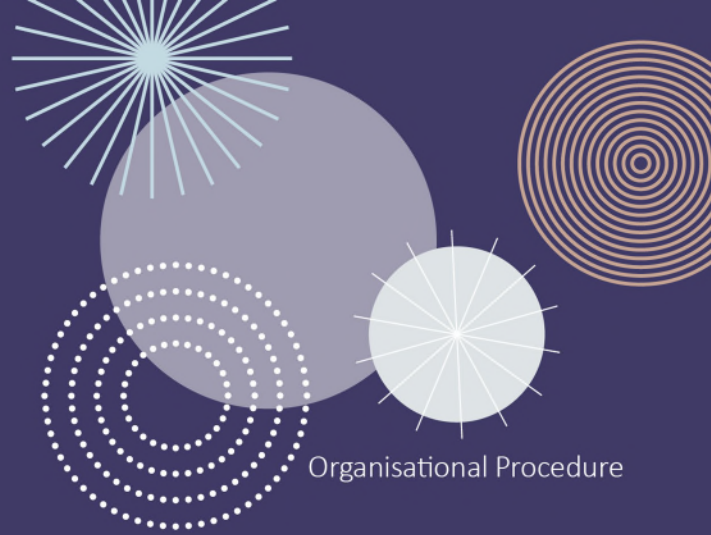


# Public Interest Disclosure



*As Chief Executive Officer (CEO) of the City of Holdfast Bay (the council) and designated Principal Officer for the purposes of the Public Interest Disclosure Act 2018 (PID Act), the intent of this procedure is to encourage and facilitate further transparency and accountability in the council's administrative and management practices; and the disclosure of information of interest to the public about substantial risks to public health or safety, or to the environment and about corruption, misconduct and maladministration in public administration.*

*This procedure has been prepared in accordance with the requirements of sections 12(4) and (5) of the PID Act and is designed to ensure proper procedures are in place for the making, and dealing with, public interest disclosures and for providing appropriate protections for informants who make such disclosures.*

*The council is committed to the protection of informants who make public interest disclosures and to the genuine and efficient consideration and action in relation to information provided to the council via a public interest disclosure, as contemplated and demonstrated by this procedure.*

*Any questions about this procedure should be directed in the first instance to a Responsible Officer, whose details are in section 3 of this procedure.*

*Pamela Jackson  
Chief Executive Officer*

## 1. Purpose

This document outlines procedures for making and managing appropriate disclosures of public interest information, and to provide appropriate protections for those who make such disclosures.

This Procedure should be read in conjunction with the Council's Public Interest Disclosure Policy (the Policy).

## 2. Scope

This Procedure applies to appropriate disclosures of public interest information that are made in accordance with the *Public Interest Disclosure Act 2018* (PID Act) by public officers including Elected Members, Council Committee Members, officers and employees of the Council (including Alwyndor), and by members of the public.

It should be noted that any matters relating to clients of Alwyndor are also subject to notification provisions in the *Aged Care Act 1997* (Cth) (Aged Care Act), which have shorter reporting timeframes than the PID Act.

Anyone can receive the protection of the PID Act if an appropriate disclosure is made of environmental and health information in accordance with the PID Act. Only public officers are eligible for the protections under the PID Act if making an appropriate disclosure of public administration information.

Nothing in this procedure relieves public officers of other reporting requirements, namely: public officers must report to the Office for Public Integrity (OPI) any conduct in public administration they reasonably suspect involves corruption unless they know it has already been reported to OPI, and public officers are no longer mandated to report misconduct or maladministration in public administration however, the Ombudsman expects breaches of these matters to be reported to them.

### 3. Roles and Responsibilities

Elected Members, Council Committee Members, officers and employees of the Council (including Alwyndor), and by members of the public.	Report disclosures of public interest information in accordance with requirements detailed within policy and procedure.
Responsible Officers: General Manager Community & Business General Manager Strategy & Corporate.	Will liaise as required with the informant and any independent assessor in relation to any investigation process undertaken in accordance with the Public Interest Disclosure Procedure, and will ensure that the informant is provided with support and protection as necessary and appropriate in the circumstances of the disclosure.

