

Corporate Services

Making and managing a public interest disclosure policy

Owner Integrity Services
Last Reviewed 19/09/2022

CHD/2018/4312
Version 2.00

1. Purpose

To provide public officers and members of the public with information on how to make a public interest disclosure (disclosure) about suspected wrongdoing or danger, what happens when information is provided, and the rights of disclosers under the *Public Interest Disclosure Act 2010* (PID Act).

2. Overview

The department has an obligation to serve the public interest by providing appropriate avenues for reporting allegations of wrongdoing or danger in accordance with the PID Act.

3. What is a Public Interest Disclosure?

A disclosure is a complaint or report where a person honestly believes on reasonable grounds, or the information tends to show, conduct of wrongdoing in the public sector. A disclosure can be made by a public officer or a member of the public.

A disclosure occurs when any person, whether or not a public officer has information about:

- substantial and specific danger to the health or safety of a person with a disability
- substantial and specific danger to the environment
- reprisal because of a belief that a person has made or intends to make a disclosure.

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A disclosure occurs when a public officer has information about:

- corrupt conduct
- maladministration
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety or the environment.

A person who has information about one of these matters that involves or may involve the department may make a disclosure in accordance with this policy and the Public Interest Disclosure Procedure to:

- Integrity Services
- any person in a supervisory or management position within the department
- the Human Resources unit
- the Director-General
- the Minister.

If a disclosure is made to Human Resources, or a supervisor, that information is to be expeditiously progressed to Integrity Services.

To enable further investigation, all disclosures must:

- be clear and factual
- avoid speculation, emotive language, embellishment

- avoid the provision of only vague details.

4. Policy

The department encourages and supports the reporting of suspected wrongdoing or danger to promote openness, accountability and good management in the public sector.

The department is committed to creating an environment that encourages reporting wrongdoing:

- Protecting the dignity, wellbeing, career interest and good name of all persons involved
- Protecting the discloser and witnesses from adverse action taken as a result of making the disclosure
- Responding to the disclosure thoroughly and impartially
- Ensuring the people involved in a disclosure are offered an appropriate level of support
- Keeping the discloser informed of the progress and outcome.

The department will ensure that all reports of wrongdoing are properly assessed and dealt with, including appropriate action being taken in relation to inappropriate conduct.

Incoming information will be assessed by Integrity Services to determine whether it meets the requirements of the PID Act.

In conjunction with their assessment of information, assessors will apply the tests set out in sections 12(3) and 13(3) of the PID Act to determine the appropriateness of that information to be assessed as a disclosure.

- Subsection (3)(a) sets out the subjective test, which stipulates that the discloser must have an honest belief, on reasonable grounds that their information tends to show the conduct or danger concerned.
- Subsection (3)(b) sets out the objective test, which is that the information tends to show the conduct or danger, regardless of whether the discloser honestly believes the information tends to show the conduct or danger.

The department is required to take action to protect public officers from retribution or reprisal, such as bullying or harassment for making a disclosure. In addition, the PID Act provides disclosers with the following protections:

- The discloser's identity will be protected where possible
- For making a disclosure, the discloser has immunity from:
 - civil liability (e.g. for defamation)
 - criminal liability (e.g. for breaching statutory confidentiality provisions)
- Disciplinary action, termination of employment, or any other workplace or administrative sanctions.
- Liability for the disclosers own conduct is not affected by the disclosure of that conduct.

Complaints or reports concerning an expression of dissatisfaction about staff conduct, a service, procedure, practice or departmental policy that are not resolved at the point of service, should be pursued by following the Complaints Policy and Customer Complaints Management Procedure or the Individual Employee Grievance policy and procedure.

5. Associated procedure

Making and managing a public interest disclosure.

6. Authority

[Public Interest Disclosure Act 2010](#)

[Public Sector Ethics Act 1994](#)

[Crime and Corruption Act 2001](#)

[Public Service Act 2008](#)

7. Definitions

Term	Meaning
Adverse Action	Has the same meaning as defined in the <u>Industrial Relations Act 2016.</u>

