

TITLE:	Protected Public Interest Disclosure Policy		
DIVISION:			
ADOPTED BY:	Council		
DATE OF ADOPTION:	30 June 2014	DATE OF REVIEW:	June 2018
MOTION NUMBER:	113/14		
POLICY NUMBER:	CP000026		
AUTHORISED:	Chief Executive Officer		

THIS POLICY APPLIES TO:

All employees and Elected Members and Members of Local Authorities and Council Committees.

PREAMBLE

The aim of all policy is for Councillors to provide strategic input into the effective operational framework of the organisation under S.11 of the Local Government Act

SUMMARY

Barkly Regional Council supports the principles of transparency and accountability in all levels of Council's decision making. Transparency and accountability of decision making ensures that public scrutiny of decisions can be made, which, ultimately, promotes public confidence in the governance of the Council. In this policy the Council sets forth procedures and protocols to reinforce its strong commitment to compliance with the letter and the spirit of the Public Protection Disclosure Act.

OBJECTIVES

The objectives of this Policy are to:

- Promote public confidence in the governance of the Council by reinforcing its support for the Public Protection Disclosure Act;
- Provide for disclosure of improper conduct on the part of *public officers* and *public bodies (as defined below)*; and
- Protect the persons who make public interest disclosures and others from acts of reprisal.

BACKGROUND

The NT Public Protection Disclosure Act provides protection for individuals who disclose information about improper conduct and maladministration on the part of public officials.

Council has chosen to adopt a Policy which briefly outlines the relevant parts of that Act to help ensure that Elected Members, management and other employees are aware of its existence and their legislative obligations.

POLICY STATEMENT

This Policy applies to *Public Officers* and *Public Bodies*.

A *Public Officer* is defined as a member, officer or employee of a public body (Refer Section 7 of the NT Public Protection Disclosure Act the 'Act'); (*This definition includes Elected Members*);

A *Public Body* includes a Council and a body, whether incorporated or not, established under an Act for a public purpose (Refer Section 6 of the NT Public Protection Disclosure Act); (*This definition includes Local Authorities and Council Committees*).

Disclosures of public interest information

An individual may make a disclosure of public interest information. This disclosure may be made anonymously.

Public interest information means information that, if true, would tend to show a public officer or public body has engaged, is engaging, or intends to engage, in improper conduct.

Improper conduct

The following conduct on the part of a public body or public officer in or related to, the performance of official functions is *improper conduct*.

- A) The conduct involves one or more of the following and constitutes a criminal offence or, if engaged in by a public officer, reasonable grounds for terminating the services of the public officer:
- Seeking or accepting a bribe or other improper inducement;
 - Any other form of dishonesty;
 - Inappropriate bias;
 - A breach of public trust;
 - Misuse of confidential information; or
 - An act of reprisal

AND

- B) The conduct involves one or more of the following (whether or not the conduct constitutes a criminal offence or, if engaged in by a public officer, reasonable grounds for terminating the services of the public officer):
- Substantial misuse or mismanagement of public resources;
 - Substantial risk to public health or safety;
 - Substantial risk to the environment;
 - Substantial maladministration that specifically, substantially and adversely affects someone's interests.

Substantial maladministration means conduct that, including action or inaction, is contrary to law, based wholly or partly on improper motives, or is unreasonable, unjust, oppressive, or improperly discriminatory.

A public interest disclosure cannot be based solely or substantially on:

- Disagreement with a policy that may properly be adopted, including a disagreement about amounts, purposes and priorities of expenditure; or
- An employment related grievance (other than a grievance about an act of reprisal) or other personal grievance.

How public interest disclosure is made

A public interest disclosure must be made to the Commissioner for Public Interest Disclosures or the CEO. If made to the CEO it must be referred by the CEO to the Commissioner within 14 days of receipt.

The public interest disclosure may be made orally or in writing, but must be made in accordance with the procedure prescribed by the Act. It may be made anonymously.

Protection from liability for making public interest disclosure

The Act provides that a person who makes a public interest disclosure:

- Incurs no civil or criminal liability by doing so; and
- Does not become liable to disciplinary action, or other adverse administrative action, for doing so, even though the disclosure is made in breach of an obligation of confidentiality.

However this protection does not apply to a public interest disclosure that is an abuse of process, or if the discloser knows that the information disclosed is misleading.

When a person makes a public interest disclosure, the person's liability for his or her own conduct is not affected by the disclosure of that conduct.

Protection from reprisal

It is an offence under the Act to commit an *act of reprisal*. A person commits an *act of reprisal* against another if the person causes, or threatens to cause, *harm* to another because the other person or a third person has:

- Made or intends to make a public interest disclosure; or
- Complied with, or intends to comply with, a requirement imposed by a person acting in an official capacity; or
- Cooperated or intends to cooperate with a person acting in an official capacity.

Harm includes all of the following:

- *Injury, loss and damage;*
- *Intimidation and harassment;*
- *Discrimination, disadvantage and adverse treatment (including disciplinary action), in relation to employment, career, profession, trade or business.*

LEGISLATION, TERMINOLOGY AND REFERENCES

The Northern Territory Public Disclosure Act: Definitions used in this Policy are sourced from that legislation.

IMPLEMENTATION AND DELEGATION

for a public body or public officer is as follows:

In the case of the Barkly Regional Council the responsible authority is:	
For the President	The CEO or the Minister responsible for Local Government
For a Member of the Council, Council Committee or Local Authority	The President or the CEO
For the CEO	The President or the Minister responsible for Local Government
For any other employee or Officer	The President or the CEO

The overall responsibility for compliance with this Policy rests with the CEO who will actively support and assist persons making public interest disclosures. If the disclosure involves the CEO the President will provide any necessary support and assistance.

EVALUATION AND REVIEW

This Policy should be evaluated on the basis that Elected Members, employees and others covered by this Policy are compliant with the requirements of the Northern Territory Public Disclosure Act.

This Policy is to be reviewed every four (4) years, and may be reviewed at other times at the discretion of Chief Executive Officer.