

# **PUBLIC INTEREST DISCLOSURES POLICY**

**February 2021**

**PREPARED BY:  
CORPORATE GOVERNANCE UNIT**

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**SUTHERLANDSHIRE**

## 1. PURPOSE

Sutherland Shire Council (Council) is committed to maintaining trust with our community, and creating a transparent and ethical workplace culture.

Council encourages and supports the reporting of wrongdoing and is committed to protecting those who report wrongdoing from any adverse action motivated by their report and keeping their identity confidential where possible.

In accordance with the Public Interest Disclosures Act 1994 (PID Act) this policy provides a framework for those who perform public official functions to report certain types of wrongdoing, classified as 'public interest disclosures', without fear of reprisal and to support the management of these reports.

## 2. APPLICATION

This policy applies to all people who perform public official functions including:

- Councillors
- Council staff – including:
  - permanent employees, whether full-time or part-time, and
  - temporary or casual employees
- other people who perform Council official functions whose conduct and activities could be investigated by an investigating authority – including:
  - consultants
  - members of committees and panels
  - volunteers
  - contractors and their employees working for Council, and
  - public officials of another council or public authority who report wrongdoing relating to Sutherland Shire Council

In this policy the term "public official" means all persons who perform public official functions including those persons listed above.

## 3. PRINCIPLES

### 3.1 Application of Principles

No one principle should be applied to the detriment of another. Principles must be collectively considered and applied to the extent that is reasonable and practicable in the circumstances.

### **3.2 Council is committed to creating an environment where wrongdoing is reported without fear of reprisal**

Council will:

- encourage and support the reporting of wrongdoing by creating a climate of trust
- protect those who make public interest disclosures from any reprisals motivated by their report
- maintain confidentiality and support and protect reporters at all stages of reporting and investigation and when this is not possible will develop a plan to support and protect reporters from risk of reprisal.

### **3.3 Council is committed to managing Public Interest Disclosures in a timely and effective manner**

Council will use the following steps to manage the reporting and investigation of any public interest disclosure to ensure that only valid public interest disclosures are considered and that they are managed in accordance with the Public Interest Disclosures Act 1994:

- Schedule A of this policy to determine what can be reported as a public interest disclosure
- Schedule B of this policy to determine who can receive a public interest disclosure report
- Schedule C of this policy to determine how Council will manage public interest disclosure reports

## **4. RESPONSIBILITIES**

### **4.1 Responsible Officer**

The Manager Corporate Governance is the Responsible Officer for this policy and is responsible for keeping the policy current.

### **4.2 Council**

Council must meet its obligations and responsibilities under the relevant legislation, regulations and guidelines.

### **4.3 Chief Executive Officer**

Council has delegated the Chief Executive Officer the authority to exercise the responsibilities detailed in this policy.

### **4.4 Directors**

Directors are responsible for ensuring their Division adheres to the requirements of this policy and provide guidance in respect of Public Interest Disclosures within their division and the organisation.

### **4.5 Councillors and Staff**

Councillors and staff must adhere to the requirements of this policy.

## **5. MONITORING**

This policy will be reviewed and re-adopted by Council once every Council term unless legislative changes necessitate otherwise.

## **6. RECORD KEEPING, CONFIDENTIALITY AND PRIVACY**

Council adheres to and complies with the NSW State Records Act 1998 and Privacy and Personal Information Protection Act 1998 through its Enterprise Content Management Policy and Privacy Policy.

## **7. BREACHES OF POLICY**

It is a criminal offence under the Public Interest Disclosures Act 1994 to wilfully make a false or misleading statement when reporting wrongdoing. Council will not support those who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of Councillors, disciplinary action may also be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.

