District of Sooke	Policy Title: Public Interest Disclosure	Policy No: CO-011
	Authority: Council	Classification: Administration
	Date Adopted: April 26, 2021	Motion No: 2021-157
Historical Changes: Replaces Whistle Blower Policy No. 7.12 2011		

Principles:

The District of Sooke (the "*District*") is committed to creating and maintaining a work environment where high standards of business and personal ethics are observed.

Purpose:

This policy establishes a process that assists employees to bring forward information, in good faith, about possible wrongdoing without fear of reprisal.

Scope:

This policy applies to all e*mployees* and *council members*. In the interest of maintaining the integrity and reputation of the District and all those who work to serve its citizens, all employees and elected officials must cooperate with any investigation by the District under this policy.

This policy does not cover matters for which there are other established processes for reporting, investigating or seeking redress, including:

a) grievances under an existing collective agreement;
b) *disclosures* that are more appropriately addressed under the Respectful Workplace policy, the Code of Ethics policy or any other employment-related policy of the *District*;
c) reports of safety hazards or refusal of unsafe work under the Occupational Health and Safety Regulation;
d) privacy breaches that must be reported under District policy or by law; or
e) litigation or other proceedings

Definitions:

Defined word	Definition
Council Member	includes the Mayor and any person elected as a Councillor to the *District*.
Designated Person	means the individual who receives a *disclosure*, as set out in the Procedure section. The d*esignated person* is responsible for ensuring the *disclosure* is assessed and, under this policy, investigated.
Discloser	means an *employee* who makes, or has sought advice in respect of making a *disclosure* under this policy.
Disclosure	means report of *wrongdoing* made by an individual under this policy.
District	means the District of Sooke.
Employee	means any person employed by the *District*.
Management	means a position that is exempt from a bargaining unit.
Wrongdoing	means an act or omission that an individual reasonably believes to be:

	a) a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada; b) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of an *employee's* duties or functions; c) serious misuse of public funds or public assets; d) gross or systemic mismanagement; or e) knowingly directing or counselling a person to commit a *wrongdoing* described in items (a) through (d) above.

Responsibilities:

1) *Management* and *Council Members*

- Disclose any real or suspected wrongdoing as provided in the Scope and Procedure sections of this Policy.
- Foster an environment where individuals feel safe disclosing real or suspected wrongdoing through the appropriate channels.
- Ensure that no retaliatory action is taken against either an individual who files a disclosure, a designated person who receives the disclosure, or individuals who take part in an assessment or investigation of a disclosure, in good faith.
- Support and fully cooperate with any investigation under this Policy, as required.
- Complete a Confidentiality Agreement, as required.

2) Designated Person

- Receive and handle *disclosures* in confidence except as otherwise provided in this Policy.
- Involve other *designated persons* when necessary to ensure the timely and appropriate handling of *disclosures*.
- Consult the *District's* legal counsel as they consider it necessary to properly administer this Policy.
- Report the outcome of the disclosure and investigation.
- Maintain accurate records of all steps taken in assessing or investigating a *disclosure*, and ensure those records are safely kept where others cannot access them except as otherwise provided in this Policy or as required or authorized by law.
- Complete a Confidentiality Agreement, as required.

3) Employees

- Read, and fully understand this policy and procedure. Seek advice from Human Resources personnel, Management or Designated Person for clarity, as required.
- *Disclose* any real or suspected *wrongdoing* as provided in the Scope and Procedure sections of this Policy.
- Respect the confidentiality of all matters related to a *disclosure*, including when providing information related to the *disclosure* of another individual. An individual who is considering making a *disclosure* may, however, consult with or request advice from a union representative or a *District* supervisor, manager, or department head concerning the *disclosure*.
- Fully cooperate with any investigation under this Policy.

- Complete the Confidentiality Agreement, as required.

Procedure:

4) Designated Person

The following are designated as the *designated person*, as applicable:

1. A *disclosure* made by a *District employee* must be made to the Chief Administrative Officer (CAO) unless the *disclosure* directly involves the CAO, in which case the *disclosure* must be made to the Mayor.
2. A *disclosure* by a *Council member* must be made to the Mayor or the CAO.

