

Corporate Services

Making and managing a public interest disclosure procedure

Owner Integrity Services
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Version 1.01

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 a disclosure is made, 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.

Management commitment:

The department is committed to fostering an ethical transparent culture. In pursuit of this, the department values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated. The department will provide support to an employee or others who make disclosures about matters in the public interest. This procedure demonstrates this commitment and ensures that practical and effective procedures are implemented which comply with the requirements of the PID Act.

When a person comes forward with information about wrongdoing, we commit to:

- protect the dignity, wellbeing, career interests and good name of all persons involved
- protect the person from adverse treatment taken as a result of making the disclosure
- respond to the person thoroughly and impartially
- take appropriate action to deal with any wrongdoing or danger (if substantiated)
- keep the discloser informed of the progress and outcome.

Responsibilities:

Employees

- Report alleged wrongdoing or danger in accordance with this procedure
- Maintain confidentiality to ensure process integrity and reduce the risk of reprisal
- Assist in an investigation of a disclosure by providing all relevant information if requested.

Managers and supervisors

- Report information or complaints in accordance with this procedure for disclosure assessment
- Maintain confidentiality about a potential disclosure and consider the risk of reprisal
- Provide or facilitate support to a person who has made a disclosure
- In consultation with Integrity Services, provide or facilitate support for a person who is the subject of a disclosure and afford them natural justice
- Monitor the workplace for signs of reprisal against a discloser, or any other person
- Escalate any potential reprisal to Integrity Services for assessment, management and possible investigation
- Not take any action to investigate prior to review and advice by Integrity Services.

Integrity Services

- Properly assess, and where appropriate investigate or deal with disclosures
- Manage all disclosures in accordance with the PID Act, independently of any investigation and the resultant decision-making process

- Manage the risk of reprisal against disclosers or third parties
- Provide appropriate information to disclosers and oversee the coordination of support and protection offered
- Implement and maintain a secure and confidential information system to record and manage disclosures
- Meet reporting requirements to the Office of the Queensland Ombudsman
- Monitor, review and provide advice on legislative obligations relevant to disclosures
- Develop and deliver training or information on disclosures for employees, supervisors and managers
- Undertake a review of this procedure at two-yearly intervals, or more frequently if required.

Director-General

- Communicate the expectation that all employees are required to conduct their duties to high professional and ethical standards and always act in the public interest in accordance with the Code of Conduct for the Queensland Public Service
- Ensure clear procedures for reporting disclosures are in place and readily accessible to staff and the general public
- Ensure appropriate communication and awareness strategies are in place to educate employees about disclosures.

3. Procedure for making a public interest disclosure

3.1 How to report a public interest disclosure

Disclosures must be made to a proper authority. A proper authority is a person or organisation authorised to receive disclosures.

Under the PID Act, any person can make a disclosure about a:

- 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.

In addition, public sector officers can make a disclosure about the following public interest matters:

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

A disclosure can be made:

- anonymously. When a report of wrongdoing is made anonymously, it can be difficult to seek clarification, more information, inform the person of progress, or to advise about action taken or to be taken to deal with the information
- in writing, which while not compulsory, is the department's preferred method of receiving a disclosure
- verbally.

To assist further investigation, all reports of wrongdoing should:

- be clear and factual
- avoid speculation, emotive language, embellishment
- avoid the provision of only vague details.

Separating disclosures from other matters

Disclosures are often entangled with individual employee grievances, issues between personnel, or performance management concerns. In such cases, it is important when conducting an assessment to distinguish the disclosure from any other issues and deal with each one using the appropriate mechanisms.

PID Management program

The Chief Executive Officer (Director-General) must establish and maintain oversight of the management program of disclosures in accordance with section 28(1)(d) of the PID Act. The Director-General has overall responsibility for

ensuring that the department develops, implements and maintains a PID management program. The department's PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- senior management endorsement of the value to the department of disclosures and their proper management
- a communication strategy to raise awareness among employees about disclosures and the department's procedure
- giving employees information about how to make a disclosure, information on the support available to a discloser, and advice on how disclosures will be managed
- specialist training and awareness about disclosures for senior management and other staff who may receive or manage, disclosures
- the appointment of a specialist officer/unit to be responsible for issues related to the assessment and management of disclosures
- ensuring effective systems and procedures are in place so that issues and outcomes from disclosures inform improvements to service delivery, business processes and internal controls
- regular review of the Making and managing a public interest disclosure procedure and policy, including evaluation of the effectiveness of the disclosure management program.

