

POLICY

TITLE:	Whistleblower Policy		
ADOPTED BY:	Chief Executive Officer (CEO)		
DATE OF ADOPTION:	29 Nov 2024	DATE OF REVIEW:	29 Nov 2026
POLICY NUMBER:	204		
LEGISLATIVE REF:	<i>Independent Commissioner Against Corruption Act 2017 (NT) (Act)</i>		

1. Purpose

- a) The purpose of this Policy is to encourage and facilitate disclosures of improper conduct occurring in the Barkly Regional Council (BRC) so that BRC's internal controls can be strengthened.
- b) To provide assurance to the community that BRC is committed to good governance and ethical behaviour.
- c) To provide an environment where people are supported in the reporting of improper conduct and such persons are not victimised for reporting these matters.

2. Scope

- a) BRC is classified as a public body in Section 16(1) of *the Independent Commissioner Against Corruption Act 2017 (the Act)*.
- b) Mandatory reporting of suspected improper conduct applies to all public bodies and associated public officers as defined in Section 16(2) of *the Act*.
- c) Whistleblowing protections are applicable to any person reporting suspected improper conduct (a "protected communication" under *the Act*)

3. Policy Objectives

- a) This Policy is intended to support and protect a person who voluntarily makes a protected communication about improper conduct and to ensure any report of improper conduct is thoroughly investigated and reported appropriately to the Office of the Independent Commission Against Corruption (ICAC).

b) Responsibilities

The Chief Executive Officer (CEO) is the nominated recipient for the receipt of communications under this Policy.

4. Definitions

Anti-democratic conduct (s15) means electoral offences under the *Electoral Act* or the *Local Government Act* affecting the reputation, power, resources or influence of a political party or a candidate. For example, political donations, push polling and improperly influencing voting behaviour.

Corrupt conduct (s10) means conduct engaged in by a public officer or by a public body that is either an offence punishable by a maximum term of imprisonment of at least two years or conduct which would warrant termination of services (the most serious).

ICAC means Office of the Independent Commissioner against Corruption – an independent investigatory Body established to investigate the most serious, sensitive and systematic corrupt conduct of public officers and public agencies.

Improper conduct (s9) includes corrupt conduct, misconduct, unsatisfactory conduct and antidemocratic conduct.

Misconduct (s11) refers to a breach of a code of conduct by a public officer while acting in their capacity as a public officer, for example discrimination, bullying, harassment, assault (less serious).

Protected communication means a voluntary reporting of information that a person believes on reasonable grounds:

- (i) would tend to show that improper conduct has occurred, is occurring or is at risk of occurring; or
- (ii) would assist ICAC to perform the ICAC's functions; or
- (iii) would otherwise assist in the administration, or achieving the objects, of the Independent Commissioner Against Corruption Act 2017

Public Body (s.16) means, “a Local Government Council” amongst a list of other agencies.

Public Officer means a member, officer or employee of a public body.

Retaliation (s.95). A person engages in retaliation against another person (the victim) if the person causes, or threatens to cause, harm to the victim:

- (i) with the intention of discouraging the victim or a third person from taking protected action; or
- (ii) with the intention of discouraging the victim or a third person from supporting a protected person; or
- (iii) because of protected action taken, or suspected by the person to have been taken, by the victim; or
- (iv) because of action taken, or suspected by the person to have been taken, by the victim to support a protected person.

Unsatisfactory conduct (s.12) means negligence, impropriety, illegality, incompetence leading to substantial mismanagement of public resources, or the performance of official functions, or detriment to the public interest (systemic).

Whistleblower is a person who makes a protected communication about Improper Conduct.

Whistleblowing means the making of a protected communication about improper conduct.

5. POLICY STATEMENT

- a) BRC is committed to the objectives of the Act and to ensure that its responsibilities under *the Act* are properly fulfilled. Disclosures which are made in good faith will be taken seriously and prompt action will be taken to address any alleged improper conduct.
- b) BRC is committed to the principles of natural justice and procedural fairness, namely:
 - i) The premise that a person is innocent until proven otherwise,
 - ii) The right to be heard, which means the right to have a fair hearing, with the opportunity to present one's case,
 - iii) The right to have a decision made by an unbiased decision-maker,
 - iv) The right to have the decision based on evidence,
 - v) Clear communication of policies, procedures and instructions.
- c) This Policy is designed to complement normal communication channels between BRC management, staff and the public. Employees are encouraged to continue to raise matters at any time with their managers/team leaders. Additionally, people may make a formal disclosure of improper conduct or retaliation under the Act in accordance with this Policy and any associated procedures and/or guidelines that are developed.
- d) BRC will adhere to the Act and any directions and guidelines issued by the ICAC to allow employees or members of the public to provide information in accordance with *the Act*.
- e) BRC is committed to investigating all information supplied in a confidential manner and taking appropriate action.
- f) BRC is committed to ensuring that mandatory reporting of improper conduct to ICAC takes place.
- g) Serious and proven fraud and corruption will be referred to the Northern Territory Police.
- h) Mandatory Reporting of improper conduct to ICAC. BRC will ensure that the Mandatory Reporting directions and guidelines issued by ICAC are made available to all employees and elected members either electronically or by hard copy.