### 4. Procedure

#### 4.1 Making an appropriate disclosure of public interest information

- i Refer to the Policy to determine whether the information you have is public interest information (see definition of 'disclosure') and who the relevant authority is that you should disclose the information to.
- ii If you want to make an appropriate disclosure of public interest information related to council or a council officer you have a number of options. You can contact:
  - Council's responsible officer, who will provide assistance and advice
  - the officer's supervisor or manager, who will seek guidance from Council's responsible officer
  - the Office for Public Integrity (OPI), who have a number of responsibilities in relation to corruption, misconduct and maladministration in public administration
  - the Ombudsman, for any intentional and serious misconduct or maladministration, or
  - any other relevant authority as outlined in the Policy.
- iii Once you make an appropriate disclosure of public interest information in accordance with section 5, the person to whom you made the appropriate disclosure must take certain steps as set out in section 7 of the PID Act, which includes taking reasonable steps to notify you of their assessment and any actions arising.
- iv If you have any concerns about your disclosure not being dealt with appropriately, the determinations made or any other related concerns, you can contact Council's responsible officer if they were not the original receiving person. If your disclosure was made to Council's responsible officer and you have concerns, contact another relevant authority (refer to the Policy).
- v If the responsible officer fails to notify you in accordance with the prescribed timeframes (ie, 30 days for the preliminary assessment and 90 days for the investigation), you may be entitled to protection in relation to any subsequent disclosure of that information to a journalist or member

of Parliament in accordance with the PID Act.

#### **4.2 Receiving and preliminary assessment of an appropriate disclosure of public interest information**

- i) If you are not a responsible officer and have received a potential disclosure of public interest information,
  - a) ask whether the informant wishes to remain confidential
  - b) ask the informant how they wish to be contacted to be kept informed
  - c) do not disclose the identity of the information or information that could reveal who they are, unless the informant consents
  - d) seek advice from one of Council's responsible officers or a relevant authority.
- ii) If you are a responsible officer and have received an appropriate disclosure of public interest information,
  - a) assess for imminent risk. If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, the recipient of the disclosure must immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (eg. South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority)
  - b) if the matter relates to a client of Alwyndor, advise the General Manager Alwyndor immediately, as the Aged Care Act requires notifications within shorter timeframes
  - c) Complete the rest of your evaluation, guaranteeing that all paperwork is stored in the council's records management platform, accessible solely to the pertinent responsible officer, inform the informant of your initial evaluation findings and any forthcoming actions within 30 days of receiving the disclosure.
  - d) assess whether the matter relates to corruption, misconduct or maladministration in public administration. If the recipient of the disclosure forms a reasonable suspicion that the matter disclosed involves corruption in public administration the recipient of the disclosure must comply with his or her reporting obligations under the *Independent Commission Against Corruption Act 2012* (ICAC Act), including reporting to OPI and/or the Ombudsman
  - e) assess whether an independent assessor and/or legal advice is required
  - f) assesses whether the content of the disclosure requires further action. You must ensure that:
    - such action as may be appropriate in the circumstances is taken by you to ensure the matter the subject of the disclosure is properly addressed, or
    - such information as is necessary to enable action to be taken is communicated to the most appropriate person or relevant authority to take such action (bearing in mind confidentiality requirements).
  - g) notify OPI as soon as reasonably practicable after the receipt of an appropriate disclosure by making an electronic notification via the dedicated notification form on the OPI website ([publicintegrity.sa.gov.au](http://publicintegrity.sa.gov.au)). The unique reference number issued by OPI upon the making of a notification should be retained and provided to any other person or authority to whom the disclosure is referred
  - h) report the outcome of your preliminary assessment to the principal officer (unless the disclosure relates to that person), bearing in mind confidentiality requirements.

#### **4.3 Investigating appropriate disclosures of public interest information**

- i) If, as responsible officer, you have determined that an independent assessor is required to undertake a formal investigation, one can be selected from Council's legal panel. For more minor matters, the responsible officer may investigate.