The Director-General has designated the following roles and responsibilities for managing disclosures within the department:

Role	Responsibilities	Officer
PID Coordinator	<ul style="list-style-type: none"> • principal contact for PID issues within the department • document and manage implementation of PID management program • review and update PID policy and procedure biennially or as required • maintain and update internal records of PIDs received • report data on PIDs to Queensland Ombudsman • assess PIDs received • provide acknowledgment of receipt of PID to discloser • undertake risk assessments in consultation with disclosers and other relevant officers • liaise with other agencies about referral of PIDs • allocate Investigator (as required) and Support Officer (to be determined on a case-by-case basis) to PID matter. 	<p>Manager, Integrity Services</p> <p>Contact details:</p> <p>Telephone: 3516 0728</p> <p>By email: ethics@dtis.qld.gov.au</p> <p>By Post: PO Box 15168 City East QLD 4002</p>
PID Support Officer	<p>The responsibilities may include:</p> <ul style="list-style-type: none"> • secondary contact for PID issues • provide advice and information to discloser on PID procedure • provide referrals to other sources of advice or support as required • facilitate updates on progress of investigation • provide support to a discloser, subject officer or witness • proactively contact discloser to check on their welfare throughout PID management process (the frequency of contact will be determined on a case-by-case basis and documented in the risk management assessment form). 	<p>Manager, Integrity Services</p> <p>Contact details:</p> <p>Telephone: 3516 0728</p> <p>By email: ethics@dtis.qld.gov.au</p> <p>By Post: PO Box 15168 City East QLD 4002</p> <p>or alternatively as nominated by</p> <p>Chief Human Resources Officer, Human Resources</p> <p>Contact details:</p> <p>Telephone: 0436 941 437</p> <p>By email: C/- ethics@dtis.qld.gov.au</p> <p>By Post: PO Box 15168 City East QLD 4002</p>

Investigator	<ul style="list-style-type: none"> conduct an investigation of the information provided in a disclosure in accordance with the approved terms of reference prepare a report for the delegated decision maker, or as otherwise instructed. 	An appropriate internal or external investigator will be appointed for each disclosure investigated depending upon the type of disclosure and other relevant considerations.
Delegated decision maker	<ul style="list-style-type: none"> review investigation report and determine outcome of the matter. 	An appropriate decision maker will be appointed for each disclosure investigated.

Making a complaint

Under the Code of Conduct for the Queensland Public Service, all public service officers are required to report conduct that is not consistent with the Code of Conduct. An employee does not need to identify the report as a public interest disclosure, however the complaint or report may later be assessed as a disclosure. When making a disclosure or report of wrongdoing or danger, employees and members of the public may make oral disclosures, although are encouraged to do so in writing, to:

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

A member of the public can make a disclosure to the department by way of:

- emailing the department at ethics@dtis.qld.gov.au
- completing an online complaint form available on the department's website [Complaint Form](#)
- by mail, addressed 'private and confidential' to the PID Coordinator (Integrity Services)
PO Box 15168, City East QLD 4002
- telephone Integrity Services on 07 3516 0728
- anytime to the Director-General, Minister or other employee responsible for receiving the type of information being disclosed (including the department's Integrity Services team).

All disclosures of wrongdoing or danger will be referred immediately to the Director, Legal Services.

3.2 Information to be provided

Disclosers are requested to provide as much information as possible in relation to the potential wrongdoing including:

- their name and contact details (desirable)
- the nature of the wrongdoing
- who they believe did the wrongdoing (desirable)
- when and where the wrongdoing occurred
- events surrounding the issue
- if they or anyone else did anything in response to the wrongdoing
- others who know about the wrongdoing and allowed it to occur or continue
- any other witnesses who may have information relevant to the incident
- correspondence or other relevant supporting documents such as a diary of events and conversations, or file notes
- if they are concerned about possible reprisal as a result of making a disclosure.

