Public Interest Disclosure Process

TheBarossaCouncil

1. Document control

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Principal Officer Statement of Intent

This Process has been prepared in accordance with the requirements of sections 12(4) of the *Public Interest Disclosure Act 2018* (the PID Act). As Chief Executive Officer of The Barossa Council (Council), and the Principal Officer for the purposes of the PID Act, I expect that the implementation and operation of the Act will support:

- transparency and accountability in Council's practices; and
- the Disclosure, in the public interest, of information about substantial risks to public health or safety, or to the environment, and about corruption, misconduct and maladministration in public administration.

This Process and Council's *Public Interest Disclosure Policy* are designed to enable that to occur by ensuring that proper procedures are in place for the making and managing of a Disclosure, and by providing appropriate protections for those who make a Disclosure.

The Barossa Council, its Members, Employees, and officers support the intent of the Act and the protection of Informants who make Disclosures in accordance with the objectives of the Act, and the genuine and efficient consideration and action in relation to information provided in a Disclosure.

Any questions about this Process or Council's *Public Interest Disclosure Policy* should be directed in the first instance to the Responsible Officer/s, whose details are contained in clause 3 of this Process.

Martin McCarthy

Chief Executive Officer

2. Purpose

2.1. The Barossa Council is committed to:

2.1.1. upholding the principles of transparency and accountability in its practices;

2.1.2. the protection of informants who make public interest Disclosures; and

2.1.3. the efficient consideration and action in relation to information provided in a public interest Disclosure; and,

2.1.4. encourages the making of appropriate Disclosures that reveal public interest information in accordance with this Process and the Public Interest Disclosure Policy.

2.2. Council is also committed to:

2.2.1. referring, as necessary, appropriate Disclosures to another Relevant Authority;

2.2.2. where the Disclosure relates to corruption, or serious or systemic misconduct of maladministration in public administration, reporting the Disclosure directly to the Office for Public Integrity (OPI) in accordance with the Guidelines and requirements of the *Independent Commission Against Corruption Act 1993* (ICAC Act);

2.2.3. otherwise facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and

2.2.4. rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

2.3. This process provides guidance for:

2.3.1. informants seeking to make an appropriate Disclosure of Public Interest Information in accordance with the PID Act and Council's Public Interest Disclosure Policy; and

2.3.2. The Barossa Council's Responsible Officers, Elected Members, Employees, and officers who receive and action appropriate Disclosures in accordance with the requirements of the PID Act and the Independent Commission Against Corruption's Public Interest Disclosure Guidelines (the Guidelines).

3. Scope

3.1. This Process applies to appropriate Disclosures of Public Interest Information that are made in accordance with the PID Act, by public officers including Council Members, Officers and Employees of the Council, and by members of the public.

3.2. This Procedure is intended to complement the reporting framework under the ICAC Act, and designed to complement the existing communication channels within Council and to operate in conjunction with other existing policies, including the:

- Public Interest Disclosure Policy;
- Fraud, Corruption, Misconduct and Maladministration Prevention Policy;
- Reporting Fraud, Corruption, Misconduct and Maladministration Process
- Code of Conduct for Council Employees;
- Elected Members Behavioural Policy and Process;
- Internal Review of Council Decisions Policy
- Complaints Handling Process

4. Confidentiality

4.1. **Confidentiality**

4.1.1. The identity of an Informant will be maintained as confidential in accordance with the Act where the conditions of the PID Act are specifically met.

4.1.2. A recipient of an appropriate Disclosure may only divulge the identity of an Informant where:

- the recipient believes on reasonable grounds that it is necessary to divulge the identity of the Informant in order to prevent or minimise an imminent risk of serious physical injury or death to any person, and the identity of the Informant is then divulged to a person or authority that the recipient believes on reasonable grounds is the most appropriate authority or person to be able to take action to prevent or minimise the imminent risk of serious physical injury or death to any person (e.g. SAPOL, SafeWork SA, SA Ambulance, Environment Protection Agency); or
- the recipient has been issued with a notice from the OPI advising that the identity of the Informant is required by the OPI, in which case the recipient must disclose the identity of the Informant to the OPI; or
- doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); or
- the Informant consents to his/her identity being disclosed - this should be in writing where reasonably practicable.

