



Pacific Association of Supreme Audit Institutions (PASAI)

Whistleblowing Policy

Access to information

PASAI members, Donors, International and Regional Partners

PASAI Reference Number

PP_13_WBP_2019

Issued and effective

Approved by the Governing Board on 12 August 2019.

Review

Reviewed in March 2022 and to be reviewed every two years thereafter [next review March 2024]

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Applicable to

All PASAI office holders and staff

Issuer

Chief Executive for PASAI

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SECTION I – PURPOSE

1. The purpose of this policy and accompanying procedure is to:
 - (a) ensure people know what a protected disclosure is;
 - (b) ensure people know when, how and to whom they can make a protected disclosure;
 - (c) describe the type of conduct (serious wrongdoing) that may give grounds to make a protected disclosure;
 - (d) explain how people will be protected; and
 - (e) outline the process that will be followed.
2. This policy sets out PASAI’s approach to possible wrongdoing by its own employees. The key elements to this policy are:
 - (a) a clear process for employees to raise concerns, whether under the Protected Disclosures Act (for serious wrongdoing) or otherwise;
 - (b) the approach PASAI takes in investigating any alleged wrongdoing and determining an appropriate sanction; and
 - (c) making clear decisions on what steps will follow from an investigation.
3. This policy describes in general terms the approach that will be taken whenever potential wrongdoing has been identified. These policies cannot cover all scenarios. The Chief Executive or the Secretary-General, or their delegate, retains the discretion to decide the detail of how to proceed in any particular situation.
4. Protected disclosures (sometimes referred to as ‘whistle-blowing’) must be made in accordance with the Protected Disclosures Act 2000 (‘the Act’). The Act applies to serious wrongdoing in any organisation in New Zealand (whether public or private sector), and aims to promote the public interest by facilitating the disclosure and investigation of serious wrongdoing in or by an entity. The Act also provides protection for staff who choose to use the Act to make disclosures about serious wrongdoing.
5. Even if something comes to attention that doesn’t constitute ‘serious wrongdoing’ and therefore doesn’t enable someone to avail themselves of the protections given by the Act, the policy encourages staff to feel able to ‘speak up’ and report conduct that is not serious wrongdoing as defined by the Act, but which is of concern to a staff member who, in good faith, sees a need to report it. PASAI will provide a safe environment in which to do so confidentially.

6. However, the policy does not apply to situations involving challenges to regular operational, financial, or people management decisions made through PASAI's normal business processes.
7. Complaints of bullying or harassment are excluded from this policy as they are covered by the PASAI Human Resources Policy

SECTION II – SCOPE

8. This policy applies to PASAI Incorporated as a legal entity, and to all PASAI office holders (including Governing Board members) and staff (including contractors and consultants), people seconded to PASAI from other organisations, people who do voluntary work for PASAI, and staff members of SAIs participating in PASAI activities.
9. People in the above categories who come forward voluntarily to provide information in support of a protected disclosure so it can be investigated are also protected.

SECTION III – POLICY STATEMENTS

General principles

10. PASAI is committed to the highest standards of openness, integrity and accountability. Any potential wrongdoing, whether systematic or a one-off incident, will be assessed for investigation.
11. PASAI aims to maintain effective internal systems and controls that meet best practice standards.
12. PASAI actively promotes a culture in which employees feel able to raise genuine concerns without fear of victimisation, discrimination or disadvantage.
13. Any investigative or disciplinary processes must follow a fair and impartial process and decisions must be based on the best available evidence

Protected disclosures

14. Protected disclosures are those where:
 - (a) the information disclosed is about serious wrongdoing in or by PASAI and
 - (b) the individual making the disclosure (the 'discloser') believes on reasonable grounds that the information is true or likely to be true and
 - (c) the discloser wants to disclose the information so that it can be investigated and
 - (d) the discloser wants to be protected.

