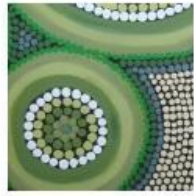


Local Aboriginal Land Council
DARKINJUNG

Darkinjung Local Aboriginal Land Council Public Interest Disclosure Internal Reporting Policy

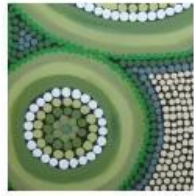
Date	Version	Amendments
25 th June 2024	1.0	Original Release Approved by DLALC Board



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Purpose and context of the policy

The purpose of this policy is to establish an internal reporting system for staff and management board members to report wrongdoing without fear of reprisal.

The policy sets out who you can report wrongdoing to in Darkinjung Local Aboriginal Land Council, what can be reported and how reports of wrongdoing will be dealt with by Darkinjung Local Aboriginal Land Council.

This policy is designed to complement normal communication channels. Board members, staff and voting members are encouraged to raise matters of concern at any time, but also have the option of making a report about a public interest issue in accordance with this policy and the Public Interest Disclosures Act 2022 (PID Act).

This policy is just one in the suite of Darkinjung Local Aboriginal Land Council complaint handling policies.

The internal reporting system established under this policy is not intended to be used for grievances, which should be raised through the Grievance policy. If a staff member makes a report under this policy which is substantially a grievance, the matter will be dealt with in accordance with the grievance policy.

Darkinjung Local Aboriginal Land Council Commitment

This Policy has been developed in accordance with the provisions of the PID Act 2022 and provides a framework for the making and management of disclosures as well as the protection and support for people who make them.

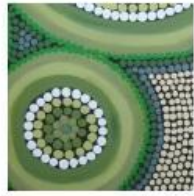
The integrity of Darkinjung Local Aboriginal Land Council relies upon our members, employees, volunteers, contractors, and subcontractors speaking up when they become aware of wrongdoing.

Office Bearers and Staff are responsible for establishing and maintaining a positive reporting environment that encourages our members and employees to adopt an 'if in doubt, report' approach.

Members and employees should feel that it is a part of their job to report wrongdoing and will not suffer reprisals for reporting incidents.

An ethical work environment gives people confidence that allegations will be taken seriously and receive the appropriate response.

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Darkinjung Local Aboriginal Land Council is committed to protecting members and employees who make disclosures concerning any of the following six categories of serious wrongdoing.

- corrupt conduct
- maladministration,
- serious and substantial waste of public money,
- breach of the GIPA Act,
- a privacy breach or
- pecuniary interest contravention.

The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing, such as corrupt conduct, maladministration, serious substantial waste of public money, government information contraventions and other kinds of wrongdoing covered by this Policy and the PID Procedure.

Who does this policy apply to?

This policy will apply to:

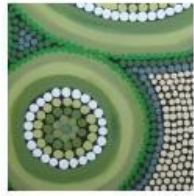
- Board members
- Permanent employees, whether full-time or part-time
- Temporary or casual employees
- Voting members of [name of LALC]
- Consultants
- Individual contractors working for Darkinjung Local Aboriginal Land Council
- Employees of contractors providing services to Darkinjung Local Aboriginal Land Council
- Other people who perform LALC official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

The policy also applies to public officials of another LALC or public authority who report wrongdoing relating to Darkinjung Local Aboriginal Land Council.

Roles and responsibilities

a. The role of LALC staff and management board members

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Staff and management board members play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All LALC staff and management board members 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 management board members must not:
 - Make false or misleading reports of wrongdoing.
 - Victimise or harass anyone who has made a report.

Additionally, the behaviour of all LALC staff and management board members involved in the internal reporting process must adhere to the Darkinjung Local Aboriginal Land Council code of conduct.

A breach of the code could result in disciplinary action.

The role of the Darkinjung Local Aboriginal Land Council

The Darkinjung Local Aboriginal Land Council has a responsibility to establish and maintain a working environment that encourages staff and management board members to report wrongdoing and supports them when they do.

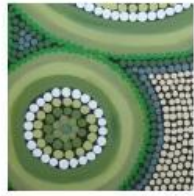
This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

The Darkinjung Local Aboriginal Land Council will assess all reports of wrongdoing it receives from staff and management board members and deal with them appropriately. Once wrongdoing has been reported, the Darkinjung Local Aboriginal Land Council takes 'ownership' of the matter.

This means it is up to us to decide whether a report should be investigated, and if so, how it should be investigated and by whom. The Darkinjung Local Aboriginal Land Council will deal with all reports of wrongdoing fairly and reasonably and respect the rights of any person the subject of a report.

The Darkinjung Local Aboriginal Land Council must report on our obligations under the PID Act and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every six months.