4.2. **Divulging Information related to the Disclosure**

4.2.1. The Act does not expressly require any other information relating to a Disclosure (including, for example, the nature of the allegations) be maintained as confidential, but before making a decision to release or divulge any information provided as part of an appropriate Disclosure, consideration must be given to whether divulging the information would result in or be construed as an act of Victimisation.

4.2.2. In the event that a decision to release or divulge any information provided as part of an appropriate Disclosure is made, it must be done with the Chief Executive Officer's consent (or the consent of a Director if the Disclosure relates to the Chief Executive Officer) and the Employee or Elected Member making that decision must document the rationale for release as a file note, recorded and stored in accordance with section 9 of this Process.

4.3. **Anonymous Disclosure**

4.3.1. Informants wishing to remain anonymous are required to ensure that the Disclosure is sufficiently supported by necessary details enabling the matter to be properly investigated and be prepared to speak directly to the Responsible Officer.

5. Making and Receiving a Disclosure)

5.1. **Making a Disclosure**

5.1.1. In relation to Council, the PID Act provides protection for Informants where Disclosures are made:

- by a member of the public or a Public Officer about environmental and health information which the Informant reasonably believes to be true or which the Informant believes may be true and is of sufficient significance to warrant Disclosure, regarding a location within the Council area; and/or
- by a Public Officer with a reasonable suspicion about public administration information regarding either a location within the Council area or a Public Officer who may be an Elected Member, Employee or officer of Council.

5.1.2. Disclosures should generally, and wherever possible, be made or directed in the first instance to the Responsible Officer, who has the responsibility for receiving appropriate Disclosures.

5.2. Considerations In Determining Where to Direct a Disclosure

5.2.1. Nothing in this Process prevents a person from making a Disclosure to another Relevant Authority, including a Relevant Authority external to Council (see Appendix A of the Policy). This is a choice to be made by the Informant at their discretion.

5.2.2. When choosing to make a Disclosure internally, Disclosures relating to an Elected Member, Public Officer or Employee, including the Chief Executive Officer, should usually be made to the Responsible Officer.

5.2.3. Any Disclosure relating to a person designated as a Responsible Officer should be made to another Responsible Officer, or failing this, to a Relevant Authority external to the Council (such as the OPI – refer to Appendix A of the Policy).

5.2.4. Any Disclosure relating to public administration information about a Public Officer who is an Elected Member, Public Officer or Employee may be made to a Responsible Officer, or to the person responsible (either in fact, or as may be designated by the PID Act), for the management or supervision of the Public Officer who is the subject of the Disclosure (i.e. the Supervisor).

5.2.5. If there is a reasonable suspicion of Corruption, or of Maladministration or Misconduct that is serious or systemic, it must be reported to the OPI in accordance with the ICAC Act, Direction & Guidelines for Public Officers (available on the ICAC website icac.sa.gov.au).

5.2.6. Any Disclosure relating to Maladministration or Misconduct that does not meet the threshold for obligated reporting by a Public Officer, may be reported to OPI in accordance with the PID Act and/or ICAC Act.

5.2.7. If a Disclosure contains allegations of Fraud or Corruption, the Informant should report the matter in accordance with Council's Fraud and Corruption Policy, which provides that:

- If the Disclosure relates to Corruption in public administration, it will be reported to the OPI; and
- If the Disclosure relates to Fraud, it may be reported to the Responsible Officer or directly to SAPOL.

5.3. Secure Handling of Disclosure Information Upon Receipt

5.3.1. Appropriate measures are to be undertaken to ensure that a Disclosure is received and handled securely.

5.3.2. Any postal items marked 'Confidential – PID Responsible Officer' or 'Confidential – Public Interest Disclosure' must be referred to one of Council's Responsible Officers without opening the item.