A person should not investigate or attempt to investigate a matter before making a disclosure, as doing so may prejudice or hinder any future investigation into the matter.

3.3 Disclosing to an external body

Matters may also be reported by a member of the public or employee, to an external public sector entity that has the power to investigate or remedy the matter. When a disclosure is made to an external body, it is likely that it will discuss the matter with the department. Further information about disclosing to an external body and general information relating to the PID Act may be sought from the [Queensland Ombudsman](#).

Below is a guide to some of the appropriate external bodies a report may be disclosed to:

What the disclosure relates to	The appropriate external entity is generally
Maladministration	Queensland Ombudsman
Corrupt Conduct	Crime and Corruption Commission (CCC)
Waste of public resources	Queensland Audit Office
Danger to public health or safety	Queensland Health Office of the Health Ombudsman
Danger to public health or safety of a person with a disability	Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships Department of Children, Youth Justice and Multicultural Affairs Department of Justice and Attorney-General Office of the Public Guardian
Danger to the environment	Department of Environment and Science
Reprisal	CCC

3.4 Disclosure to a member of parliament

A person can also make a disclosure to a Member of Parliament (MP). MPs do not have any authority to investigate disclosures, so may refer it to a public sector entity they believe can appropriately deal with the matter.

If a discloser is concerned about a reprisal should details of the disclosure be made public, it is essential this is raised when the disclosure is made. MPs are required to keep the matter confidential. However, MPs have the discretion to raise the matter in Parliament at which time the discloser's identity may become public.

3.5 Disclosure to a journalist

In limited situations, the PID Act enables a disclosure to a journalist. In this instance, the disclosure can only be made to the journalist if it was first made to a proper authority and that information was assessed to constitute a disclosure as defined by the PID Act. A disclosure to a journalist can only be made when the department:

- decides not to investigate or deal with the disclosure, or
- investigates the disclosure but did not recommend the taking of any action in relation to the disclosure, or
- did not notify the discloser within six months after the disclosure was made whether or not the disclosure was to be investigated or dealt with.

A person who makes a disclosure to a journalist in compliance with these requirements receives the protections of the PID Act. However, disclosers should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

3.6 Eligibility for protection

To be eligible for protection, a disclosure must:

- be made with an honest belief on reasonable grounds that the information to be disclosed tends to show the conduct of another person, or another matter; or
- show the conduct of another person or other matter regardless of whether the discloser honestly believes that the information tends to show the conduct or other matter; or
- be disclosed as required by the PID Act, the department's Public Interest Disclosure policy and this procedure.

False or misleading information

Under section 66 of the PID Act, a person who gives information to a proper authority, knowing that it is false or misleading, and intending that it be acted upon as a disclosure, commits a criminal offence with a maximum penalty of

two years imprisonment. In addition, the protections under the PID Act are not extended to disclosers who intentionally make a disclosure they know is false.

3.7 Anonymous complaints

If an employee or member of the public makes an anonymous disclosure, they need to provide sufficient information to enable the department to investigate the matter. While the department will attempt to contact anonymous complainants in relation to the investigation, including to provide updates on the matter, and to seek clarification and further information, this may not always be possible.

Anonymous disclosers should also be aware that they could experience difficulties in accessing the protections afforded by the PID Act. While information of wrongdoing by an anonymous person will be assessed, the limitations to obtain further detail, and initiate protection for the discloser should be considered when providing information.

Receiving a public interest disclosure

3.8 Initial assessment and action

A person making a disclosure does not have to identify the matter as a public interest disclosure. The department will make this assessment upon receipt of a complaint or report of potential wrongdoing.

All disclosures or potential disclosures must be referred immediately to the Integrity Services team via email at ethics@dtis.qld.gov.au or by phone (07) 3516 0728. A manager or supervisor receiving information of wrongdoing that is, or appears to be, a disclosure should immediately liaise with Integrity Services. Managers should not attempt to gather evidence first as this may prematurely alert the person about whom the allegation has been made or compromise any later investigation. If Integrity Services is taking action, such as investigating the disclosure, managers are still responsible for ensuring that disclosers can work in a safe environment, free from reprisals and that disclosers continue to perform. Further advice of protective or other management action should be sought from Integrity Services.