## **8. RELATED DOCUMENTS**

- Code of Conduct for Council Staff
- Code of Conduct for Councillors
- Code of Conduct for Committee Members, Delegates of Council and Council Advisors
- Fraud and Corruption Prevention Policy and Guidelines
- Customer Response Policy

## **9. RELEVANT LEGISLATION, REGULATIONS AND GUIDELINES**

- Public Interest Disclosures Act 1994
- Local Government Act 1993 (NSW)
- Independent Commission Against Corruption Act 1988
- Privacy and Personal Information Protection Act 1998 (NSW)
- Government Information (Public Access) Act 2009 (NSW)
- Ombudsman Act 1974
- NSW Ombudsman Public Interest Disclosure Guidelines
- NSW Ombudsman Model Internal Reporting Policy Local Government

## 10. DEFINITION OF TERMS

Term	Meaning
Public Interest Disclosure	A disclosure satisfying the applicable requirements of Part 2 of the Public Interest Disclosures Act 1994. That is, a disclosure of information that the person making the disclosure honestly believes, on reasonable grounds, shows or tends to show corrupt conduct, maladministration, serious and substantial waste in local government, government information contravention or local government pecuniary interest contravention by Council, Councillors, staff or public officials or by another public authority or any of its officers.
Public Official	An individual who is a Councillor, an employee of or otherwise in the service of a public authority.
Public Authority	Any public authority whose conduct or activities may be investigated by an investigating authority, an includes (without limitation) each of the following: <ol style="list-style-type: none"> <li>a. A Public Services Agency</li> <li>b. A state owned corporation an any subsidiary of a state owned corporation</li> <li>c. A local government authority</li> <li>d. The NSW Police Force and the Law Enforcement Conduct Commission</li> <li>e. The Department of Parliamentary Services, The Department of the Legislative Assembly and the Department of the Legislative Council</li> </ol>
Reporter	A public official who makes a report of a Public Interest Disclosure.

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<b>Document Name:</b> Public Interest Disclosures Policy		<b>Policy Accountability :</b> Manager Corporate Governance	
<b>Version:</b> # 1	<b>Approved by:</b> Council	<b>Minute No:</b> <a href="#">15</a>	<b>Date approved:</b> 22/02/2021
<b>Original:</b> May 2004	<b>Last Revision:</b> July 2015	<b>Next Revision:</b> February 2023	

# SCHEDULE A – What should be reported?

## What can be reported as a Public Interest Disclosure?

You should report any suspected wrongdoing you see within Sutherland Shire Council, or any activities or incidents you see within Sutherland Shire Council that you believe are wrong. Council supports and encourages any such reports as we do not condone or tolerate wrongdoing in the workplace.

There are five specific categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste in local government, government information contravention and local government pecuniary interest contravention – which will be dealt with under the Public Interest Disclosures Act 1994 (PID Act) as public interest disclosures and in accordance with this policy.

Other wrongdoing or misconduct will be dealt with according to the relevant legislation, the Code of Conduct, other policies referred to below or other disciplinary measures.

The five categories of serious wrongdoing dealt with under the PID Act are:

### 1. **Corrupt Conduct**

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a member of the public influencing, or trying to influence, a public official to use their position in a way that is dishonest, biased or breaches public trust.

### 2. **Maladministration**

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant someone a licence for reasons that are not related to the merits of their application.

### 3. **Serious and substantial waste in local government**

Serious and substantial waste in local government is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money. This includes all revenue, loans and other money collected, received or held by, for or on account of, the Council.

For example, this could include:

- poor project management practices leading to projects running over time
- having poor or no processes in place for a system involving large amounts of public funds.
- not following a competitive tendering process for a large scale contract

## 4. Government information contravention

A government information contravention is a failure to properly fulfil functions under the Government Information (Public Access) Act 2009 (GIPA Act).

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

## 5. Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the Local Government Act 1993 relating to the management of pecuniary interests. These include obligations to lodge disclosures of interest returns, lodge written declarations and disclose pecuniary interests at council and council committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior council staff member recommending a family member for a council contract and not declaring the relationship
- a chief executive officer holding an undisclosed shareholding in a company competing for a council contract
- a councillor participating in consideration of a DA for a property they or their family have an interest in.

## What is not a Public Interest Disclosure?

Reports related to the above categories of conduct can attract the specific protections of the PID Act. However, Council encourages the reporting of any wrong doing even if it is not considered a Public Interest Disclosure.

For example, such wrong doing could include:

- bullying, harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing, and
- practices that endanger the health or safety of staff or the public.