‘Serious wrongdoing’ as defined by the Act

15. *‘Serious wrongdoing’* is defined by section 3 of the Act as:
 - (a) unlawful, corrupt or irregular use of public funds or the resources of a public sector organisation or
 - (b) an act, omission, or course of conduct:
 - (c) that constitutes a serious risk to public health, public safety, or the environment
 - (d) that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences, and the right to a fair trial or
 - (e) that constitutes an offence or
 - (f) by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.
16. *‘Serious wrongdoing’* is not to be confused with *‘serious misconduct’*, though a finding of serious wrongdoing may also be determined to be serious misconduct.
17. Disclosure of matters of concern that are not *‘serious wrongdoing’* are referred to as *‘speaking up’* under this policy.

Detection of potential wrongdoing

18. There are two main elements to detecting potential wrongdoing:
 - (a) internal controls designed to help maintain the integrity of systems and processes, safeguard PASAI’s assets and encourage compliance; and
 - (b) a process for employees to follow if they raise a concern.

Internal systems and process controls

19. PASAI uses numerous mechanisms to reduce the risk of wrongdoing. Refer to *Appendix A - Internal mechanisms that reduce the risk of wrongdoing* for further information.

How employees can raise a concern

20. Employees have a duty to report any concerns they may have about potential wrongdoing in the organisation. PASAI’s preference is that employees raise their concerns at an early stage (even if they are uncertain or lack evidence to support their concerns) rather than wait for conclusive proof.
21. Any disclosure under this policy should be made to the Chief Executive of PASAI in the first instance, unless the Chief Executive is either the subject of the disclosure or the

person making the disclosure. In either of the latter situations, the disclosure should be made to the Secretary-General or the Deputy Secretary-General.

22. If a discloser is dissatisfied with the way a disclosure to the Chief Executive is being managed or responded to, the Policy allows the discloser to disclose the matter to the Secretary-General or the Deputy Secretary-General.
23. If the employee wishes to raise their concern directly but is concerned about confidentiality and privacy, they may wish to raise their concern by a text, phone call, or email (marked "PRIVATE") to arrange a meeting away from the office.
24. Employees may also choose to speak privately to someone they trust in the organisation, or raise a question in an open forum, such as at a team meeting or staff talk. Where the Chief Executive becomes aware that one of the staff has raised a concern in such a way, the Chief Executive may wish to approach the employee directly and privately, to find out more about the employee's concern. However, the concern should be referred to the Secretary-General if the concern is about the Chief Executive.
25. If an employee raises a genuine concern in good faith, then it does not matter if he or she is mistaken about the suspected wrongdoing. PASAI will not tolerate the harassment or victimisation of anyone raising a genuine concern through a proper process. However, improper use of these processes, for example with malicious intent, could lead to disciplinary action.
26. Where possible, PASAI will protect the identity of the person raising the concerns. If the situation arises where we are not able to resolve the concern without revealing the employee's identity, we will discuss with the employee whether, and how, we can proceed. If the concern raised is particularly serious (for example theft), then it is possible that the Office will investigate even if that means revealing the employee's identity against their wishes.
27. In order to protect the investigation, employees are expected to keep the fact that they have raised concerns, the nature of the concern, and identity of those involved in confidence.
28. PASAI will consider anonymous reports but is under no obligation to investigate, especially in situations where there is insufficient information upon which to proceed.
29. If the concerns relate to an employee's personal situation they are encouraged to instead use the processes outlined in the relevant Human Resource policies.

Whistle-blower protections under the New Zealand Protected Disclosure Act 2000

30. Employees can in certain circumstances raise concerns as a protected disclosure under the New Zealand Protected Disclosures Act 2000. Concerns must relate to serious wrongdoing, which includes:
 - (a) unlawful, corrupt or irregular use of public money or resources;
 - (b) conduct that poses serious risk to public health, safety, the environment or the maintenance of the law;
 - (c) any criminal offence; and
 - (d) gross negligence or mismanagement by public officials.
31. Protections are available to employees who make a protected disclosure. These include an obligation on those receiving the protected disclosure to investigate without disclosing the identity of the complainant wherever possible, and protection against disciplinary action being taken by PASAI in retaliation. These protections are available as a matter of law for protected disclosures covered by the Act. As a matter of policy, PASAI takes the same approach for all genuine concerns raised by employees through the proper process, whether or not they amount to serious wrongdoing under the Act.
32. The protections under the legislation require employees to follow a certain process in making their protected disclosure, which includes raising their concerns internally first (in accordance with the process set out in this policy). If the concerns are not dealt with to the employee's satisfaction within 20 days, the employee can raise them with another appropriate authority as listed in the Act.
33. *Appendix B* contains more information on the Protected Disclosures Act.