Complaint	A matter reported to a receiving officer. A complaint is not a disclosure unless assessed as meeting the requirements of a public interest disclosure under the <i>Public Interest Disclosure Act 2010 (Qld)</i> .
Corrupt Conduct	<p>Has the same meaning as defined in the Crime and Corruption Act 2001.</p> <p>(1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—</p> <ol style="list-style-type: none"> (i) a unit of public administration; or (ii) a person holding an appointment; and <p>(b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—</p> <ol style="list-style-type: none"> (i) is not honest or is not impartial; or (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and <p>(c) would, if proved, be—</p> <ol style="list-style-type: none"> (i) a criminal offence; or (ii) a disciplinary breach providing reasonable grounds for terminating the person's services if the person is or were the holder of an appointment. <p>(2) Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) impairs, or could impair, public confidence in public administration; and</p> <p>(b) involves, or could involve, any of the following—</p> <ol style="list-style-type: none"> (i) collusive tendering; (ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described) — <ol style="list-style-type: none"> (A) protecting health or safety of persons; (B) protecting the environment; (C) protecting or managing the use of the State's natural, cultural, mining or energy resources; (iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets; (iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue; (v) fraudulently obtaining or retaining an appointment; and <p>(c) would, if proved, be—</p> <ol style="list-style-type: none"> (i) a criminal offence; or (ii) a disciplinary breach providing reasonable grounds for terminating the person's services if the person is or were the holder of an appointment.
Detriment	<p>Includes:</p> <ul style="list-style-type: none"> • Personal injury or prejudice to safety • Property damage or loss • Intimidation or harassment • Adverse action, discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business • Financial loss • Damage to reputation, for example, personal, professional or business reputation.
Discloser	A person who makes a disclosure in accordance with the PID Act.

Environment	<p>Includes:</p> <ul style="list-style-type: none"> • Ecosystems and their constituent parts, including people and communities • All natural and physical resources • The qualities and characteristics of locations, places and areas, however large or small, that contribute • To their biological diversity and integrity, intrinsic • Attributed scientific value or interest, amenity, harmony and sense of community • The social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in the above paragraphs.
Maladministration	<p>As defined in schedule four of the <i>Public Interest Disclosure Act 2010 (Qld)</i>:</p> <ul style="list-style-type: none"> • Maladministration includes administrative actions that are unlawful, unreasonable, unfair, improperly discriminatory, taken for an improper purpose or otherwise wrong.
Public health or safety	<p>Includes, but is not limited to the health or safety of persons:</p> <ul style="list-style-type: none"> • Under the lawful care or control of the department or the State of Queensland; • Using community facilities and services provided by the department or the State of Queensland; and • In the workplace
Public Interest Disclosure	<p>Has the same meaning as defined under Chapter 2 of the Public Interest Disclosure Act 2010.</p>
Public Officer	<p>A person who is an employee, member or officer of the department.</p> <ul style="list-style-type: none"> • an employee of an entity, includes a person engaged by the entity under a contract of service.
Reprisal	<p>Has the same meaning as defined in section 40 of the Public Interest Disclosure Act 2010 and includes causing, attempting or conspiring to cause detriment to any person because, or in the belief, anybody has made, or may make, a disclosure or because the other person or someone else is, has been or intends to be involved in a proceeding under the Public Interest Disclosure Act 2010.</p>
Substantial and specific	<p>Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance.</p> <p>Specific means 'precise or particular'. This refers to conduct or detriment that is able to be identified.</p>

8. Human Rights considerations

The [Human Rights Act 2019](#) requires departments to make decisions and provide services in a manner compatible with human rights, through the identification and due consideration of human rights impacts when making decisions. This includes when making disclosure assessments and managing disclosures.

All parties involved in managing a public interest disclosure are expected to comply with the obligations under the [Human Rights Act 2019](#).

9. Review of this policy

The policy will be reviewed biennially to maintain relevance, accuracy, effectiveness, and continuous improvement.

10. Approval

Andrew Hopper
Acting Director-General
Department of Tourism, Innovation and Sport
Date: 26/09/2022

11. Version history

Date	Version	Action	Description / comments
25 July 2018	1.0	Superseded version.	Version 1.0 of Department of Innovation, Tourism Industry Development and the Commonwealth Games.
19 September 2022	2.0	Combined policy/procedure converted into two independent documents. Updated following MOG.	Update in accordance with the Queensland Ombudsman Public Interest Disclosure Standard No. 1/2019.

12. Keywords

CHD/2018/4312; Public Interest Disclosure; discloser; protections; reprisal; misconduct; PID; maladministration; complaints; whistle-blower; CCC; corruption; complaint; complainant; bullying; fraud; discrimination; environment; disability; wrongdoing; misconduct