These types of issues should be reported to a manager, team leader or supervisor, in line with Council's policies.

These policies include:

- Code of Conduct for Council Staff
- Code of Conduct for Councillors
- Code of Conduct for Committee Members, Delegates of Council and Council Advisors
- Customer Response Policy and Procedures
- Fraud and Corruption Prevention Policy and Guidelines
- Work Health & Safety Policy

Even if these reports are not dealt with as public interest disclosures, Council will consider each matter and make every attempt to protect the public official member making the report from any form of reprisal.

# SCHEDULE B – Who can receive a report?

## 1. Internal Reporting

The PID Act requires that – for a report to be a Public Interest Disclosure – it must be made to certain public officials.

Any team leader or supervisor who receives a report that they believe may be a protected disclosure must refer the staff member making the report to one of the positions listed below.

If your report involves a Councillor, you should make it to the Chief Executive Officer. If your report relates to the Chief Executive Officer you should make it to the Mayor.

**Only the following positions within Sutherland Shire Council can receive a public interest disclosure.**

- Chief Executive Officer
- Disclosures Coordinator (Manager Corporate Governance / Public Officer)
- Disclosures Officers – for the purpose of this policy these are:
  - Director Corporate Support
  - Director Shire Infrastructure
  - Director Shire Planning
  - Director Shire Services
  - Manager People & Culture
  - Manager Building Operations
  - Manager Fleet & Logistics
  - Team Leader Governance

All of the above can be contacted at: [pid@ssc.nsw.gov.au](mailto:pid@ssc.nsw.gov.au)

If your report relates to the Chief Executive Officer you should make it to the Mayor:

- Mayor – [mayor@ssc.nsw.gov.au](mailto:mayor@ssc.nsw.gov.au)

## 2. External Reporting

Internal reporting is not the only option. You can choose to make your report to an investigating authority. You can do this first, or at any stage after your initial report to the Council. If your report is about the Chief Executive Officer or the Mayor, you should consider making it to an investigating authority.

You can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances.

## **2.1 Investigating authorities**

The PID Act lists a number of investigating authorities in NSW that wrongdoing can be reported to and the categories of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the Chief Executive Officer or the Mayor.

In relation to Council, these authorities are:

- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the NSW Ombudsman — for maladministration
- the Auditor General – for serious and substantial waste in local government
- the Information Commissioner — for government information contravention
- the Office of Local Government — for disclosures about local councils

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this Schedule B.

You should be aware that it is very likely the investigating authority will discuss the case with the Sutherland Shire Council. Council will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. Council will also provide appropriate support and assistance to those who report wrongdoing to an investigating authority, if Council is made aware that this has occurred.

## **2.2 Members of Parliament or Journalists**

To have the protections of the PID Act, public officials reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the Chief Executive Officer
- a person nominated in this policy; or
- an investigating authority in accordance with the PID Act.

Also, Council or an investigating authority that received the report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result; or
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

## **2.3 Other External Reporting**

If you report wrongdoing to a person or an organisation that is not listed above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or Council's Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Sutherland Shire Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this Schedule B.

### 3. Resources

Advice and guidance is available from Council's Disclosures Coordinator (Manager Corporate Governance) and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

The contact details for external investigating authorities that can receive a public interest disclosure, or provide further advice are listed below.