5.3.3. Any correspondence, notes, supporting documents or any other information relating to the Disclosure must be stored securely in accordance with clause 9 of this Process.

5.3.4. Any information that is stored in Council's Customer Request Management System must be stored with strict access controls, as a confidential Customer Request entry.

5.3.5. Employees, Public Officers, Elected Members and Responsible Officers must ensure that any discussions or communication regarding a Disclosure, where these are necessary, are conducted in such a way as not to breach any of the confidentiality requirements of the PID Act, which are outlined in the Policy and Process.

5.3.6. A Responsible Officer will be the primary point of contact for liaising with any external Relevant Authority making the referral and the Policy and Process should be followed as closely as possible to achieve an outcome.

5.4. **Immediate Action Upon Receipt of a Disclosure**

5.4.1. On receiving a Disclosure of public interest information relating to a location within the Council area, the recipient of the Disclosure must:

- 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, immediately communicate such information to the most appropriate agency (eg. SAPOL, SafeWork SA, SA Ambulance, Environment Protection Authority). The Responsible Officer must be notified in the event that this measure is taken and kept appraised of any developments. However, in doing so, the Elected Member, Employee or officer must also have regard to clause 7 of this Process;
- If there is a reasonable suspicion that the matter involves Corruption, or serious or systemic Misconduct or Maladministration report the matter to the OPI;
- If received by an Elected Member, Employee or Officer, ask the Informant whether they consent to the details of their identity being provided to a Responsible Officer, and in doing so advise the Informant that a failure to provide that consent may mean that the Disclosure cannot be properly investigated;
- If received by an Elected Member, Employee or Officer, refer the Disclosure to a Responsible Officer and, in doing so comply with the wishes of the Informant with respect to whether details of their identity may be divulged; and
- Notify the OPI of the Disclosure in accordance with Guideline 1(4) of the Guidelines, (refer to Appendix 2). The unique reference number provided by the OPI should be recorded, and if the Disclosure is referred to another agency, then to that agency.

5.4.2. Responsible Officers should provide guidance and support to the Elected Members, Employees or officers who receives Disclosures to ensure compliance with this Process, the Guidelines and the Act.

5.4.3. A flowchart outlining the Disclosure Process is at Appendix 1 to this Process.

5.5. **Acknowledgment of Receipt of the Disclosure**

5.5.1. Where possible, acknowledgement of receipt of the Disclosure will be provided to the informant in writing, within 5 business days of the Disclosure being received by Council, and in doing so will provide a copy of (or links to) the Policy and Process to the Informant.

6. Preliminary Assessment of Disclosure

6.1. **Consideration of Preliminary Assessment**

6.1.1. Upon receipt of a Disclosure, the Responsible Officer (or Supervisor where relevant) will undertake a preliminary assessment to determine if the information disclosed justifies further action, including a decision as to whether the Disclosure:

- Is frivolous, vexatious or trivial (in which case, no further action will be taken in relation to the Disclosure);
- Involves a matter which has already been investigated or acted upon by a Relevant Authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter (in which case, no further action will be taken in relation to the Disclosure);
- Requires referral to another Relevant Authority external to the Council;
- Seeking of legal advice; or

- Warrants investigation or further action in accordance with Council's policies and processes and/or referral to an Assessor or Investigator for a formal investigation and report to Council or the Chief Executive Officer.

6.2. **Reporting by the Responsible Officer and Supervisor**

6.2.1. Where the Disclosure relates to public administration information about a Public Officer who is an Elected Member, Employee or Public Officer of Council and it is made to the Supervisor, the Supervisor will conduct the Preliminary Assessment instead of the Responsible Officer. The Supervisor will report the outcome of his/her determination following the Preliminary Assessment to the Responsible Officer to action.