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To ensure the Darkinjung Local Aboriginal Land Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and management board members with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

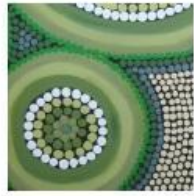
Roles of key positions

Chief Executive Officer

The Chief Executive Officer has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture and ensuring the Darkinjung Local Aboriginal Land Council complies with the PID Act. The Chief Executive Officer can receive reports from staff and management board members and has 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
- 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
- Coordinate the Darkinjung Local Aboriginal Land Council's 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 staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of 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
- Ensure the Darkinjung Local Aboriginal Land Council complies with the PID Act

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- Provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

Chairperson of the Board

The Chairperson of the Board can also receive reports from staff and management board members, particularly if it is about the Chief Executive Officer. Where the Chairperson of the Board receives such reports, the Chairperson of the Board 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
- Refer reports to an investigating authority, where appropriate
- 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.

What should be reported?

You should report any suspected wrongdoing within the Darkinjung Local Aboriginal Land Council or any activities or incidents you see within the Darkinjung Local Aboriginal Land Council that you believe are wrong.

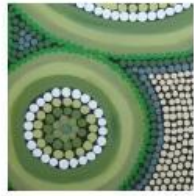
Reports about four categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money and breach of the GIPA Act – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman's Guideline B2: What should be reported?

All other wrongdoing or suspected wrongdoing should be reported to the Chief Executive Officer, or the Chairperson of the Board if it is about the Chief Executive Officer, to be dealt with in line with the relevant policies. This might include:

- Harassment or unlawful discrimination
- Practices that endanger the health or safety of staff or the public.

Even if these reports are not dealt with as public interest disclosures, the Darkinjung Local Aboriginal Land Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

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a. 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, such as not disclosing a secret commission accepted from a developer or a paid position with a developer
- Defrauding the LALC of money or valuables
- a LALC official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust
- Using the LALC's resources for private purposes, such as secondary employment or private business purposes
- Accepting undeclared gifts and benefits from developers, such as alcohol and lunches or dinners paid for by developers or a social weekend at a developer's farm
- Not disclosing and managing a close personal relationship or other conflict of interest which affects decisions about the LALC's land development
- Improperly seeking to influence the way others vote.

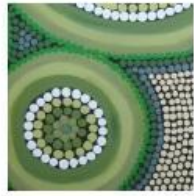
b. Maladministration

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 an approval for reasons that are not related to the merits of their application
- Favouring individual family or group interests to the detriment of the LALC
- Destroying or failing to keep records
- Favouring individual family or group interests to the detriment of the LALC
- Not having proper regard to the cultural and heritage significance of the land.

c. Serious and substantial waste of public money



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Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include:

- Not seeking detailed commercial advice on particular land proposals
- Having bad or no processes in place for expressions of interest or tenders

d. Breach of the GIPA Act

A breach of the Government Information (Public Access) Act 2009 (GIPA Act) is a failure to properly fulfil functions under that 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.

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 Chief Executive Officer is responsible for assessing reports, in consultation with the Chairperson of the Board where appropriate. All reports will be assessed on the information available at the time. It is up to the Chief Executive Officer to decide whether an investigation should be carried out and how that investigation should be carried out.

In assessing a report, the Chief Executive Officer may decide that the report should be referred elsewhere or that no action should be taken on the report. The Chairperson of the Board will be responsible for assessing reports about the Chief Executive Officer.

When will a report be treated as a public interest disclosure?

The Darkinjung Local Aboriginal Land Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act.

These requirements are:

- The report must be about one of the following four categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money or breach of the GIPA Act



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- 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, the Chairperson of the Board, a position nominated in this policy (see section 8), an investigating authority or in limited circumstances to an MP or journalist (see section 9).

Reports by staff are not public interest disclosures if they:

- Mostly question the merits of government policy (see section 17)
- Are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 18).

Who can receive a report within the Darkinjung Local Aboriginal Land Council

Staff are encouraged to report general wrongdoing. However, the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this policy or any supporting procedures.

The following positions are the only people within the Darkinjung Local Aboriginal Land Council who are authorised to receive a public interest disclosure. Any person who receives a report that they believe may be a public interest disclosure is obliged to assist the reporter to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 4).

If your report involves a Board member, you should make it to the Chief Executive Officer. If your report relates to the Chief Executive Officer, you should make it to the Chairperson of the Board.

Chief Executive Officer

- Adina Duncan at ceo@dlalc.org.au

Chairperson of the Board

- Tina West at Chairperson@dlalc.org.au

Disclosures Officers

- Lisa Mundine at lisa.mundine@dlalc.org.au

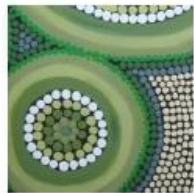
Who can receive a report outside of the Darkinjung Local Aboriginal Land Council?

Staff and management board members are encouraged to report wrongdoing within the Darkinjung Local Aboriginal Land Council, but internal reporting is not your only option.

You can also make a public interest disclosure to:

- An investigating authority.

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· A Member of Parliament or a journalist, but only in the limited circumstances outlined below.

a. Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff and management board members can report wrongdoing to and the type 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 Chairperson of the Board.

The relevant investigating authorities for the Darkinjung Local Aboriginal Land Council are:

- The ICAC — for reports about corrupt conduct
- The Ombudsman — for reports about maladministration
- The Auditor-General — for reports about serious and substantial waste
- The Information Commissioner — for disclosures about a breach of the GIPA Act.

You should contact the relevant investigating authority for advice about how to make a disclosure to them.