Upon receipt of a complaint or report, Integrity Services will assess the information and determine if it meets the definition of a disclosure under the PID Act. A matter may not be assessed as a disclosure until after the CCC has assessed whether the allegation is potential corrupt conduct. In these circumstances, the department will liaise with any potential discloser to advise them of the process and implement any measures the department considers necessary to protect the potential discloser from reprisal.

Assessment process

In conjunction with their assessment of complaint 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.

Assessed as disclosure

Once the matter is assessed as a disclosure, Integrity Services creates a disclosure file with a unique register number and advises the discloser:

- that their information has been received by the department and assessed as a disclosure
- the action to be taken by the department in relation to the disclosure, which could include the facilitation of a formal investigation of the matters alleged in the disclosure
- the likely timeframes involved
- their responsibility to maintain confidentiality
- the protections available under the PID Act
- the commitment of the department to keep appropriate records and maintain confidentiality except where disclosure is permitted under the PID Act
- the means by which updates regarding intended actions and written reasons will be provided to the discloser
- the role of Integrity Services as the discloser's central point of contact if they want further information or are concerned about reprisals
- contact details of the department's professional counselling service.

The assessment will consider the actual and reasonably perceived risk of victimisation or unlawful discrimination and will include input from the discloser.

Consistent with the level of perceived risk, Integrity Services will arrange protection for the discloser where they are a departmental employee, and where practicable, their anonymity. It should be noted that while the department will conduct risk assessments for employees and members of the public, it does not have the legislative authority to provide members of the public with the same level of protection that it would provide to employees. To support the assessment, it may be necessary to conduct additional inquiries during the intake and assessment phase.

If doubt still remains, the matter will be considered and managed in accordance with the requirements of a disclosure.

Risk assessment:

The department will undertake an assessment of the risk of reprisal to the discloser and others associated with the discloser. This will be undertaken as soon as possible after the disclosure is made. Steps include:

- Asking the discloser whom they have told and how they think those involved might respond
- Consulting with management who are best placed to provide information about perceived risks of reprisal
- Ascertaining the likelihood of confidentiality being maintained
- Exploring the likelihood that anyone would want, and have the opportunity, to commit a reprisal
- Considering the history of the work unit in reacting to disclosures
- Undertaking a reprisal risk assessment and inform the discloser of the conclusions. A pro-forma reprisal risk assessment is provided as Appendix A.

If a matter is assessed as a disclosure during intake and assessment, Integrity Services will:

- determine if any matters raised in the complaint require reporting to other agencies;
- advise appropriate delegates of the disclosure; and
- assess whether the discloser has or needs any immediate protection.

The department will also nominate a PID Support Officer to manage the disclosure and support the discloser.

Any person who receives a report from another, of suspected wrongdoing that may be a disclosure must keep the matter strictly confidential except to report the matter to Integrity Services for assessment. Where contact details have been provided, Integrity Services will advise both the person receiving the report, and the person providing the information of suspected wrongdoing on the next steps in the process.

Organisational support:

- **Disclosers:** The department will initiate and coordinate organisational support for disclosers, as a result of their information of wrongdoing. In order to maintain impartiality, investigators will not be involved in the provision of organisational support.
- **Officers** who are the subject of a disclosure: The department acknowledges that the employee/s about whom disclosures are made are likely to find the experience stressful. At an appropriate stage, when contact does not prejudice the investigative process, Integrity Services will contact the officer subject of a disclosure. The department will support these employees by:
 - advising them that the disclosure will be dealt with impartially, fairly and reasonably
 - confirming that the disclosure is only an allegation until evidence collected shows otherwise
 - providing information about their rights and responsibilities, progress and outcome of any investigation.

Information and support will be provided to the discloser, the employee about whom the disclosure was made and relevant staff by Integrity Services, or Human Resources who may be engaged to assist in the provision of support until the matter is finalised. Persons, such as witnesses who may not be assessed as disclosers will also be supported through the process, by either Integrity Services, or Human Resources as determined appropriate.