6. WHISTLEBLOWER PROTECTION

- i. BRC recognises the value of transparency and accountability in its administrative and management practices and supports reporting that reveals improper conduct involving substantial mismanagement of public resources or conduct involving a substantial risk to public health and safety or the environment.
- ii. BRC does not tolerate improper conduct by its employees, nor the taking of retaliation against those who come forward to report such conduct.
- iii. BRC will take every care to keep the identity of any person making a report confidential, subject to any legal requirements that are imposed on BRC to disclose information. The identity of a Whistleblower will be maintained as confidential in accordance with *the Act*. Confidentiality will remain in all circumstances, unless the

Whistleblower consents to their identity being disclosed, or disclosure is otherwise required so that the matter may be thoroughly investigated.

- iv. Retaliation against a person who discloses alleged improper conduct will not be tolerated and action will be taken in accordance with *the Act* and with BRC's Code of Conduct against persons who engages in retaliation.

7. EMPLOYEES WHO ARE THE SUBJECT OF A PROTECTED DISCLOSURE

- i. BRC will afford natural justice to the person who is the subject of any protected disclosure report to ICAC. Any investigations conducted will be done so fairly and at the direction of ICAC. Where improper conduct is alleged against an employee, the employee may be the subject of disciplinary action, including the termination of employment.
- ii. Where investigations do not substantiate a report, the fact that the investigation has been conducted, the results of the investigation, and the identity of the person who is the subject of the report will remain confidential.
- iii. BRC will give its full support to a person who is the subject of a report to ICAC where the allegations contained in the report are able to be established as clearly wrong or unsubstantiated.
- iv. If the matter has been reported to ICAC and been the subject of an investigation that proves the allegations to be false, the Chief Executive Officer (CEO) will consider any request by that person to issue them with a statement of support setting out that the allegations were false.
- v. BRC will follow the strategies outlined in *the Act* and associated regulations and guidelines to ensure that Whistle-blower protections are in place.

8. MAKING A DISCLOSURE

- i. Disclosures can be made verbally, in writing, by telephone or by email.
- ii. Disclosures can be made anonymously and will be investigated.
- iii. Written disclosures must be submitted to:
 - Mr Chris Kelly*
 - Chief Executive Officer*
 - Barkly Regional Council*
 - 41 Peko Road*
 - Tennant Creek*
 - NT 0860*
- iv. As all incoming mail is recorded through our Records Department as required by legislation, it is extremely important that the letter is marked with the following:
 - Strictly Private & Confidential*
 - Protected Communication only to be opened by the CEO*
- v. Alternatively, and if possible, written disclosures can be handed to the CEO.
- vi. Disclosures are managed in accordance with the "*Guidelines and practice directions regarding voluntary protected communications issues*" issued by ICAC.
- vii. An employee making a report will be provided with appropriate support including a formal acknowledgement of any protected communication and their protected status as a Whistleblower. A Peer support person and other welfare support services will also be offered to the employee.

9. RELATED POLICIES

- 1) Code of Conduct (Elected Members)
- 2) Code of Conduct (CEO)
- 3) Code of Conduct (Staff)
- 4) Conflict of Interest Policy
- 5) Equal Opportunity: Anti-discrimination, Anti-Harassment and Anti-Bullying Policy
- 6) Grievance Policy
- 7) Any other relevant Council policies

a) Associated Documents:

- i. Guidelines and practice directions regarding voluntary protected communications issues – ICAC
- ii. Frameworks and practices for minimising risks of retaliation – ICAC
- iii. Australian Standard (AS 8004-2003) Whistleblower Protection

10. Implementation

All personnel will be made aware of this Policy, and it will be published on the Barkly Regional Council website.

11. Review

This Policy will be reviewed on or before 29 Nov 2026


12. Variation, Revocations and /or Charges

Barkly Regional Council reserves the right to revoke and/or amend this Policy from time to time as is considered necessary to better manage its business and/or to comply with any legislative requirements.

13. Approval

This Policy is approved

Chris Kelly
Chief Executive Officer



Signature

29 Nov 2024

Dated

END