6.2.2. Where the Disclosure is made to the Supervisor, as soon as possible after conducting the preliminary assessment and notifying the applicant of this Process, the Supervisor will notify the OPI of the Disclosure in accordance with Guideline 1(4) of the Guidelines, (refer to Appendix 2). If the Disclosure was referred to another agency the unique reference number provided by the OPI should be provided to that agency. The unique reference number provided by the OPI should also be provided to the Responsible Officer.

6.2.3. Following a Preliminary Assessment the Responsible Officer must report the determination to the Chief Executive Officer, unless the Disclosure relates to the Chief Executive Officer, then the report should be made to the Mayor.

Any report prepared in accordance with this Clause will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in Clause 9.1 of this Process apply.

6.2.4. Where it is determined the Disclosure warrants referral to an external body or other Relevant Authority, the Responsible Officer will undertake the referral, including ensuring that all necessary information is communicated accordingly.

Where the Preliminary Assessment is being undertaken by the Supervisor, they will include this recommendation in the Preliminary Assessment Report to the Responsible Officer for action.

6.2.5. Where the Officer determines the Disclosure requires any other action to ensure the matter is properly addressed, they will include the recommended action details in the Preliminary Assessment and Determination Report.

6.3. **Notification of Preliminary Assessment**

6.3.1. If the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of the determination, in writing, as soon as is reasonably practicable after the Preliminary Assessment has been made, and in any event within 30 days of receipt of the Disclosure. In doing so, the Responsible Officer must advise the Informant of:

- 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.

6.3.2. If the Responsible Officer fails to notify the Informant in accordance with this clause, the Informant 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.

6.3.3. If the Informant is dissatisfied with the Responsible Officer's determination, it is open to him/her to report the Disclosure to another Relevant Authority external to Council.

6.3.4. If the Disclosure was made directly to the Responsible Officer, or if the Responsible Officer is aware that the Disclosure has not been reported to the OPI in accordance with Guideline 1 of the Guidelines, as soon as reasonably practicable following the Preliminary Assessment and notification to the Informant of the matters determined in the Preliminary Assessment, the Responsible Officer must use the dedicated online notification form at icac.sa.gov.au to notify the OPI of the Disclosure, and in doing so, include all necessary information required under Guideline 1(4) of the Guidelines (refer Appendix 2).

- The unique reference number issued by the OPI must be provided to any other person or Relevant Authority to which the Disclosure may be referred.

6.3.5. If the Disclosure came to the Council by way of a referral from a Minister, and if, following the Preliminary Assessment the Responsible Officer determines that no action is to be taken, the Responsible Officer must ensure that the Minister is notified and the reason/s for the decision to take no action.

6.4. Referrals

6.4.1. Where the Responsible Officer determines, following the Preliminary Assessment, that a Disclosure warrants an investigation under Council's policies and processes, then it will be forwarded to the Assessor to deal with the matter in accordance with Council's policies, processes and/or usual operations.

6.4.2. Where a relevant Council policy or procedure for investigating a Disclosure of that kind applies, that policy or procedure will apply in conjunction with the Public Interest Disclosure Policy and this Process. However, nothing in this Process derogates the responsibilities and obligations conferred by the PID Act and Guidelines, including reporting and confidentiality requirements, and timelines for notifying the Informant at prescribed stages of the management of the Disclosure, which will continue to apply.

6.4.3. The Assessor shall be determined by the Responsible Officer at their discretion.

6.4.4. Examples of referrals to relevant Assessors include:

- In most cases, for environmental and health matters, the Assessor will be the Manager Health Services andCommunity Safety for investigation. However, where there is another senior officer who has the necessary delegations and authorisations to investigate the Disclosure, then the Disclosure may be referred to that senior officer.
- Alternatively, where the Responsible Officer determines it necessary and appropriate, they may refer the Disclosure to an appropriately qualified or experienced Independent Investigator external to Council, for investigation. In conducting their investigation, the Independent Investigator must consider the factors in this Process.