5) The *designated person* receiving a *disclosure* has exclusive authority to determine if and when a *disclosure* warrants investigation under this policy, and to select an investigator if one is required. The *designated person* must not investigate *disclosures* that primarily relate to a dispute between an *employee* and his or her supervisor, regarding the *employee's* employment.

6) The *designated person* is the *District's* point of contact for any investigator selected to investigate a *disclosure*. The *designated person* cannot be compelled to share information with other *District employees* or *Council members*, except to provide a timeline for the completion of an investigation and to provide a timeline for the production of the investigator's report.

7) A person identified in section 4 who receives a report of alleged *wrongdoing* must provide the d*iscloser* with written confirmation within ten (10) working days that the report has been received and will be investigated under this policy.

8) The *designated person* will determine the appropriate level of investigation and response and will advise the Chief Financial Officer of any allegation of fraud or theft. The Financial Officer must determine whether the matter should be reported to the *District's* auditors.

9) Making a *Disclosure*

To ensure that *disclosures* are accurately captured, given the significance of a *disclosure* to all involved, all *disclosures* must be made in writing and must contain the following information, to the extent known:

a) a description of the *wrongdoing;*
b) the name of the person alleged:
   - to have committed the *wrongdoing*, or
   - to be about to commit the *wrongdoing*
c) the date of the *wrongdoing*;
d) whether information or conduct that is being disclosed relates to an obligation under another enactment and if so, a reference to that enactment;
e) whether the *wrongdoing* has already been disclosed under this policy or enactment of British Columbia or Canada; and
f) if (e) above applies, the name of the person to whom the *disclosure* was made and the response, if any, that has been received.

10) A person may be permitted to report *wrongdoing* verbally if the person to whom they are reporting makes a written record of the allegation and confirms the accuracy of that record with the *discloser*. Anonymous allegations cannot be investigated by the *District* because the good faith of those allegations cannot be ascertained.

11) If a person is not comfortable reporting his or her concern to the person indicated in section 4 then they may approach a supervisor, manager, or department head to report their concerns and that supervisor, manager, or department head must then report the matter to the CAO or the Mayor.

12) Duty of Good Faith

A *disclosure* must not be made in bad faith, including by making a malicious, or wilfully false or misleading, *disclosure*. Further, anyone who participates in an investigation must do so in good faith.

13) **Process After a *Disclosure***

The *designated person* receiving a *disclosure* will assess whether to investigate the matters disclosed in it. The *designated person* may decline to investigate or may stop an investigation into, a *disclosure* if the d*esignated person* is of the opinion that:

a) the *disclosure* does not provide adequate details about the *wrongdoing*, or does not disclose *wrongdoing*;
b) the *disclosure* is frivolous or vexatious, or has not been made in good faith;
c) the *disclosure* has not been made by a person entitled to disclose under this policy;
d) the *disclosure* does not deal with *wrongdoing*;
e) the investigation of the *disclosure* would serve no useful purpose or could not reasonably be conducted because of the length of time that has elapsed between the date when the subject matter of the *disclosure* arose and the date the *disclosure* was made;
f) the *disclosure* relates solely to a public policy decision or one of the matters identified in the Scope section of this policy; or
g) the *disclosure* is being, or already has been, appropriately investigated.

14) Further, the *designated person* may suspend or stop an investigation if the *designated person*:

a) is of the opinion that the investigation may compromise another investigation;
b) becomes aware that the alleged *wrongdoing* that is being investigated is also being investigated for the possible prosecution of an offence; or
c) is of the opinion that an offence under any enactment of British Columbia or Canada may have been committed.

15) If the d*esignated person* does not investigate, or if an investigation is suspended or stopped, the *designated person* must notify the individual who made the *disclosure*, unless doing so could compromise an investigation of any kind.

16) The *designated person* may consult, on a confidential basis, with the leadership team, Human Resources personnel and/or the *District's* legal counsel to determine an appropriate course of action to properly address a *disclosure*.

17) In deciding whether to investigate a *disclosure*, or to suspend or stop an investigation, the *designated person* will, in an expeditious, fair, and proportionate manner, as appropriate, in the circumstances, assess the *disclosure* and all information received concerning it.

