

Whistleblowing and protection of classified information



DEPARTMENT of the
PRIME MINISTER and CABINET
Te Tari o Te Pirimia me Te Komiti Matua

Protected disclosures and offences for unauthorised disclosures

The New Zealand Intelligence and Security Bill 2016

FACTSHEET NO. 10

What the Bill proposes

- Consolidating, simplifying, and strengthening the existing offences related to unauthorised disclosure.
- Clarifying that protected disclosures regarding classified information must only be made to the Inspector-General of Intelligence and Security (IGIS).
- Creating a new offence for people who hold a government security clearance, or people who have been given access to classified information on a confidential basis, who wrongfully communicate, retain or copy classified information.
- Extending the current offences of impersonating an employee of the New Zealand Security Intelligence Service (NZSIS), and publishing or broadcasting the identity of an NZSIS employee to cover employees of the Government Communications Security Bureau (GCSB).

What is whistle-blowing?

Protected disclosure ('whistleblowing') is when an employee of an organisation is able to disclose information about serious wrongdoing, wants the wrongdoing to be investigated and wishes the disclosure to be protected (kept confidential). For more information see section 6 of the Protected Disclosures Act 2000.

Employees (and former employees) of NZSIS and GCSB are prohibited from disclosing classified and/or intelligence and security information in an unauthorised way. If an employee of NZSIS or GCSB encounters evidence of wrong-doing by their employer (that might include classified and/or security and intelligence information) they can make a protected disclosure to the IGIS.

Extending the protected disclosure regime

The Bill proposes extending the requirement for protected disclosure of classified and/or security and intelligence information to cover other government employees (such as the Ministry of Foreign Affairs and Trade). Currently the Ombudsman is identified as the responsible authority for protected disclosure, not the IGIS.

The IGIS is the appropriate office to deal with such disclosures, as it is the only entity with wide enough powers of inquiry and all staff have appropriate security clearances.

Consolidating and strengthening unauthorised disclosure offences

The Bill also addresses the offences for unauthorised use and disclosure of classified and/or security and intelligence information.

Employees (and former employees) of NZSIS and GCSB are currently prohibited by law from disclosing intelligence and security information in an unauthorised way. People working with the IGIS, or the Parliamentary Intelligence and Security Committee, cannot use or disclose information related to the proceedings of those two bodies. Many of these offences have been consolidated in the Bill.

The Bill proposes a new offence for people who hold a security clearance, or people who have been given access to classified information on a confidential basis, who wrongfully communicate, retain or copy classified information.