7. Investigation

7.1. Investigation Procedure

7.1.1. Where a referral has been made by the Responsible Officer following determination that the Disclosure warrants further investigation, the investigation process must explore the substance of the Disclosure to determine whether there is evidence in support of the matter/s raised, or, alternatively, to refute the allegations raised in the Disclosure.

7.1.2. Information relating to the allegation should be collated as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment.

7.1.3. Consideration should be given to the information collected to draw conclusions objectively and impartially.

7.1.4. Procedural fairness should be observed in the treatment of any person who is the subject of the Disclosure.

7.1.5. Recommendations should be made based on the conclusions drawn concerning remedial or other appropriate action.

7.1.6. Any investigation must be conducted in confidence. Normally, the Assessor or Independent Investigator will not be provided with the identity of the Informant. However, where the identity of the Informant is divulged to the person conducting the investigation, for example, in order to ensure that the matter is properly investigated the Assessor or Independent Investigator must keep the identity of the Informant confidential unless the circumstances in Clause 10.1 apply.

7.1.7. The Assessor or Independent Investigator must keep the Responsible Officer informed of the expected timeframes for completion of the investigation and the provision of his/her investigation report.

7.1.8. Where it is unlikely that the investigation will be completed within 90 days from the receipt of the Disclosure, the Responsible Officer will, within the 90 day period, provide the Informant of:

- written notice of an extension of time;
- notify the Informant when the investigation is expected to conclude: and
- when the Informant can expect to receive notification of any action taken.

7.1.9. If the Responsible Officer fails to notify the Informant in accordance with this clause, the Informant 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.

7.2. **Reporting Following the Conclusion of an Investigation**

7.2.1. Upon finalising an investigation, the Assessor or Independent Investigator must prepare an investigation report to the Responsible Officer that will contain the following details where applicable):

- 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.

7.2.2. The report must be accompanied by:

- The transcript or other record of any verbal evidence taken, including tape recordings; and
- All documents, statements or other exhibits received by the Assessor or Investigator and accepted as evidence during the course of the investigation.

7.2.3. Any report prepared in accordance with this clause will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 10.1 of this Process apply.

8. Taking of Action

8.1. **Notification of Action**

8.1.1. If the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of any action taken (including investigation), or that no action is being taken, in writing as soon as is reasonably practicable after any action identified in the Preliminary Assessment and Determination Report or Investigation Report has been taken and, in any event, within either:

- 90 days of receipt of the Disclosure; or
- Such longer period as may be specified by written notice given by the Responsible Officer to the Informant in writing within that 90 day period.

8.1.2. The notice described in clause 7.1.1 should include:

- 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.

8.1.3. If the Informant is dissatisfied with the responsible Officer's determination or the action taken it is open to him/her/them to report the Disclosure to another Relevant Authority external to the Council.

8.2. **Taking of Action**

8.2.1. The Responsible Officer must take whatever action is, in his/her discretion, considered appropriate in the circumstances having regard to the matters identified in the Investigation Report, including but not limited to:

- If the matter relates to a Disclosure of public administration information, referring the matter to the Chief Executive Officer and the Senior Manager People & Culture for disciplinary action and/or investigation except if the matter relates to the Chief Executive Officer in that case the matter shall be referred to the Mayor and Senior Manager People & Culture;
- If the matter relates to a Disclosure of environmental and health information, referring the matter to the Chief Executive Officer and the relevant Director for prioritisation and remediation/action;
- Ensuring that appropriate action is taken in accordance with the Assessor or Independent Investigator's Report.

However, noting that the final determination with respect to any action taken, lies with the officer, Employee or Council with the appropriate delegations and authorisations to take such action, in accordance with Council Policies, Processes and legislation.

8.3. **Reporting of Action Taken**

8.3.1. As soon as reasonably practicable following the action being taken and notification of action being provided to the Informant, the Responsible Officer must use the dedicated online notification form at icac.sa.gov.au (which will be directed to the OPI) to notify of the action taken in relation to the Disclosure and in doing so, must ensure that the details required by Guideline 2 of the Guidelines are included in the OPI notification.