Investigations

34. Any allegation or potential wrongdoing that has been detected through internal systems and controls or raised by a concerned employee will be considered by the Chief Executive or the Secretary-General, in consultation with the nominated investigator. The investigator will be appropriately skilled and relevantly experienced, and must be independent from the matter detected or reported. The Chief Executive or the Secretary-General, in consultation with the investigator, will decide whether the matter appears to amount to potential wrongdoing. If it does, they will decide how the matter will be investigated using the Employment Investigations Policy.
35. At the end of any investigation, consideration will be given to:

- (a) what further steps are needed to resolve the particular matter, including internal employment consequences, and referral to enforcement agencies or professional bodies;
- (b) whether the matter has highlighted any weakness in the PASAI's systems and controls that should be addressed;
- (c) what feedback should be provided to the person who raised the concern;
- (d) what communication, if any, there should be to other staff, clients, media, our auditors, insurers, the Board, and others.

Support for employees

- 36. Supporting an employee if they are concerned about possible wrongdoing is important to PASAI. When an employee raises a concern in accordance with this policy, PASAI will offer them any support required, and keep them updated, as appropriate
- 37. All Protected Disclosures and any other report made by someone in good faith in the interests of 'speaking up' are to be made and managed in accordance with the following principles:

Principle	What does this mean?
Acting in good faith	Individuals who make protected disclosures or otherwise 'speak up' must have reasonable grounds for believing that the information they disclose is true or likely to be true and must act in good faith.
Maintaining organisational integrity	Individuals who make protected disclosures or 'speak up' know their action in reporting serious wrongdoing is valued, their concerns will be fully and fairly investigated, and any necessary action will be taken.
Complying with the principles of natural justice	The rights of disclosers under the Act to a formal investigation is protected by principles of natural justice. These are: <ul style="list-style-type: none"> • freedom from bias on the part of the person making the decision/judgment and • a transparent and fair procedure.

<p>Everyone to whom a disclosure is made or referred (whether under the Act or in ‘speaking up’) must use his or her best endeavours not to disclose information that might identify the discloser</p>	<p>Anyone who knows about the disclosure or its investigation must not reveal information leading to the identity of the discloser unless:</p> <ul style="list-style-type: none"> • he or she reasonably believes that disclosure is essential to the effective investigation of the allegations in the protected disclosure or • he or she reasonably believes that disclosure is essential to prevent serious risk to public health or public safety or the environment or is essential having regard to the principles of natural justice or • the discloser consents in writing.
<p>The need to know</p>	<p>The disclosure will be communicated only to those people who are essential to its proper investigation. The fewest people possible will be made aware of a disclosure.</p>

SECTION IV – RELEVANT LEGISLATION

38. The following New Zealand legislation is relevant in considering this policy:

- (a) Protected Disclosures Act 2000;
- (b) Employment Relations Act 2000: An employee (as defined by the Employment Relations Act) may take a personal grievance if an employer has taken retaliatory action against him/her for making a protected disclosure.
- (c) Human Rights Act 1993: This provides any person (or relative or associate of that person) with protection from victimisation where they intend to make, have made, encouraged another person to make or have given evidence relating to a protected disclosure.

SECTION V – EFFECTIVE DATE

The Policy is effective as of 12 August, 2019.

SECTION VI – REVIEW DATE

The Whistleblowing Policy is to be reviewed within two years from effective date.