Confidentiality

The department will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the discloser. While the department will make every attempt to keep information confidential, a discloser's identity may need to be disclosed to:

- provide natural justice to the person subject of the allegations
- the Crime and Corruption Commission

- the Queensland Ombudsman, which maintains a register of persons assessed as disclosers
- internal and external legal advisors
- respond to a court order, legal requirement, or as part of a police investigation or court proceedings.

Disclosers should also be aware that while the department will make every effort to keep their name confidential, it cannot guarantee that others will not try to deduce their identity.

Details about disclosures, investigations and related decisions will be kept secure and accessible only to people involved in the assessment, investigation and management of the disclosure.

Referring to another agency

If the department decides there is another proper authority that is better able to deal with the disclosure, or has a legal requirement to refer the matter, it may be forwarded to that agency. This may be because:

- the disclosure concerns wrongdoing by that agency or an employee of that agency
- that agency has the power to investigate or remedy the matter
- there is a reasonable suspicion the matter involves or may involve corrupt conduct (as required by section 38 of the [Crime and Corruption Act 2001](#)).

Before referring the disclosure to another agency, the department will conduct a risk assessment, and will not proceed with the referral if there is an unacceptable risk of reprisal.

The confidentiality obligations of the PID Act permit appropriate officers of the department to communicate with another agency about the referral of a public interest disclosure. Officers will exercise discretion in their contacts with any other agency.

The discloser will be advised of the action taken by the department.

Assessed and not considered a disclosure, or decision not to deal with a disclosure

If a matter is determined not to be a public interest disclosure, Integrity Services will provide written reasons to the person who provided, and/or referred the information of suspected wrongdoing.

Under section 30 of the PID Act, the department can decide not to deal with a disclosure if it reasonably concludes the disclosure:

- has already been investigated or dealt with by another appropriate process
- should be dealt with by another appropriate process
- is impractical to investigate because of its age
- is trivial in nature.

3.9 When no action is required

As previously referenced, section 30 of the PID Act defines circumstances when the department decides not to take action. Additionally, the department may elect to take no action where another entity has jurisdiction to investigate and has notified the department that an investigation is not warranted.

If the department chooses not to investigate the matter because of one of these, or other reasonable reasons, a written explanation will be provided to the person who referred and/or reported the matter, based on the decision made.

Internal Review

The person receiving these written reasons may appeal to the Director-General for an internal review of the decision within 28 days after receiving the notice. Written correspondence can be forwarded to the Director-General at: PO Box 15168, City East, Brisbane 4002, through the department's Integrity Services unit, or the DTIS website [Contact us](#) page. Internal review of the decision will be conducted in accordance with the processes for internal review under the department's Customer Complaints Management Procedure.

External Review

Where the affected employee or discloser remains dissatisfied after internal review, the person may seek an external review by the relevant external organisation including the Queensland Ombudsman. In the event that reprisal action is taken, disclosers may have the right to apply for an injunction in the Queensland Industrial Relations Commission (QIRC) or Supreme Court to prevent a reprisal (s48 and 49 of the PID Act).

3.10 Associated matters that are not public interest disclosures

Many reports or complaints involving public interest disclosures may also contain grievances or complaints about other workplace issues including interpersonal workplace conflicts, one-off instances of bullying or inappropriate behaviour, failures or deficiencies in service delivery, or performance concerns.

Where applicable, matters that are assessed as not being a public interest disclosure may be dealt with by the department in accordance with its Customer Complaints Management policy and procedure, Individual Employee Complaints policy and procedure and related Public Sector Commission directives.

The department is aware that initial complaints of workplace harassment may also lead to more serious matters that may become disclosures. If during the course of managing a complaint or grievance in accordance with another department policy or procedure, the department receives information that could be a disclosure under the PID Act, the department will treat that information and those matters in accordance with the PID Act, the Making and managing a public interest disclosure policy and this procedure.

3.11 Investigations

Matters that are assessed as a disclosure will often require investigation. These investigations may be conducted by the department internally, or externally with an approved investigator in consideration of:

- principles of natural justice
- obligation under the PID Act to protect confidential information
- obligation under the PID Act to protect officers from reprisal
- interests of subject officers.