For disclosures about:	External Reporting Authority Contact Details:
<b>Corrupt conduct</b>	Independent Commission Against Corruption (ICAC) Phone: 02 8281 5999 Toll free: 1800 463 909 Tel. typewriter (TTY): 02 8281 5773 Facsimile: 02 9264 5364 Email: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a> Web: <a href="http://www.icac.nsw.gov.au">www.icac.nsw.gov.au</a> Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000
<b>Maladministration</b>	NSW Ombudsman Phone: 02 9286 1000 Toll free (outside Sydney metro): 1800 451 524 Tel. typewriter (TTY): 02 9264 8050 Facsimile: 02 9283 2911 Email: <a href="mailto:nswombo@ombo.nsw.gov.au">nswombo@ombo.nsw.gov.au</a> Web: <a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a> Address: Level 24, 580 George Street, Sydney NSW 2000
<b>Serious and substantial waste in local government</b>	Auditor-General of the NSW Audit Office Phone: 02 9275 7100 Facsimile: 02 9275 7200 Email: <a href="mailto:mail@audit.nsw.gov.au">mail@audit.nsw.gov.au</a> Web: <a href="http://www.audit.nsw.gov.au">www.audit.nsw.gov.au</a> Address: Level 19, Darling Park Tower, 201 Sussex Street, Sydney NSW 2000
<b>Breaches of the GIPA Act</b>	Information & Privacy Commissioner Toll free: 1800 472 679 Facsimile: 02 8114 3756 Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a> Web: <a href="http://www.ipc.nsw.gov.au">www.ipc.nsw.gov.au</a> Address: Level 17, 20 Elizabeth Street, Sydney NSW 2000
<b>Local Councils (eg: pecuniary interest contravention)</b>	Office of Local Government Phone: 02 4428 4100 Tel. typewriter (TTY): 02 4428 4209 Facsimile: 02 4428 4199 Email: <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a> Web: <a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a> Address: 5 O'Keefe Avenue, Nowra, NSW 2541

# SCHEDULE C – How reports are managed?

## 1. Organisational commitment

Sutherland Shire Council will:

- keep the identity of the reporter confidential, wherever possible and appropriate
- protect staff who make disclosures from any adverse action motivated by their report
- deal with reports thoroughly and impartially and, if some form of wrongdoing has been found, take appropriate action to rectify it
- keep reporters informed of their progress and the outcome
- respect any decision to disclose wrongdoing outside the organisation – if that outside disclosure is made in accordance with the PID Act
- ensure Council managers, team leaders and supervisors understand the benefits of reporting wrongdoing, are familiar with this policy, and are aware of the needs of those who report wrongdoing.

Sutherland Shire Council will provide adequate resources to:

- encourage reports of wrongdoing
- protect and support those who make them
- provide training for key personnel
- investigate allegations
- properly manage any workplace issues that the allegations identify or create
- remedy any wrongdoing that is found
- re-assess / review the policy at least once per Council term to ensure it is still relevant and effective.

## 2. Roles and Responsibilities

### 2.1 The role of Sutherland Shire Council

Sutherland Shire Council has a responsibility to establish and maintain a working environment that encourages the reporting of wrongdoing and supporting those who make reports. This includes keeping the identity of reporters confidential where practical and appropriate and taking steps to protect reporters from reprisal and manage workplace conflict.

Council will assess all reports of wrongdoing it receives from staff and councillors and deal with them appropriately. Once wrongdoing has been reported, the Council takes 'ownership' of the matter. This means it is up to Council to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

Council must report on its obligations under the PID Act and statistical information about public interest disclosures in Council's annual report and to the NSW Ombudsman every six months.

To ensure Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

## **2.2 The role of staff and councillors**

Staff and councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All Council staff and councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of any person the subject of reports.

Staff and councillors must not:

- make false or misleading reports of wrongdoing
- victimise or harass anyone who has made a report

Additionally, the behaviour of all Council staff and councillors involved in the internal reporting process must adhere to the Sutherland Shire Council's code of conduct. A breach of the code could result in disciplinary action.

## **2.3 Roles of key positions**

### ***Chief Executive Officer***

The Chief Executive Officer has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring Sutherland Shire Council complies with the PID Act. The Chief Executive Officer can receive reports from public officials and councillors and has a responsibility to:

- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures
- ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- make decisions following any investigation or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

## ***Mayor***

The Mayor can receive reports from staff and councillors about the Chief Executive Officer. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

## ***Disclosures Coordinator***

The Disclosures Coordinator has a central role in Sutherland Shire Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact for the reporter. The Disclosures Coordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the Chief Executive Officer)
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures
- coordinate the response to a report
- acknowledge reports and provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to those involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure Sutherland Shire Council complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

## ***Disclosures Officers***

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and councillors to make reports.

