

Public Interest Disclosure Policy

1. Document control

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2. Statement of Intent

- 2.1. The Barossa Council (Council) is committed to upholding the principles of transparency and accountability in its administrative and management practices and, therefore, encourages the making of Disclosures that reveal Public Interest Information.
- 2.2. The purpose of this Policy is to ensure that Council:
 - 2.2.1. fulfils its responsibilities under the *Public Interest Disclosure Act 2018* (the PID Act);
 - 2.2.2. encourages and facilitates Disclosures of Public Interest Information and provides appropriate oversight in accordance with the objects and requirements of the PID Act, and of public interest disclosures about corruption, misconduct and maladministration in public administration;
 - 2.2.3. provides appropriate protection for those who make Disclosures in accordance with the PID Act; and
 - 2.2.4. recognises the need to appropriately support Informants, Responsible Officers and, as appropriate, those Public Officers affected by any allegation that affects them.

3. Policy Statement

- 3.1. Council is committed to:
 - 3.1.1. referring, as necessary, appropriate Disclosures to another Relevant Authority;
 - 3.1.2. where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure directly to the Office for Public Integrity (OPI) in accordance with the Guidelines and the requirements of the *Independent Commission Against Corruption Act 2012* (the ICAC Act);
 - 3.1.3. facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved and affected; and
 - 3.1.4. rectifying any substantiated wrongdoing to the extent practicable and possible in the circumstances.
- 3.2. **Principal Officer**
 - 3.2.1. The Chief Executive Officer (CEO) as Principal Officer must ensure that one or more officers of Council are designated as responsible officers, and that they are suitably qualified as per the *Public Interest Disclosure Regulations 2019*.

3.3. **Responsible Officers**

- 3.3.1. The Responsible Officer will receive and manage Disclosures in accordance with the Policy, Process, and the PID Act.
- 3.3.2. If an Informant believes that his/her Disclosure is not being dealt with appropriately or in accordance with the Policy or Process, they should contact the Responsible Officer in the first instance.
- 3.3.3. The role of the Responsible Officer is further set out in the Public Interest Disclosure Process.

3.4. **Disclosures**

- 3.4.1. A Disclosure may be made to one of Council's designated Responsible Officers in person, by telephone or in writing. The details of Council's Responsible Officer/s can be found in the Public Interest Disclosure Process and are available on Council's Website.
- 3.4.2. Nothing in this Policy prevents a person from making an appropriate Disclosure to a Relevant Authority external to Council (i.e. the South Australian Ombudsman or the OPI). This is a choice to be made by the Informant at his/her discretion.

3.5. **Confidentiality**

- 3.5.1. The identity of an Informant must be maintained as confidential in accordance with the PID Act. A recipient of an appropriate Disclosure may only divulge the identity of an Informant in accordance with the Public Interest Disclosure Process.
- 3.5.2. An Informant may wish to remain anonymous, but in that event is required to ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated.

3.6. **Information to the Elected Body**

- 3.6.1. As a matter of discretion, the Chief Executive Officer may inform the Elected Body, on a confidential basis, of the fact that an investigation of a Disclosure took place and the outcome of the investigation.

3.7. **Protection for the Informant**

- 3.7.1. An Informant who makes an appropriate Disclosure that complies with the conditions of the Act is protected by:
 - Immunity from any liability as a result of that disclosure. This would include criminal or civil liability (section 5(1) of the Act).
 - A prohibition on disclosure of his/her identity (section 8 of the Act).
 - A prohibition against Victimisation (section 9 of the Act).
 - A prohibition against hindering, obstructing, or preventing an Informant from making an appropriate Disclosure (section 11 of the Act).
- 3.7.2. A person who knowingly makes a Disclosure that is false or misleading in a 'material particular' (whether by reason of the inclusion or omission of a particular) is guilty of an offence and may be prosecuted, and does not receive protection under the PID Act, this Policy, or the Public Interest Disclosure Process. The maximum penalty under section 10 of the Act is \$20,000 or imprisonment for 2 years.
- 3.7.3. A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted. Victimisation may also be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*, but only as one or the other, in accordance with section 9 of the PID Act. The maximum penalty under section 9(5) of the PID Act is \$20,000 or imprisonment for 2 years.

- 3.7.4. Council will take action as appropriate in the circumstances to protect Informants from Victimisation, including acting in accordance with the risk management clauses set out in the Public Interest Disclosure Process and/or referring the matter to SAPOL.
- 3.7.5. Any Employee or Elected Member of Council who:
- knowingly makes a disclosure that is false or misleading in a material particular; or
 - commits an act of Victimisation in relation to an Informant; or
 - acts otherwise that in accordance with this Policy or the Public Interest Disclosure Process (including with respect to divulging the identity of an Informant) in relation to a Disclosure,
- may also face investigation and disciplinary action in accordance with the Councils Employee Code of Conduct and relevant Employee Management Policies and Processes.