18) Outcomes

The *designated person* is responsible for ensuring that written investigation outcomes are provided to the following:

- the CAO and the Head of Human Resources, if the *disclosure* involves *employee wrongdoing*;
- the Mayor and Corporate Officer, if the *disclosure* involves a *Council member* or the CAO;
- *Council members*, excluding the Mayor, the CAO, and Head of Human Resources if the *disclosure* involves the Mayor.

19) The reportable outcomes may include:

a) findings of fact, including whether *wrongdoing* was committed;
b) whether a determination was made to refer the issue to the police or another entity;
c) potential employment consequences for any individual involved in the *wrongdoing*;
d) potential policy or documentation changes that should be considered to protect the *District* against similar *wrongdoing* in the future; and
e) notification of *council members*, the *District*'s auditors and appropriate law enforcement authorities or other oversight bodies.

20) The *designated person* will be responsible for determining the *District's* course of action, in consultation with the *District's* legal counsel, if required. The *District* may take disciplinary action, up to and including termination, against any individual who is found to have either:

a) engaged in *wrongdoing*, as determined after an investigation;
b) made a *disclosure* in bad faith; or
c) taken a measure of reprisal, or threatened reprisal, against an individual concerning the individual's *disclosure* or participation in an investigation.

21) For certainty, an *employee* who makes a *disclosure* respecting their own *wrongdoing* is not exempt from disciplinary action, although the self-reporting will be considered as a mitigating factor in determining any appropriate disciplinary action in the circumstances.

22) Reprisals

A person must not take any of the following measures of reprisal against an individual, or *Council member* or direct that any of the following measures of reprisal be taken against an individual, solely because the individual has, in good faith, sought advice about making a *disclosure*, made a *disclosure* or cooperated with an investigation under this policy:

a) a disciplinary measure;
b) a demotion;
c) a termination of employment;
d) any measure that adversely affects the *employee's* employment or working conditions;
e) in the case of a *Council member*, a censure by the *District's* Mayor and Council; or
f) a threat to take any of the measures referred to in (a) to (f) above.

23) Any form of retaliation, discrimination, or reprisal against an *employee* who, in good faith, reports a *disclosure* or acts as a witness or otherwise participates in an investigation of a *disclosure* is a violation of this policy.

24) *Disclosers* who believe they have been retaliated against may report this in writing to the CAO. If the *discloser* believes the retaliation involves the CAO, they may report to the Mayor.

25) A report of retaliation will result in an investigation, and, if proven, may result in disciplinary action, including responses listed in section 19 of this policy.

Confidentiality

26) All information collected during an assessment or an investigation (including the identities of those who have made a *disclosure* and those who are involved in the reporting, assessment and investigation processes, and signed confidentiality agreements) will be treated as confidential except as is necessary to properly conduct the assessment or investigation, to make a referral as set out in this policy, to report investigation outcomes, to take corrective action, or in accordance with or required by law including the *Freedom of Information and Protection of Privacy Act*.

27) Information may be subject to legal *disclosure* requirements during a court proceeding, arbitration or other legal proceedings, and in circumstances where affected persons have consented in writing to be identified.

General

28) In the event that any portion of this policy is inconsistent with a binding *District* collective agreement, or federal or provincial legislation, that portion and only that portion of this policy will have no application to the extent of that inconsistency and all other portions of the policy will continue in full force and effect.

29) This policy is to be read in conjunction with other applicable *District* policies as they are amended from time to time.

30) Any questions related to the interpretation of this policy should be directed to the CAO, Head of Human Resources, or designate.

31) This policy will be posted in visible and accessible locations at each worksite location and on the *District's* website.

32) This policy will be provided to all *District employees* and *Council members* and will be included in the new *employee* orientation process. This policy will be available on the *District's* internal website.

References:

Policy Number:	CO-011
Policy Owner:	Council
Endorsed by:	Leadership Team
Final Approval:	Council
Date Approved:	April 26, 2021
Review Date:	April 26, 2026
Revision Date:	
Related Policies:	• Code of Ethics Policy
Related Publications:	• Confidentiality Agreement • Public Interest Disclosure Act • CUPE Local 374 Collective Agreement • IAFF Local 4841 Collective Agreement • District of Sooke's Occupational Health and Safety Program

Contact Information:

Position: Chief Administrative Officer