SECTION VII – ISSUER

The Issuer of this Policy is the Chief Executive for PASAI.

SECTION VIII – CONTACT AND ACCESS

- i. **Contact.** For questions relating to this Whistleblowing policy, please contact PASAI Secretariat at secretariat@pasai.org. If you want to make a disclosure under the Policy, please refer to paragraphs 20 to 24.
- ii. **Access.** This policy will be available for viewing to anyone referred to in paragraph 6. In addition, this policy may be made available to any third party at the discretion of the PASAI Chief Executive. The Policy can also be accessed at <http://www.pasai.org>

SECTION IX – RELEVANT DOCUMENTS

- i. PASAI Charter
- ii. PASAI Incorporated Rules
- iii. PASAI Governance Code
- iv. PASAI Code of Ethics Policy
- v. PASAI Conflict of Interests Policy
- vi. PASAI Financial and Asset Management Policy
- vii. PASAI Governance and Operational Policies
- viii. PASAI Gender Policy
- ix. PASAI Human Resources Policy
- x. PASAI Fraud Control Policy
- xi. PASAI Child Protection Policy
- xii. PASAI Health and Safety Policy
- xiii. PASAI Procurement Policy
- xiv. PASAI Risk Management Policy
- xv. PASAI Guidelines for use of social media
- xvi. Whistle Blowing: a guide to the Protected Disclosures Act (see <http://www.ombudsman.parliament.nz/what-we-do/protecting-your-rights/protected-disclosures-whistle-blowing>)
- xvii. State Services Commission: Model Standards on ‘Speaking Up’ (see <http://www.ssc.govt.nz/speaking-state-services>).

Appendices

- *Appendix A: Internal mechanisms that reduce the risk of wrongdoing*
- *Appendix B: Summary of the Protected Disclosures Act procedures*

Appendix A: Internal mechanisms that reduce the risk of wrongdoing

Code of Conduct

A1. The Office's Code of Conduct provides a minimum benchmark of behaviour that employees are expected to observe. It is the PASAI's practice to brief all employees at induction and to refresh awareness of it at regular intervals afterwards.

Office policies

A2. Many of the PASAI's policies define, among other things, the rules, guidelines and procedures for carrying out many day-to-day activities of PASAI. Much of the content of these policies is there to help prevent illegal, fraudulent or unethical actions, and to ensure a consistent approach across the Secretariat.

A3. Examples of how these policies do this include:

- Describing what employees can use PASAI assets for in terms of personal benefit.
- Describing what employees should do if offered hospitality, gifts or inducements.
- Describing how an employee may select a vendor to supply services.
- Describing how an employee may recruit a new person.

A4. By following these rules and guidelines, employees can be confident that what they are doing is condoned by PASAI and does not expose them to suggestions of impropriety.

Management control

A5. Directors are responsible for their operations, including monitoring and reviewing the work of any staff under their supervision on a program. Prime responsibility for deterring and detecting fraud rests with Directors in that context. Therefore they must be constantly on the lookout for actual and potential weaknesses in the organisation and its processes for which they are responsible

A6. Employees are encouraged to advise the Chief Executive of failures in checks and controls, and to suggest improvements that could be made to enhance the business assurance environment.

Employee awareness and training

A7. PASAI includes ethics and values, and integrity and trust, in its core competencies. These competencies are fostered throughout the organisation in our day to day activities and

through training and development programmes that help employees understand what this means and how to apply the values in their day to day jobs.

Risk Management Programme

A8. PASAI has a risk management framework, policy and programme. The programme is managed by the Chief Executive.

A9. One of the objectives of the risk management programme is to ensure that each part of the organisation has assessed the risk of (among other things) fraudulent and unethical activities taking place without detection. Should a material risk exist, mitigation actions must be taken such as additional controls or a change of duties.

A10. As part of the risk management programme, a risk register is maintained. This is reported to and reviewed regularly by the Governing Board.

Governing Board

A11. The Governing Board has been established to be an effective mechanism in the provision of independent advice on the quality of the activities of management.