4. Scope

- 4.1. This Policy applies to appropriate Disclosures of Public Interest Information that are made by Elected Members and Employees as Public Officers and by the public in accordance with the PID Act and is intended to complement the reporting framework pursuant to the Independent Commission Against Corruption Act 2012 (the ICAC Act).
- 4.2. This Policy is designed to complement the existing communication channels within Council and operate in conjunction with the supporting Public Interest Disclosure Process and the Fraud and Corruption Prevention Policy documents.

5. Responsibilities

- 5.1. The Council is committed to:
- 5.1.1. Ensuring all Council employees and Council members are aware of this Policy and receive annual refresher training to encourage and facilitate the making of appropriate public disclosures;
 - 5.1.2. Referring, as necessary, appropriate Disclosures to another Relevant Authority;
 - 5.1.3. Where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure directly to the Office of Public Integrity (OPI) in accordance with the Guidelines and the requirements of the ICAC Act;
 - 5.1.4. Otherwise facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
 - 5.1.5. Rectifying any substantiated wrongdoing to the extent practicable in all the circumstances

6. Legislation and References

Legislation

- *Public Interest Disclosure Act 2018*
- *Public Interest Disclosure Regulations 2019*
- *Local Government Act 1999*
- *Independent Commission Against Corruption Act 2012*

- *Equal Opportunity Act 1984*

Supporting Documents

- Public Interest Disclosure Process
- Complaints Handling Process
- Reporting Fraud, Corruption, Misconduct and Maladministration Process

Related Policies

- Internal Review of Council Decisions Policy
- Fraud, Corruption, Misconduct and Maladministration Prevention Policy
- Elected Members Behavioural Management Policy
- Code of Conduct for Council Employees

7. Definitions

PID Act	<i>Public Interest Disclosure Act 2018</i>
Assessor	Determined by the Responsible Officer at their discretion. A relevant senior Worker who has the skills, qualifications, authorisation and delegation (whether directly from Council or sub-delegation from the Chief Executive Officer) to deal with such matters in accordance with Council's policies, processes and in accordance with the Public Interest Disclosure Process. The Assessor must not have had any involvement in the matter(s) to which the disclosure relates.
Business Days	A day when the Council is normally open for business, i.e. Monday to Friday, excluding public holidays and when Council's principle office may be closed (e.g. over the Christmas holiday period).
Commissioner	The person holding or acting in the office of the Independent Commissioner Against Corruption.
Corruption in Public Administration [as defined in section 5(1) of the ICAC Act]	(a) An offence against Part 7 Division 4 (Offences relating to Public Officers) of the <i>Criminal Law Consolidation Act 1935</i>, which includes the following offences: (i) bribery or corruption of Public Officers; (ii) threats or reprisals against Public Officers; (iii) abuse of public office; (iv) demanding or requiring benefit on basis of public office; (v) offences relating to appointment to public office; or (b) an offence against the <i>Public Sector (Honesty and accountability) Act 1995</i> or the <i>Public Corporations Act 1993</i>, or an attempt to commit such an offence; or (ba) an offence against the <i>Lobbyists Act 2015</i>, or an attempt to commit such an offence; or (c) Any of the following in relation to an offence referred to in a preceding paragraph: (i) aiding, abetting, counselling or procuring the commission of the offence; (ii) inducing, whether by threats or promises or otherwise, the

	commission of the offence; (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence; (iv) conspiring with others to effect the commission of the offence.
Council	The Barossa Council
Detriment	Includes – (a) Loss or damage (including damage to reputation); or (b) injury, harm (including psychological harm), damage (including damage to reputation) or loss; (c) intimidation or harassment; or (d) discrimination, disadvantage or adverse treatment in relation to a person's employment; or (e) threats of reprisal (which may be expressed or implied, and/or conditional or unconditional)
Disclosure	Means an appropriate disclosure of public interest information made by an Informant to a Relevant Authority. <u>For Environmental and Health Information –</u> A person makes an appropriate Disclosure of Environmental and Health Information if the disclosure is made to a Relevant Authority and the person – (i) believes on reasonable grounds that the information is true; or (ii) is not in a position to form a belief on reasonable grounds about the truth of the information, but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated <u>For Public Administration Information –</u> A person makes an appropriate Disclosure of Public Administration Information if they are a Public Officer and – (i) the disclosure is made to a Relevant Authority; and (ii) the public officer reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration.
Elected Member	As stated in the <i>Local Government Act 1999</i> , member of a council means the principal member or a councillor of the Council. (Elected Member is commonly utilised to refer to Council Member.)
Employee	Refers to all Council's employees, whether they are working in a full-time, part-time or casual capacity.
Environmental and Health Information	Information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public (whether occurring before or after the commencement of the PID Act).
Fraud	Includes an intentional dishonest act or omission done with the purpose of deceiving.
Guidelines	Refers to the Public Interest Disclosure Guidelines issued pursuant to section 14 of the <i>Public Interest Disclosure Act 2018</i> , and which are available on the Commissioner's website (icac.sa.gov.au).