Disclosures Officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter
- make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- discuss with the reporter any concerns they may have about reprisal or workplace conflict
- carry out a preliminary assessment to ascertain if it falls within the criteria of a PID. If assessed as a PID, forward to the Disclosures Coordinator or Chief Executive Officer for full assessment.

### **3. Assessment of reports**

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

The Disclosures Coordinator is responsible for assessing reports, in consultation with the Chief Executive Officer where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator at the time. It is up to the Disclosures Coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

### **4. When will a report be treated as a public interest disclosure?**

Sutherland Shire Council will support any public officials who report wrongdoing. For a report to be considered a public interest disclosure, it has to meet all of the requirements under the PID Act.

These requirements are:

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste in local government, breach of the GIPA Act, or local government pecuniary interest contravention (Refer to Schedule A).
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing
- the report has to be made to either the Chief Executive Officer or, for reports about the Chief Executive Officer to the Mayor, a position nominated in this policy, an investigating authority or in limited circumstances to an MP or journalist (Refer to Schedule B).

Reports will not be considered to be public interest disclosures if they:

- mostly question the merits of government policy, including the policy of the governing body of the Council
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

### **5. How to make a report**

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The staff member should keep a copy of this record.

If you are concerned about being seen making a report, ask to meet in a discreet location away from the workplace.

Reporting forms are available at Schedule C of this policy, Council's intranet (Compass) or [website](#).

## **6. Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Sutherland Shire Council, it is best if you identify yourself. This allows Council to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If Council does not know who made the report, it is very difficult to prevent any reprisal action should others identify you.

## **7. Maintaining Confidentiality**

Sutherland Shire Council realises many reporters will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

Council is committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. Council will discuss with you whether it is possible to keep your report confidential.

If confidentiality cannot be maintained, Council will develop a plan to support and protect you from risk of reprisal. You will be involved in developing this plan. You will also be told if your report will be dealt with under Council's Code of Conduct, as this may mean certain information will have to be tabled at a Council meeting.

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the Disclosures Coordinator, the Chief Executive Officer and the Mayor where appropriate. If you discuss your report more broadly, you may affect the outcome of any investigation.

The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any staff or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

## **8. Feedback to Reporters**

Those who report wrongdoing will be told what is happening in response to their report.

### **8.1 Acknowledgment**

When you make a report, you will be given:

- an acknowledgement that your disclosure has been received
- the timeframe for when you will receive further updates
- the name and contact details of the people who can tell you what is happening.

The PID Act requires that you are provided with an acknowledgement letter and a copy of this policy within 45 days after you have made your report. Council will attempt to get this information to you within five working days from the date you make your report.

After a decision is made about how your report will be dealt with, you will be given:

- information about the action that will be taken in response to your report
- likely timeframes for any investigation or other action
- information about the resources available within Sutherland Shire Council to handle any concerns you may have
- information about external agencies and services you can access for support.

This information will be given to you within 10 working days from the date you make your report.

Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgment letter or a copy of this policy.

## **8.2 Progress updates**

During any investigation, you will be given:

- information about the progress of the investigation and reasons for any delay
- advice of any decision by Council not to proceed with the matter
- advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

## **8.3 Feedback**

Once the matter has been finalised you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

## **9. Protection Against Reprisals**

Sutherland Shire Council will not tolerate any reprisal action against anyone who reports wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for those who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental

action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the Council's Code of Conduct which may result in disciplinary action. In the case of councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

It is important for staff and councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where Sutherland Shire Council has reasonable grounds to take such action.

## **9.1 Responding to reprisals**

Sutherland Shire Council will act to protect those who report wrongdoing from reprisals.

When a report is received, Council will ensure that a thorough risk assessment is conducted. This will identify any risk to the public official who reported the wrongdoing, as well as strategies to deal with those risks.

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your team leader or supervisor, the Disclosures Coordinator or the Chief Executive Officer immediately. In the case of an allegation of reprisal by the Chief Executive Officer, you can alternatively report this to the Mayor.

All team leaders and supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the Disclosures Coordinator or the Chief Executive Officer. In the case of an allegation of reprisal by the Chief Executive Officer, you can alternatively report this to the Mayor.