8.3.2. This step must also be followed if the matter is referred to Council by another agency or Relevant Authority.

8.3.3. If the Disclosure came to the Council by way of a referral from a Minister, the Responsible Officer must ensure that the Minister is notified of the action taken in relation to the Disclosure, and the outcome of any such action.

8.4. **Final Report and Recommendation**

8.4.1. Upon finalising any action required in relation to a Disclosure, the Responsible Officer must prepare a Final Report to the Chief Executive Officer (or Mayor if the Disclosure relates to the CEO) to action as s/he considers appropriate:

- The subject of the Disclosure;
- An account of the steps taken by the Responsible Officer in accordance with this Process, including, where appropriate, enclosing a copy of any Investigation 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.

8.4.2. The Final Report prepared in accordance with this clause must not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 10.1 of this Process apply.

8.4.3. The Chief Executive Officer may, at his/her discretion, inform the Elected Members, on a confidential basis, about a Disclosure in accordance with clause 4.1 of the Policy.

9. Secure Handling and Storage of Information

9.1. The Responsible Officer must ensure accurate records of an appropriate Disclosure are securely and confidentially maintained, including notes of all discussions, phone calls and interviews. The files cannot be named or labelled in such a way that identifies the Informant. All correspondence, documents, reports, and other information relating to a Disclosure must be stored in Council's record management system with restricted access controls.

9.2. In the event that a person's appointment as a Responsible Officer is terminated, the person must provide all information to the newly appointed Responsible Officer or another Responsible Officer and having done so, will continue to be bound by a duty of confidentiality in respect of an Informant's identity and the information received as a result of the Disclosure.

9.3. Elected Members, Employees or Public Officers who may receive Disclosures must ensure that all information, documents and notes are forwarded to the Responsible Officer for secure storage and permanently deleted or removed from the Elected Member, Employee or officer's computer, email systems and files.

9.4. Supervisors who receive Disclosures of public administration information must forward all information, documents and notes to the Responsible Officer with their Supervisor's Preliminary Assessment Report and delete or remove any information relating to the Disclosure from their email systems and files.

10. Information Protection

10.1. Council will take action as appropriate in the circumstances of the relevant Disclosure/s to protect Informants from Victimisation, and/or from being hindered or obstructed in making a Disclosure. Such action may include acting in accordance with the following risk minimisation steps:

10.1.1. Awareness and/or training, as appropriate, to all Workers and Elected Members on the Policy and Process;

10.1.2. Talking, or writing to any affected parties;

10.1.3. Ensuring transparency, clarity, and accessibility in terms of Council's policies and process for dealing with Public Interest Disclosures, rights and protections to Informants, and rights and responsibilities of those affected by, or are the subject-matter of a Disclosure;

10.1.4. Referring the matter to the Chief Executive Officer for proposed reassigning of work tasks or other human resource adjustments pertaining to the person who is the subject matter of the Disclosure, or where appropriate the Informant or other Worker, in accordance with Council's Employee Code of Conduct;

10.1.5. As set out in this Process and/or by referring the matter to SAPOL and/or another Relevant Authority or agency as appropriate – e.g. OPI;

10.1.6. Disciplinary action by Council or Chief Executive Officer for any failure to comply with the requirements of this Process or the Policy (including with respect to divulging the identity of an Informant), in accordance with the relevant Codes of Conduct;

10.1.7. When making policy and process, or operational decisions, ensuring that consideration is given to the matters contained in this Policy and Process.

11. Responsibilities

11.1. **Principal Officer**

11.1.1. Is responsible for ensuring that one or more appropriately qualified Employees are designated as Responsible Officers of Council for the purposes of the PID Act and undertake any training required by the Regulations.

11.1.2. Must ensure the name and contact details of each Responsible Officer of Council are made available to Employees, Officers, and Elected Members, by including these details in this Process.