ICAC Act	<i>Independent Commission Against Corruption Act 2012</i>
Informant	A person who makes an appropriate Disclosure of Environmental and Health Information; or Public Administration Information (together referred to as Public Interest Information).
Misconduct (in public administration) [As defined in section 5(3) of the ICAC Act]	Intentional and serious contravention of a code of conduct by a Public Officer while acting in his/her capacity as a Public Officer that constitutes a ground for disciplinary action against the officer; or other misconduct of a Public Officer while acting in his/her capacity as a Public Officer. Note: Reference to "a code of conduct" includes Council's related codes of conduct, in addition to any legislated Code of Conduct for Employees.
Office for Public Integrity (OPI)	The office established under Section 17 of the ICAC Act has the function to: (i) receive and assess complaints about public administration from members of the public; (ii) receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies, public authorities and public officers;; (iii) to refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with this section.
Public Administration	The administration of government policy (Macquarie dictionary). Defined at section 4 of the ICAC Act 2012 means: without limiting the acts that may comprise public administration, an administrative act within the meaning of the <i>Ombudsman Act 1972</i> will be taken to be carried out in the course of public administration.
Public Administration Information	Information that raises a potential issue of corruption, misconduct or maladministration in public administration (whether occurring before or after the commencement of the PID Act).
Public Interest information	There are two types of Public Interest Information: (a) Environmental and Health Information; and (b) Public Administration Information
Public Officer [See section 4 and Schedule 1 of the ICAC Act]	Includes: • a Council Member of Council, including the Mayor; and • an Employee or officer of Council; • a person performing contract work for Council; • a Volunteer of Council where they hold a delegation from Council or the Chief Executive Officer or in accordance with an Act, assist a Public Officer in the enforcement of the Act (it will be rare for a Volunteer to be a Public Officer) Volunteer is defined as: A person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses) [As defined in the <i>Work Health Safety Act 2012</i>]
Regulations	<i>Public Interest Disclosure Regulations 2019</i>
Relevant Authority	A person or entity that receives an appropriate Disclosure of Public Interest Information in accordance with the Act, as set out in Appendix A to this Policy.

Responsible Officer	A person(s) designated by the Chief Executive Officer pursuant to Section 12 of the PID Act who is (are) authorised to receive and act upon Appropriate Disclosures of Public Interest Information, and who has completed the relevant training course approved by the Commissioner for the purposes of the <i>Public Interest Disclosure Regulations 2019</i> .
Supervisor	The person who is responsible for the management or supervision of the public officer who is the subject of a Disclosure of public administration information.
Victimisation	Occurs when a person causes Detriment to another on the ground, or substantially on the ground that the other person (or a third person) has made or intends to make an appropriate Disclosure of Public Interest information.

8. Version History

This Policy will be reviewed by the Policy Author in consultation with the relevant stakeholders, within four years or more frequently if legislation or Council's need changes.

Version No.	Date.	Summary of Changes
1	15/10/2019	New Policy
2	20/12/2022	Updated to incorporate changes to the legislation under 2021 reforms (new document number)
3	21/08/2024	Added reference number to Supporting Processes and Documents
4	18/08/2026	Transferred to new corporate template Responsibilities section added Minor changes to wording

9. Further Information

This Policy is available on Council's website at www.barossa.sa.gov.au. It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa during ordinary business hours. A printed copy of this Policy can be obtained upon payment of a fixed fee.

Feedback regarding this Policy or its application can be made to the Customer Service Team on 8563 8444 or barossa@barossa.sa.gov.au in the first instance, who will refer you to the most appropriate officer.

10. Appendix A – Relevant Authorities

Where the information relates to...	the relevant authority is...
a public officer* *as defined and set out in Schedule 1 of the <i>Independent Commission Against Corruption Act 2012</i> - relevantly, this includes members, officers and employees of local government bodies	either: - the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or - the person who is in fact responsible for the management or supervision of the public officer; or - the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)
a public sector agency or public sector employee	either: - the Commission for Public Sector Employment; or - the responsible officer for the relevant public sector agency
an agency to which the <i>Ombudsman Act 1972</i> applies	the Ombudsman
a location within the area of a particular council established under the <i>Local Government Act 1999</i>	a member, officer or employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and unauthorised use of public money or substantial	the Auditor-General
the commission, or suspected commission, of any offence	a member of the police force
a judicial officer	the Judicial Conduct Commission
a member of Parliament	the Presiding Officer of the House of Parliament to which the member belongs
a person or a matter of a prescribed class (no prescribed persons/classes have been identified)	an authority declared by the regulations to be a relevant authority in relation to such information

public interest information - being: • environmental and health information (information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public); or • public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)	• the OPI; • a Minister of the Crown; or • any other prescribed person or person of a prescribed class
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