If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff

- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 8 of the council's code of conduct (reprisal action) by a councillor or the Chief Executive Officer to the Office of Local Government.
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you report reprisal action, you will be kept informed of the progress of any investigation and the outcome.

## **9.2 Managing the risk of reprisal and workplace conflict**

Sutherland Shire Council will undertake a thorough risk assessment to identify the risk of detrimental action in reprisal for reporting, as well as indirect but related risk of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, Sutherland Shire Council may:

- issuing warnings to those alleged to have taken reprisal action against the reporter
- relocate the reporter or the staff member who is the subject of the allegation within the current workplace
- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
- grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

These directions will only be taken if the reporter of the disclosure agrees to it. The Disclosures Coordinator will make it clear to other staff that this action was taken in consultation with the reporter and with management support – and it is not a punishment.

If you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the Office of Local Government, NSW Ombudsman or the ICAC – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are included in this policy.

## **9.3 Protection against legal action**

If you make a disclosure in accordance with the PID Act, you will not be subject to any liability and no action, claim or demand can be taken against you for making the disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

## **10. Support for those reporting wrongdoing**

Sutherland Shire Council will make sure that staff who have reported wrongdoing, regardless of whether they have made a protected disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice.

Council also have staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal. Any request for support should be made to Council's Disclosures Coordinator.

All team leaders and supervisors must notify the Disclosures Coordinator if they believe a reporter is suffering any detrimental action as a result of disclosing wrongdoing.

## **11. Sanctions for making false or misleading disclosures**

Sutherland Shire Council will not support staff or councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the code of conduct resulting in disciplinary action. In the case of councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

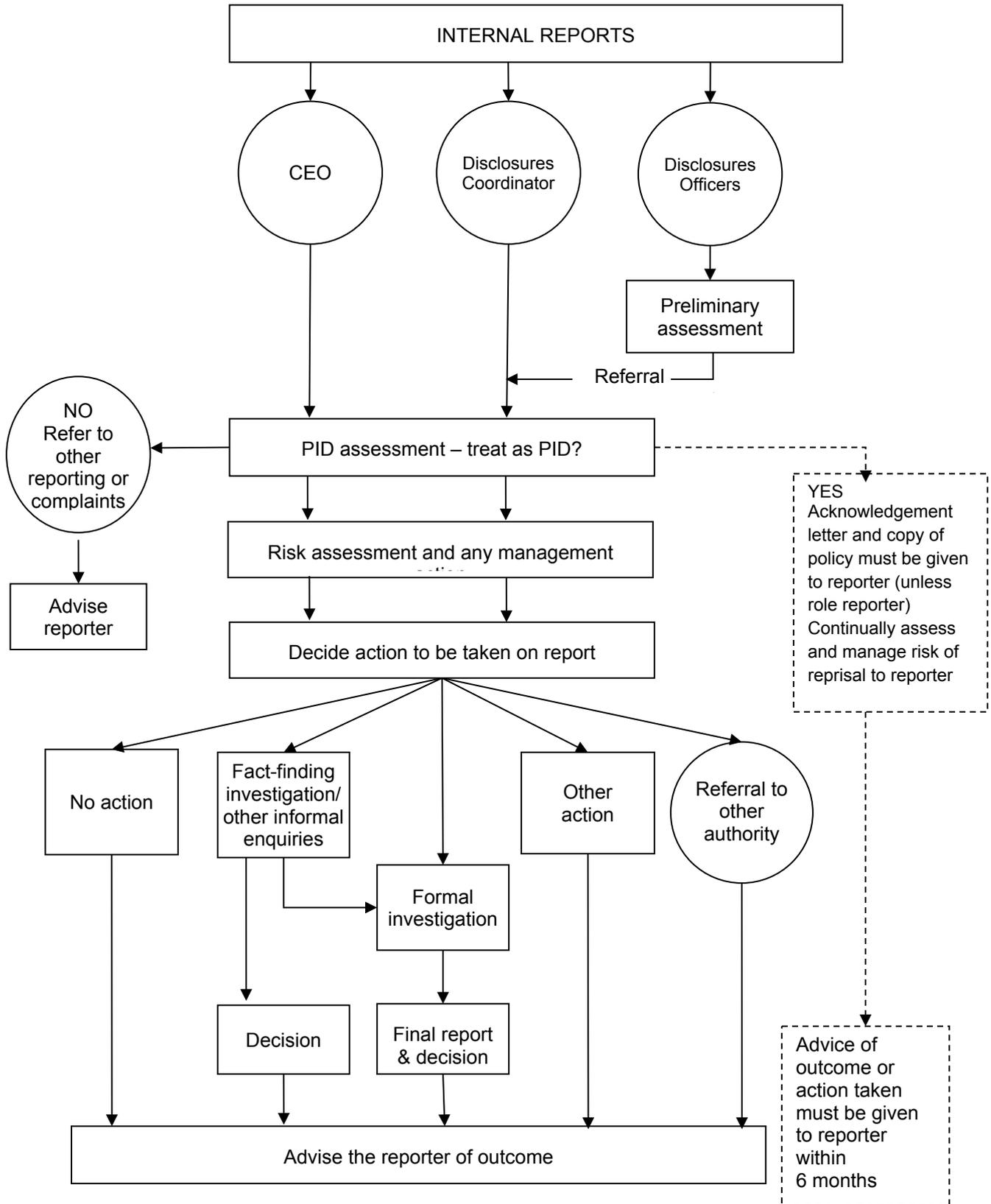
## **12. Support for the persons who are the subject of a report**