A discloser will generally be required to participate in any investigation commenced. Without the involvement of the discloser, any investigation will be limited to the matters reported in the disclosure and may limit the department's ability to take further action.

Any inquiries into the disclosure will be managed in accordance with the PID Act, the department's Integrity Framework, including the Making and managing a public interest disclosure, and this procedure. Some matters may also be managed in accordance with the Workplace investigations directive.

If as a result of investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken.

Where the investigation does not substantiate wrongdoing, the department will review systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

3.12 Protecting a discloser

The department is required to take action to protect employees 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 in relation to the disclosure.

It is a criminal offence to cause detriment to a person because it is believed that somebody has made or will make a disclosure or intends to be involved in a proceeding under the PID Act against any person.

In the event of a reprisal being alleged or suspected, the department will attend to the safety of the discloser/s or affected third parties as a matter of priority, review its risk assessment and any protective measures needed to mitigate any further risk of reprisal; and manage any allegation of a reprisal as a disclosure in its own right.

All managers must notify Integrity Services of any allegations of reprisal action against a discloser, or if they suspect that reprisal action against a discloser is occurring.

The department may conduct a disciplinary investigation of any employee found to have engaged in reprisal action. Where conduct is considered to be reprisal, Integrity Services may refer the matter to the Queensland Police Service for further investigation.

If there is a risk of reprisal, protective measures will be put in place that are proportionate to the risk of reprisal and the potential consequences of a reprisal. If the risk is assessed as sufficiently high, the department will develop a case management plan to protect the discloser.

3.13 Managing reprisals

For employees:

The department is committed to ensuring that any employee who makes a disclosure is not subject to a reprisal action because they have made a public interest disclosure. Reprisal action in the workplace can include:

- discipline
- adverse action
- unfair treatment
- harassment
- intimidation
- victimisation or
- unlawful discrimination.

Reprisal action can be taken by any person. An employee who experiences, or is afraid of, any form of reprisal should notify Integrity Services or their Support Officer immediately.

Any employees found to have engaged in a reprisal may be subject to disciplinary action up to and including termination of employment. A discloser may take separate action against someone who takes reprisal action.

For members of the public:

If a member of the public who makes a disclosure to the department or suspects reprisal is being taken against them, is encouraged to report the suspected reprisal to Integrity Services or the Chief Human Resources Officer immediately.

3.14 Rights of the subject officer

An employee who is the subject of a disclosure may seek assistance from their employee association (i.e. union) or may engage their own private legal representation. An employee may also access the free services of the department's Employee Assistance Provider.

3.15 Managing the workplace

While employees who make a disclosure are protected from liability because they have made a disclosure, managers or supervisors may still address an employee's unsatisfactory performance or improper conduct.

A manager or supervisor can take reasonable management action against a discloser for unsatisfactory performance or improper conduct. However, the action cannot be taken because the employee made a disclosure.

Any management action taken against an employee who has made a disclosure will be done in accordance with the relevant Public Sector Commission's Directives.

3.16 Finalising a disclosure

On finalisation of a matter:

A discloser will be provided written reasons in outcome advice, however, details of disciplinary processes taken against an employee is confidential and due to privacy laws; the specific disciplinary action cannot be identified to the discloser or witnesses.

4. Associated policy

Making and managing a public interest disclosure policy.

5. Authority

[Public Interest Disclosure Act 2010](#)

[Public Sector Ethics Act 1994](#)

[Crime and Corruption Act 2001](#)

[Public Sector Act 2022](#)

6. Scope

This procedure applies to the department, as a public sector entity and its public officers.

This procedure complies with the Public Interest Disclosure Standard 1/2019 relating to publication of the department's PID management program and procedure. It is additionally intended to provide advice to members of the public considering or making a disclosure to the department.

7. Delegations

Delegations are to be exercised in accordance with the Human Resource Delegations and Authorisations. Please confirm delegate authority levels prior to taking any action under the Making and managing a public interest disclosure policy and this procedure.