11.1.3. Must ensure that this Process is prepared and maintained in accordance with the Act and Guidelines.

11.2. **Designated Responsible Officers**

11.2.1. Must receive and manage appropriate Disclosures relating to the Council and ensure compliance with the Policy, Process, Guidelines, and the PID Act, in relation to any such Disclosures.

11.2.2. Must provide advice to Elected Members, Employees and Officers in relation to the administration of the PID Act.

11.2.3. Must liaise as required with the Informant and any person conducting an investigation, including but not limited to:

- legal advice
- SAPOL
- the Ombudsman or other appropriate agency

in relation to any investigation process undertaken in accordance with the Process and provide support to the Informant and facilitate any protection (as necessary and appropriate in the circumstances of the Disclosure) in accordance with the Policy, Process and PID Act.

11.2.4. Must complete any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* (the Regulations) (noting the Commissioner may not deliver the training).

11.2.5. May carry out any other functions relating to the PID Act.

11.2.6. In making any determination or taking any action under this Policy or pursuant to the Process, the Responsible Officer is authorised to incur costs in accordance with the Council's Budget for that purpose, with the approval of the CEO or Director, unless the Disclosure relates to the CEO, then with the approval of a Director.

11.2.7. **Council's designated Responsible Officers are:**

- Joanne Brussow

  Director, Corporate Services and Business Innovation

  jmoen@barossa.sa.gov.au

  08 8563 8324

- Janine Harding

  Manager, Governance and the Office of the Mayor and CEO

  jharding@barossa.sa.gov.au

  08 8563 8401

- Darren Hurst

  Manager Health Services and Community Safety

  dhurst@barossa.sa.gov.au

  08 8563 8491

- By Mail

  Confidential – Public Interest Disclosure

  Attention: Responsible Officer

  PO Box 867

  Nuriootpa SA 5355

11.3. **Elected Members, Employees and Officers of Council**

11.3.1. Are responsible for ensuring that they comply with this Process and the Policy when dealing with any Disclosure, including complying with directions from the Responsible Officer.

11.3.2. Must immediately refer any Disclosure made to them by a member of the public or a Public Officer to the Responsible Officer unless it has been made to them in their role as the Supervisor of a Public Officer who is the subject of a Disclosure.

11.3.3. Upon receipt of a Disclosure from an Elected Member, Employee or Officer of Council, the Responsible Officer will deal with the Disclosure in accordance with the processes described in this Procedure, and within the authority granted by the Public Interest Disclosure Policy and the PID Act.

11.4. **Informants**

11.4.1. It is the Informant's responsibility to ensure that any correspondence is appropriately marked as being confidential. Any postal correspondence that is not marked as being confidential and specifically addressed to a Responsible Officer will be opened by Council's Information Services section and may not receive the same level of confidentiality.

11.4.2. Council staff are bound by confidentiality provisions under the Local Government Act and will ensure in these circumstances confidentially is maintained by immediately identifying any documents as confidential, sealing them and providing to a Responsible Officer.

11.4.3. Where a Disclosure is made by telephone by an Informant, the recipient of the Disclosure will take a file note of the conversation, and where possible, ask the Informant to verify the notes for instance by signing, or email verification or other acceptable communication.

11.4.4. 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.

11.5. **Training**

11.5.1. Council's Responsible Officers will have training in the Public Interest Disclosure Act and reporting, approved by the Independent Commissioner Against Corruption (noting the Commissioner may not undertake the training).

11.5.2. Council's Workers, Elected Members and officers will have general awareness training at the commencement of the Policy and Process, and refresher training as necessary. New Workers will have training incorporated into their induction as required.

