orally, etc.
 3. Summarise the receiver's understanding of the disclosure.
 4. Check with the discloser whether the disclosure has been made elsewhere (and any outcome(s)).
- B. However, when it is impracticable to complete the above actions within 20 working days, the school will inform the discloser how long the school expects to take to deal with the disclosure.
- C. If the investigation has not commenced within the above timeframe, the person making the protected disclosure may refer the disclosure to the Chairman of the AFR Committee.
- D. The receiver will then take the lead in exploring if the received disclosure meets or has the potential to meet this policy's and the Protected Disclosures Act 2022 definition of serious wrongdoing and all other applicable requirements to meet being a protected disclosure.
 1. At this stage of the process, the recipient will act as the school's lead person. However, they will not be making decisions in isolation and are required to work in conjunction with any of the other key nominated staff highlighted in this policy.
 2. This stage of the process may also require the recipient to initiate Dilworth's Investigation Policy in order to support a decision being reached.
- E. In accordance with the principles of natural justice, Dilworth will then either respond by one or more of the following:
 1. Refer any disclosures that may give rise to a criminal offence to the Police.
 2. Initiate a full investigation in accordance with Dilworth's Investigation Policy.
 3. Refers the investigation to more suitable internal or external personnel or entity for investigation (as per Dilworth's Investigation Policy or the Protected Disclosure Act 2023).
 4. Under [section 16](#) of the Act, refer the disclosure to an appropriate authority. Before doing so, Dilworth would consult the discloser and the intended appropriate authority.
 5. Under [section 15](#) of the Act, decide that no action is required. If so, Dilworth will inform the discloser with reasons (as per Section 16 of this policy).
- F. Within reason and within 20 working days, the school will inform the discloser about the following:
 1. The school's response to the matter (as per the options in point E).
 2. Appropriately update the discloser about progress and inform the discloser (with reasons) about what the school has done or is doing to deal with the matter in accordance with the point E option or options taken.

- G. As per the Investigation Policy, the investigation will seek to determine whether or not the allegation of serious wrongdoing is substantiated, and if so, the Investigation Report will recommend the action(s) to be taken.
- H. Should any disciplinary action be required, this would be managed under the guidance of the Investigation Policy process and Dilworth's Disciplinary Rules and Procedures.
- I. Feedback to all relevant parties will be managed in accordance with this policy and the Investigation Policy.
- J. Unless reflected differently within an Investigation Report, the lead responder is responsible for sharing the Investigation Report with the Headmaster, Designated Safeguarding Trustee and Chairman of the AFR Committee. If noted differently, the lead person will share the Investigation Report as per the reports recommendations.
- K. The Chairman of the AFR Committee is responsible for sharing any Investigation Report with the Chair of the Trustees. If a report notes this action as being inappropriate, the Chairman will manage sharing the Investigation Report with the Trustees as per the reports recommendations.

15. Appropriate Authorities

A disclosure may be made to an appropriate authority (including those listed below) if the person disclosing has good reason to believe:

- The highlighted Dilworth authority (e.g. Headmaster and/or Board) is or may be involved in the wrongdoing;
- Immediate reference to another authority is justified by urgency or exceptional circumstances; or
- There has been no acknowledgement, action or recommended action within 20 working days of the date of the disclosure.

Appropriate authorities include (but are not limited to):

- Ombudsman.
- Commissioner of Police.
- Director of the Serious Fraud Office.
- Solicitor-General; or
- The head of every public sector agency.

Dilworth may also refer a protected disclosure to an appropriate authority. Before doing so, Dilworth would consult the discloser and the intended appropriate authority. A disclosure may also be referred on more than one occasion.

An appropriate authority may also refer a protected disclosure relating to Dilworth to the school. If an appropriate authority refers a disclosure, Dilworth must inform the authority about what the school has done or is doing to respond to the matter (at the same time as the organisation informs the discloser).

16. Appropriate Reasons for Deciding No Action Is Required

Reasons that may be appropriate for deciding that no action is required include the following:

- The requirements of [sections 8 to 10](#) (meaning of disclosure, meaning of protected disclosure and meaning of serious wrongdoing) are not met.
- The length of time between the alleged serious wrongdoing and the disclosure makes an investigation impracticable or undesirable.
- The matter is better addressed by other means.

17. Protections

In addition to being a breach Dilworths safeguarding culture, under the Protected Disclosures Act 2022, Dilworth will not retaliate or threaten to retaliate or treat a discloser or any person who intends to make or support a protected disclosure less favourably. Any allegation of victimisation or retaliation will be taken seriously, and allegations of this nature that are established may result in disciplinary action under Dilworth's Disciplinary Rules and Procedures.

17.1 Obligation not to retaliate or treat less favourably

This may include the school doing or organising any of the following:

- Dismissing the staff member.
- Refusing or omitting to offer or afford to the staff member the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available to other staff of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances.
- Subjecting the staff member to any detriment or disadvantage (including any detrimental or disadvantageous effect on the staff member's employment, job performance, or job satisfaction) in circumstances in which other staff employed by the school in work of that description are not or would not be subjected to such detriment or disadvantage:
- Retiring the staff member or requiring or causing the staff member to retire or resign.

If the discloser believes Dilworth has retaliated or has threatened to retaliate, the staff member may make a personal grievance under [Section 103 Employment Relations Act 2000](#) and [Part 9](#) of that Act applies accordingly.

17.2 No Victimisation

A person must not treat, or threaten to treat, another person (e.g. a relative or associate of that person) less favourably than they would treat other persons in the same or substantially similar circumstances because of the following:

- They intend to make or have made a protected disclosure under the Protected Disclosures Act 2022; or
- They have encouraged another person to make a protected disclosure; or
- They have given or intend to give information in support of, or relating to, a protected disclosure; or
- They have done anything described above.

Doing any of the above would be recognised as a breach of the Protected Disclosures Act 2022 and is unlawful under [Section 66 of the Human Rights Act 1993](#). However, the Protected Disclosures Act 2022 does not apply if the person knowingly made a false allegation or otherwise acted in bad faith.

17.3 No Retaliation In Court or Disciplinary Proceedings

Neither a person who makes a protected disclosure nor the receiver who refers a protected disclosure is liable to any civil, criminal, or disciplinary proceeding because of making or referring the disclosure.

This applies despite any prohibition of or restriction on the disclosure of information under any legislation, rule of law, agreement, contract, internal procedure, oath, or practice.

18. Other Applicable Policies and Procedures

This Protected Disclosure Policy aligns with and supports the below Dilworth policies and procedures.

- Complaints Suite – Policies and Procedures
- Dilworth Policies Manual
- Disciplinary Rules and Procedures
- Historical Allegations of Abuse Policy
- Investigation Policy
- Privacy Policy
- Recording Policy
- Reporting Policy
- Statement of Commitment to Child Safety
- Student Protection Policy
- Student Safety Code of Conduct for Staff

19. Policy Review

This Policy will be reviewed biennially (every 2 years).

Circumstances that may trigger an earlier or additional review include but are not limited to - legislative changes, organisational changes, incident/case learnings, etc.

Investigations may also be reviewed annually as part of our continuous improvement and learning processes.

Where applicable, we will communicate any policy updates via the implementation and dissemination elements noted in Dilworth's Policy Review Database for this Protected Disclosure Policy. These may include staff briefings, staff management meetings, staff training, school signage, and family communication resources, e.g. website, newsletters, social media, etc.

Appendix 1 – Reporting A Protected Disclosure Flowchart