8. 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.
Confidential information	(a) includes— (i) information about the identity, occupation, residential or work address or whereabouts of a person— (A) who makes a public interest disclosure; or (B) against whom a public interest disclosure has been made; and (ii) information disclosed by a public interest disclosure; and (iii) information about an individual's personal affairs; and (iv) information that, if disclosed, may cause detriment to a person; and (b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.
Corrupt Conduct	Has the same meaning as defined in the <u>Crime and Corruption Act 2001</u> (1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that— (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of— (i) a unit of public administration; or (ii) a person holding an appointment; and (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— (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

	<p>(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> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(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> <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> <p>(i) collusive tendering;</p> <p>(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)—</p> <p>(A) protecting health or safety of persons;</p> <p>(B) protecting the environment;</p> <p>(C) protecting or managing the use of the State's natural, cultural, mining or energy resources;</p> <p>(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;</p> <p>(iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;</p> <p>(v) fraudulently obtaining or retaining an appointment; and</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(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>
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.

Journalist	A person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.
Maladministration	As defined in schedule 4 of the <i>Public Interest Disclosure Act 2010 (Qld)</i> : <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.
Natural justice	Natural justice, also referred to as 'procedural fairness' applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law a safeguard applying to an individual whose rights or interests are being affected. The rules of natural justice, which have been developed to ensure that decision making is fair and reasonable, are: <ul style="list-style-type: none"> avoid bias give a fair hearing.
Organisational support	For the purposes of this procedure, organisational support means actions such as, but not limited to: <ul style="list-style-type: none"> providing moral and emotional support advising disclosers about departmental resources available to handle any concerns they have as a result of making their disclosure appointing a mentor, confidante or other support officer to assist the discloser through the process referring the discloser to the department's employee assistance program or arranging for other professional counselling generating support for the discloser in their work unit where appropriate ensuring that any suspicions of victimisation or harassment are dealt with maintaining contact with the discloser negotiating with the discloser and their support officer a formal end to their involvement with the support program when it is agreed that they no longer need assistance.
Proper authority	A person or organisation that is authorised under the PID Act (sections 14, 15 and 17) to receive disclosures.
Public health or safety	Includes, but is not limited to the health or safety of persons: <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	Has the same meaning as defined under Chapter 2 of the Public Interest Disclosure Act 2010 .
Public Officer	A person who is an employee, member or officer of the department. <ul style="list-style-type: none"> an employee of an entity, includes a person engaged by the entity under a contract of service.
Reasonable management action	Reasonable management action taken by a manager in relation to an employee's performance or conduct may include any of the following: A reasonable: <ul style="list-style-type: none"> appraisal of the employee's work performance requirement that the employee undertakes counselling suspension of the employee from the employment workplace disciplinary action action to transfer or deploy the employee

	<ul style="list-style-type: none"> • action to the end the employee's employment by way or redundancy or retrenchment • action in relation to the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit in relation to their employment. <p>Reasonable management action in relation to a discloser must:</p> <ul style="list-style-type: none"> • be based on sufficient grounds • be reasonable, as well as proportionate and consistent with similar cases • have considered the discloser's particular circumstances • not be taking action because the discloser has made a disclosure.
Reprisal	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 .
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>

9. 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](#).

10. Further information

Further information and resources are available from the [Queensland Ombudsman](#).

For support, advice and assistance employees should contact:

- their manager or supervisor
- their respective HR network representative
- the PID Coordinator via email to ethics@dtis.qld.gov.au, or by telephone 07 3516 0728
- Employee Assistance Program – a free confidential counselling service available on 1800 604 640.

11. Review of this procedure

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

12. Storage of information

Public sector organisations have a duty under the *Public Records Act 2002* to make, keep, manage and dispose of public records.

The PID Act requires the department to ensure that a proper record is kept about disclosures received by the department, including:

- the name of the discloser, if known
- the information disclosed
- any action taken on the disclosure.

For the purposes of record-keeping the definition of a disclosure includes purported disclosures. Therefore, for record-keeping purposes, the department will keep a record of any complaints or reports of wrongdoing that undergo a PID assessment by the department.

If a Member of Parliament (MP) refers a disclosure to the department, the department will record the name of the MP.