12. Legislation and References

<u>Legislation</u>

- *Public Interest Disclosure Act 2018*
- *Public Interest Disclosure Regulations 2019*
- *Independent Commissioner Against Corruption Act 2012*
- *Local Government Act 1999*
- ICAC Public Interest Disclosure Guidelines
- Instrument of Appointment as a Responsible Officer

<u>Related Policies</u>

- Public Interest Disclosure Policy

13. Definitions

Act	*Public Interest Disclosure Act 2018*
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 / or usual operations.
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 Criminal Law Consolidation Act 1935, 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 Public Sector (Honesty and accountability) Act 1995 or the Public Corporations Act 1993, or an attempt to commit such an offence; or (ba) an offence against the Lobbyists Act 2015, 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: (i) they are a Public Officer; and (ii) the disclosure is made to a Relevant Authority; and (iii) 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 Local Government Act 1999*, 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 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 *Public Interest Disclosure Act 2018*, and which are available on the Commissioner's website (icac.sa.gov.au)
ICAC Act	*Independent Commission Against Corruption Act 2012*
Informant	A person who makes an appropriate Disclosure of Environmental and Health Information; or Public Administration Information (together referred to as Public Interest Information).
Maladministration (in public administration) [As defined in section 4(1) of the Ombudsman Act 1972]	Maladministration in public administration – a) means – (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or (ii) conduct of a public officer involving substantial mismanagement in or in relation to performance of official functions; and b) includes conduct resulting from impropriety, incompetence or negligence; and c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
Misconduct (in public administration) [As defined in section 4(1) of the Ombudsman Act 1972]	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 Ombudsman Act 1972 will be taken to be carried out in the course of public administration.
Public Administration 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 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 *Work Health Safety Act 2012*]
Regulations	*Public Interest Disclosure Regulations 2019*
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 the Policy.
Responsible Officer	A person(s) designated by the Chief Executive Officer pursuant to Section 12 of the 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 *Public Interest Disclosure Regulations 2019*.
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.

14. Version History

This Process 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 Change/s
2	15/10/2019	Review
3	10/11/2022	New Document Number Scheduled Review in line with the Policy to encompass legislative changes to Local Government Reform, and to put into new template
4	21/05/2024	Update to Responsible Officers
5	18/08/2026	Transferred into new corporate template Update to Responsible Officers Minor changes to the wording

15. Further Information

This Process 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 Process can be obtained upon payment of a fixed fee.

Feedback regarding this Process 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.

16. Appendix 1 – Notification Process Flowchart

Receipt of disclosure

- Disclosure by a Public Officer about public administration information can be made to the Public Officer's supervisor that the information relates to, or the Responsible Officer
- Disclosure by a member of the publiv about environmental / health information to do with a location in the Council area can be made to any member, officer or employee, to be passed on to the Responsible Officer to assess
- Acknowledge receipt within 5 business days - See Clause 5.5

Preliminary Assessment

- Undertaken by the Responsible Officer (or by the Supervisor for public administration information only) to determine: if an imminent risk of serious harm exisits; whether there is a need to refer to OPI; whether other action is required, and if so,what.

Preliminary assessment action

- For example, report risk of imminent harm to SAPOL or another appropriate agency, make report to OPI etc. - See Clause 6

Notify Informant re: preliminary assessment

- Must be done within 30 days of the disclosure being made - See Clause 6.3
- Include details of the action that has been, or will be, taken
- If no action will be taken, advise why

Notify OPI about disclosure

- As soon as reasonably practicable
- Use the online notification form at icac.sa.gov.au
- Must include the details specified in Guideline One - See Clause 8.3

Take action

- May include undertaking investigations, or referring to another relevant authority - See Clause 8.2

Notify Informant of outcome of action

- Must be done within either 90 days of the disclosure being made, or longerperiod as specified by written notice given within that 90 day period - See Clause 8.1
- Include details of the outcome of the action taken

Notify OPI of the outcome of action

- Use the online notification form at icac.sa.gov.au
- Must include the details specified in Guideline Two - See Clause 8.3
- Acknowledge receipt within three days

If applicable, notify Minister re: outcome of action

- Only applicable if the initial disclosure came from/via a Minister process