A12. In particular, among the role of the Board is to oversee:

- risk management and internal controls;
- external audit functions for PASAI;
- financial and other external reporting;
- the governance framework and processes; and
- compliance with rules, policies and procedures.

A13. The primary benefit of the Board is its independence and objectivity in relation to management. The Board can not assume any management functions nor can management exert inappropriate influence over the work of the Board.

Oversight mechanism

A14. The office of the Secretary-General performs an oversight role on the operation of PASAI.

A15. The scope of such oversight role encompasses the checking the adequacy and effectiveness of PASAI's governance, risk management process, system of internal

control, and the quality of performance in carrying out assigned responsibilities to achieve the PASAI's stated goals and objectives. It includes:

- The reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- The systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports and whether PASAI is in compliance.
- The means of safeguarding assets and, as appropriate, verifying the existence of such assets.
- The economy and efficiency with which resources are employed.
- Operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.
- Specific activities at the request of the Board, as appropriate.
- The effectiveness of the PASAI's risk management frameworks and practices.

External Audit

A16. The Governing Board appoints an external auditor to undertake an annual attest audit of PASAI.

A17. As a result of the audit, the appointed auditor expresses an opinion on whether the financial statements prepared by PASAI:

- Fairly reflect the PASAI's financial position and performance;
- fairly reflect its service performance achievements measured against performance targets set out in the Strategic Intent; and
- comply with generally accepted accounting practice.

A18. The audit is designed to provide reasonable, but not absolute assurance of detecting errors or irregularities, including fraud and unethical actions, which are material to the financial statements.

Appendix B: Summary of the Protected Disclosures Act procedures

What the Act applies to

- B1. The Act enables an employee to disclose information about serious wrongdoing in their organisation if they believe on reasonable grounds that the information is likely to be true.
- B2. Serious wrongdoing is defined as follows:

serious wrongdoing includes any serious wrongdoing of any of the following types:

- (a) *an unlawful, corrupt, or irregular use of funds or resources of a public sector organisation; or*
- (b) *an act, 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 a 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,—*

whether the wrongdoing occurs before or after the commencement of this Act

- B3. The Act gives some protection to employees who disclose such information in accordance with the proper processes.

The disclosure processes

- B4. The proper processes for making a protected disclosure are:
- The concern should initially be raised through the prescribed PASAI process.
 - If the employee does not get a response within 20 days, the concern can be raised with the office of the Secretary-General.
 - An employee can also go directly to an external appropriate agency if he or she believes that the Chief Executive is involved in the serious wrongdoing, or that immediate reference is justified because of urgency or some other exceptional circumstance.

B5. Appropriate authorities are defined as follows (with links to their websites):

appropriate authority, without limiting the meaning of that term,—

(a) includes—

(i) the Commissioner of [Police](#):

(ii) the Controller and Auditor-General:

(iii) the Director of the [Serious Fraud Office](#):

(iv) the [Inspector-General of Intelligence and Security](#):

(v) an [Ombudsman](#):

(vi) the [Parliamentary Commissioner for the Environment](#):

(vii) the [Independent Police Conduct Authority](#):

(viii) the [Solicitor-General](#):

(ix) the [State Services Commissioner](#):

(x) the [Health and Disability Commissioner](#); and

(b) includes the head of every public sector organisation, whether or not mentioned in paragraph (a); and

(c) includes a private sector body which comprises members of a particular profession or calling and which has power to discipline its members; but

(d) does not include—

(i) a Minister of the Crown; or

(ii) a member of Parliament

The protection that the Act gives

B6. If an employee follows these processes, then the Act gives the following protection both to the original whistleblower and to anybody who volunteers supporting information:

- If the employee believes they have suffered retaliatory action, up to and including dismissal, he or she can bring a personal grievance under the Employment Relations Act 2000;

- The employee has immunity from civil or criminal proceedings and from any disciplinary proceedings by reason of having made the disclosure of information;
- Every person dealing with the protected disclosure must use their best endeavours to protect the identity of the person who made the disclosure.