You should be aware that the investigating authority may well discuss any such reports with the Darkinjung Local Aboriginal Land Council. We 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. We will also provide appropriate support and assistance to staff or management board members who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

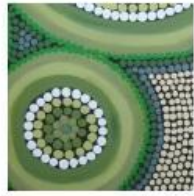
b. Members of Parliament or journalists

To have the protections of the PID Act, staff 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, including the Chairperson of the Board
- An investigating authority.

Also, the Darkinjung Local Aboriginal Land Council or the investigating authority that received your initial report must have either:

- Decided not to investigate the matter



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- 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
- 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.

c. Other external reporting

If you report wrongdoing to a person or authority that is not listed above or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This includes disclosures made to the NSW Aboriginal Land Council or to the Registrar of the Aboriginal Land Rights Act 1983. This may mean you may be in breach of legal obligations or our code of conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the Darkinjung Local Aboriginal Land Council contact the Chief Executive Officer or the NSW Ombudsman's Public Interest Disclosures Unit.

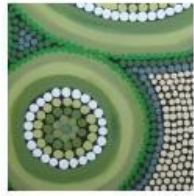
How to make a report

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. Darkinjung Local Aboriginal Land Council's Internal Reporting Form is also available for staff or management board members to use to make a report.

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

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 the Darkinjung Local Aboriginal Land Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.



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It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.

Feedback to staff who report wrongdoing.

Staff and management board members who report wrongdoing will be told what is happening in response to their report.

a. Acknowledgement

When you make a report, the Darkinjung Local Aboriginal Land Council will contact you to confirm that your report has been received and to advise:

- The timeframe within which you will receive further updates
- The name and contact details of the people who can tell you what is happening or handle any concerns you may have.

After a decision is made about how your report will be dealt with, the [name of LALC] will send you an acknowledgment letter, providing:

- Information about the action that will be taken in response to your report
- The likely timeframes for any investigation or other action
- Information about the internal and external resources or services available that you can access for support.

We will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

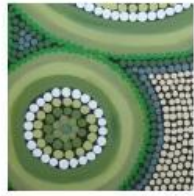
Please note, if you make a report which meets the requirements of the PID Act, but the report was made under a statutory or legal obligation or incidental to the performance of your day-to-day functions, you will not receive an acknowledgment letter or a copy of this policy.

Progress updates

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:

- Information about the progress of the investigation or other enquiries and reasons for any delay
- Advice of any decision by the Darkinjung Local Aboriginal Land Council not to proceed with the matter

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- Advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

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 are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

Maintaining confidentiality

Darkinjung Local Aboriginal Land Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.

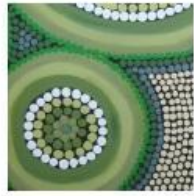
If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This may include the Chief Executive Officer or the Chairperson of the Board. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any staff or management board members 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.

Managing the risk of reprisal and workplace conflict

When a staff member or management board member reports wrongdoing, the Darkinjung Local Aboriginal Land Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks 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, the Darkinjung Local Aboriginal Land Council may:



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- 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 courses of action are not punishment and will only be taken in consultation with the reporter.

Protection against reprisals

The Darkinjung Local Aboriginal Land Council will not tolerate any reprisal against staff or management board members who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and management board members 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.

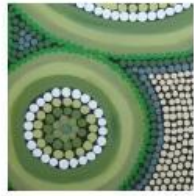
Detrimental action means action causing, comprising, or involving any of the following:

- 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 may also result in disciplinary action.

It is important for staff and management board members 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 the [name of LALC] has reasonable grounds to take such action.

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Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell the Chief Executive Officer or the Chairperson of the Board immediately.

All staff, Board members or voting members must notify the Chief Executive Officer or the Chairperson of the Board if they suspect that reprisal against someone is occurring or has occurred, or if any such allegations are made to them.

If the Darkinjung Local Aboriginal Land Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, the Darkinjung Local Aboriginal Land 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 evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

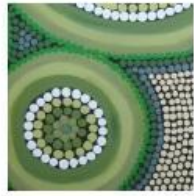
If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

Protection against legal action

If you make a public interest 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 having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations, and you will have the defence of absolute privilege in defamation.

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Support for those reporting wrongdoing.

The Darkinjung Local Aboriginal Land Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Chief Executive Officer or the Chairperson of the Board.

Sanctions for making false or misleading statements.

It is important all staff and management board members are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. The Darkinjung Local Aboriginal Land Council will not support staff or management board members who wilfully make false or misleading reports. Such conduct may also result in disciplinary action.

The rights of persons the subject of a report

The Darkinjung Local Aboriginal Land Council is committed to ensuring staff or management board members 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 the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time, you will be:

- Advised of the details of the allegation
- Advised of your rights and obligations under the relevant related policies and procedures
- Kept informed about the progress of any investigation
- Given a reasonable opportunity to respond to any allegation made against you
- Told the outcome 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 Darkinjung Local Aboriginal Land Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.



Local Aboriginal Land Council DARKINJUNG

Review

This policy will be reviewed by the Darkinjung Local Aboriginal Land Council every two years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.