The following information is to be recorded, and properly secured:

- the identity of the discloser
- how the disclosure was made and to whom
- any notes the discloser has made or documentary evidence that supports the allegation
- the nature of the disclosure and its background
- whether confidentiality was requested/explained
- whether the risk of reprisal was considered, and any steps taken to prevent reprisal
- details of information provided to the discloser and any response, including dates
- action taken in response, including any investigation
- any support provided or offered to the discloser.

If a disclosure is made verbally, the department will ensure that a written version of the disclosure is prepared and accepted as accurate by the discloser.

13. Education and training

The department's online Public Sector Ethics (Code of Conduct) training contains information for all employees about public interest disclosures, the Public Interest Disclosure policy and this procedure. Completion of this training is mandatory and required to be completed annually. Specialist support and training to staff and managers who may receive or manage disclosures in the workplace is available as required.

14. Reporting requirements

The department must report to the Queensland Ombudsman statistical information about disclosures and any other information requested from time to time. This information will not include any details that could identify a discloser.

15. Approval

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

16. Version history

Date	Version	Action	Description / comments
25 July 2018	1.0	Superseded combined policy/procedure document.	Version 1.0 of Department of Innovation, Tourism Industry Development and the Commonwealth Games.
19 September 2022	1.0	Combined policy/procedure converted into two independent documents. Updated following MOG.	Content amended in accordance with the Queensland Ombudsman Public Interest Disclosure Standard No. 1/2019.
28 March 2023	1.01	Minor updates	Amendment to telephone contact details, and HR representative. PID coordinator amended from Legal Services, to Integrity Services.

17. Keywords

CHD/2022/6157; Public Interest Disclosure; discloser; protections; reprisal; misconduct; PID; maladministration; complaints; whistle-blower; CCC; corruption; complaint; complainant; bullying; fraud; discrimination; environment; disability; wrongdoing; misconduct

18. Appendix A – Reprisal Risk Assessment Guide

Anyone involved in managing a PID should familiarise themselves with this risk assessment guide and ensure they are regularly considering whether the risk assessment requires updating.

When a PID is made the department will:

- Commence a risk assessment as soon as possible. When completing a risk assessment, the department will consider:
 - If discloser told anyone about their complaint or report of suspected wrongdoing and whether the discloser thinks those people might respond to the disclosure
 - Ascertain the likelihood of confidentiality being maintained especially if the discloser has expressed an intention to disclose the wrongdoing to other people/colleagues
 - Explore whether anyone would want and/or have the opportunity to commit a reprisal
 - If the discloser may be at a higher risk of reprisal if:
 - the investigation is unlikely to substantiate the allegation
 - the wrongdoing is serious and occurs or can occur frequently
 - the investigation is conducted outside the department
 - the discloser became aware of the alleged wrongdoing because it was directed at them by the subject officer
 - the subject officer is more senior than the discloser
 - there is more than one subject officer
 - the discloser's immediate work unit is small.
 - Consider the history of the work unit in responding or reacting to disclosures.
- Managers and supervisors are to inform Director, Integrity Services or their Support Officer of their conclusions in relation to a risk assessment
- Mitigate risks to protect the discloser and any witnesses
- Discuss risks with disclosers.

Use the below table to consider what the likelihood of reprisal action is and what the consequences of potential reprisal action might be.

	Consequence			
Likelihood	Minor	Moderate	Major	Severe
Almost Certain	High	High	Very high	Very high
Likely	Medium	High	High	Very high
Possible	Medium	Medium	High	High
Unlikely	Low	Medium	Medium	High
Rare	Low	Low	Medium	Medium

Mitigation examples

Very high – suspension, removal of officers from workplace

High – use of indirect means of looking into the matter such as system reviews, audits, management reviews

Medium/Low – monitor workplace and request discloser to advise of any reprisal concerns

Likelihood	Consequence
Almost certain Expected to occur without controls in place	Severe Permanent effect on officer (e.g. mental illness, permanent physical injury)
Likely 50% or greater chance of occurring	Major Effect on officer requires medical/psychological intervention/workplace change
Possible May occur, evidence of similar events occurring and similar may occur this time	Moderate Effect on officer requires less than three days leave

Unlikely to occur, but a similar event has occurred in the past	Minor Effect on officer able to be managed without absence from work
Rare May occur in exceptional circumstances, no history of a similar event	