Sutherland Shire Council is committed to ensuring those who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate. If you are the subject of a report, you will be:

- advised of the details of the allegation
- treated fairly and impartially
- told your rights and obligations under Council policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- told the result of any investigation, including any decision made about whether or not further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

### 13. Internal Reporting Process



## 14. Reporting Form

To make a public interest disclosure simply complete the form below or the online forms available on Compass or Council's [website](#).

To be completed by an internal reporter and submitted to a nominated Disclosures Officer (Refer to the Public Interest Disclosures Policy for further details)		
<b>Details of reporter (You can make an anonymous report by leaving this section blank)</b>		
Name:		
Position:		
Division/Unit:	Preferred method of contact	
Telephone:	<input type="checkbox"/> Telephone	
Email:	<input type="checkbox"/> Email	
Postal address:	<input type="checkbox"/> Post	
<b>Details of the wrongdoing being reported (Please attach additional information if required)</b>		
Description: <ul style="list-style-type: none"> <li>• What happened?</li> <li>• Where did this happen?</li> <li>• When did this happen?</li> <li>• Is it still happening?</li> </ul> [Attach an additional page if required]		
How did you become aware of this?		
Have you previously reported this issue? No <input type="checkbox"/> Yes <input type="checkbox"/>	If yes, please answer the following questions:	
	Who was the report made to?	
	When was the report made?	
	How was the report made?	
	Was the report the same or different in any way?	
Name and position of people involved in the wrongdoing:	<b>Name</b>	<b>Position</b>
Attach any additional relevant information or indicate where supporting evidence may be found:	<b>Supporting evidence</b>	<b>Attached</b>
		<input type="checkbox"/>
Name and position of other people who may have additional information:	<b>Name</b>	<b>Position</b>
<b>Statement</b>		
I honestly believe that the above information shows or tends to show wrongdoing.		
Signature of reporter (Do not sign if you want to make an anonymous report)	Date report submitted (Essential information)	

<b>UNCONTROLLED COPY WHEN PRINTED</b> - For up to date copy please refer to Sutherland Shire Council Intranet / Website			
<b>Document Name:</b> Public Interest Disclosures Policy - Schedules		<b>Policy Accountability :</b> Manager Corporate Governance	
<b>Version:</b> # 5	<b>Approved by:</b> Executive	<b>Item No:</b> EXEC070-21	<b>Date approved:</b> 13/04/2021
<b>Original:</b> May 2004	<b>Last Revision:</b> February 2021	<b>Next Revision:</b> February 2023	