- ii) The objectives of an investigation process, which must be completed within 90 days of receipt of the disclosure, are:
  - a) to investigate the substance of the disclosure and to determine whether there is evidence in support of the matters raised or, alternatively, to refute the report made
  - b) to collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment
  - c) to consider the information collected and to draw conclusions objectively and impartially
  - d) to observe procedural fairness in the treatment of any person who is subject of the disclosure
  - e) to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.
- iii) Whoever undertakes the investigation will observe the principles of natural justice throughout the process. The investigation will be conducted in an efficient manner and will involve a thorough and balanced assessment of the available evidence and any other factors deemed relevant to making a fair and reasonable judgement about the matter.
- iv) The investigator will bring the fact of the disclosure to the attention of the person who is the subject of it in writing within five days of receiving it and will provide them with an opportunity to respond to the disclosure within a reasonable timeframe (either in writing or in person). (Note - the full details of any allegations contained in the disclosure need not be brought to the person's attention if the Independent Assessor considers that doing so will compromise the investigation.)
- v) During any interview with an investigator, the person who is the subject of a disclosure may be accompanied by any person providing support to them (including a lawyer) as they consider fit. Any costs incurred in relation to obtaining the assistance of a support person are the personal expenses of the person subject of the disclosure. The support person is bound by a duty of confidentiality in relation to any matter discussed during such interview.
- vi) Investigations are undertaken in confidence. So long as the identity of the informant is known to the responsible officer or is reasonably ascertainable, the investigator will keep the identity of the informant confidential unless consent has been given by the informant to divulge their identity.
- vii) If an independent assessor is being used, they must keep the responsible officer informed of the expected timeframes for completion of the investigation and the provision of their investigation report.
- viii) On finalising an investigation, an investigator will prepare an investigation report that will contain the following details:
  - the allegation(s)
  - an account of all relevant information received including any rejected evidence, and the reasons why the rejection occurred
  - the conclusions reached and the basis for them and
  - any recommendations arising from the conclusions, including any remedial action which should be taken by the council.

The report is to be accompanied by transcripts or other records of any verbal evidence taken, including tape recordings, all documents, statements or other exhibits received by the investigator and accepted as evidence during the course of the investigation. Any report prepared in accordance with this part will not disclose particulars that will or are likely to lead to the identification of the informant unless consent has been given by the informant to divulge their identity or legislative exemptions/exceptions apply.

- ix) On receiving the investigation report, as the responsible officer, take whatever action you consider appropriate in the circumstances, having regard to the matters identified in investigation report.
- x) As the responsible officer, notify the informant (or referring authority) of the outcome of investigation in writing as soon as is reasonably practicable after further action has been taken. You must include information on any action that has been, or will be, taken in relation to the disclosure or, if no action is being taken in relation to the disclosure, the reason/s why.

#### 4.4 Final report

- i) Upon finalising any action required in relation to a disclosure, the responsible officer will prepare a report, bearing in mind confidentiality requirements, to the principal officer that will contain:
  - the subject of the disclosure
  - an account of the steps taken by the responsible officer in accordance with this procedure, including, where appropriate, enclosing a copy of any independent assessor's report
  - conclusions reached as a result of the steps taken in response to the disclosure and the basis for them and any recommendations arising from the conclusions, including any remedial action which should be taken by the council.
- ii) The principal officer may, in accordance with the Policy, inform Elected Members regarding the disclosure, investigation and outcomes.

## 5. REFERENCES

- *Independent Commission Against Corruption Act 2012*
- ICAC Public Interest Disclosure Guidelines
- Public Interest Disclosure Act 2018 and Regulations 2019
- Model Public Interest Disclosure Policy and Procedures (issued by LGA)
- Roles and Responsibilities under the PID Act (issued by LGA)
- PID Act – Frequently Asked Queries (issued by LGA).

## 6. DEFINITIONS

Refer to definitions in the Policy.

## 7. ADMINISTRATION USE ONLY

Reference Number:	Document Set ID 5102810
Strategic Alignment:	Council's vision for 2050+ is, in part, to create "a welcoming and healthy place for all in South Australia's most sustainable city". Both sustainability and wellbeing are built on a foundation of trust. The public interest disclosure policy contributes to building trust in public governance and Council.
Strategic Risk:	Poor or ineffective management of legislative and regulatory obligations and ongoing changes.
Responsible Officer(s):	General Manager Strategy & Corporate Manager Strategy & Governance
First Issued / Approved:	01/07/19
Last Reviewed:	25/08/20
Next Review Date:	28/01/28
Applicable Legislation:	<i>Independent Commission Against Corruption Act 2012</i> <i>Ombudsman Act 1972</i> <i>Public Interest Disclosure Act 2018 and Regulations 2019</i>

	<p><i>Local Government Act 1999</i>  <i>Criminal Law Consolidation Act 1935</i>  <i>Aged Care Act 1997 (Cth)</i></p>
Related Policies:	<ul style="list-style-type: none"> <li>• Council Fraud, Corruption, Misconduct and Maladministration Policy</li> <li>• Model Public Interest Disclosure Policy and Procedures (issued by the LGA)</li> </ul>
Other Reference Documents:	<ul style="list-style-type: none"> <li>• <a href="#">Ombudsman SA Directions and Guidelines</a></li> <li>• Office of Public Integrity Direction and Guidelines</li> <li>• Public Interest Disclosure Guidelines (issued by the ICAC)</li> <li>• Codes of Conduct and associated policies for employees and Elected Members.</li> </ul>