

Public Interest Disclosure Policy & Procedure

Owner People and Culture (PC, CS)
Last Reviewed 10/05/2022

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Version 1.01

1. Purpose

This document outlines the policy and procedure of the department on reporting and managing disclosures made under the *Public Interest Disclosures Act 2010*.

A Public Interest Disclosure (PID) is a report or complaint about a reasonable suspicion of serious wrongdoing in the public sector and can be made by an employee or a member of the public.

An effective PID system contributes to the integrity of the department and increases community trust.

2. Policy

The department is committed to maintaining public confidence in the integrity, accountability and impartiality of departmental actions, operations and decisions.

The Public Interest Disclosure policy & procedure is based upon the requirements of the *Public Interest Disclosure Act 2010* (the PID Act) that details the necessary processes involved in the notification, assessment and management of PIDs and eligible corrupt conduct matters.

The department has an obligation to ensure public officers who make a disclosure are supported and their confidentiality is protected. The department has zero tolerance towards reprisals against a person making a PID, who has made a PID, or is rightly or wrongly suspected of making a PID.

3. Principles

The following principles outline the framework upon which PID's will be managed:

1. Every employee of the department has an ethical responsibility to report suspected corrupt conduct, maladministration, misuse of public funds, substantial and specific danger to public health and safety, the environment or a person with a disability, and reprisal action.
2. The principles of natural justice (procedural fairness) will apply to all investigations of matters which are the subject of PIDs. The department is committed to treating PIDs appropriately and making the process fair for both the discloser and the person who is the subject of the disclosure.
3. The rights of any person who is subject to, or is in some way associated with, a PID will be safeguarded and appropriate support will be provided, including access to the Employee Assistance Scheme.
4. All reasonable measures will be put in place to ensure that a discloser is not subject to reprisal action or detrimental treatment and that their identity and the details of the disclosure remain confidential to the extent provided for by the law.
5. Managers and supervisors are to ensure employees are aware of their responsibilities in making a PID and are able to advise other persons of the appropriate reporting process.
6. Corrupt conduct allegations that meet the *Crime and Corruption Act 2001* (the CC Act) definition will be referred to the Crime and Corruption Commission (CCC).



7. The department will provide reasonable information about the outcome of a reported PID to the discloser and to the subject officer of the PID.

4. Authority

[Crime and Corruption Act 2001](#)

[Public Sector Ethics Act 1994](#)

[Public Service Act 2008](#)

[Public Interest Disclosure Act 2010](#) (formerly *Whistleblowers Protection Act 1994*)

[Queensland Ombudsman Public Interest Disclosure Standard No 1/2019](#)

[Queensland Ombudsman Public Interest Disclosure Standard No 2/2019](#)

5. Human rights compatibility

The department is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When making a decision under this policy & procedure, decision-makers must comply with that obligation (refer to [Comply with Human Rights Act](#)).

6. Scope

This policy applies to all departmental employees, whether their employment status is permanent or temporary, trainee, cadet, casual employees, volunteers or secondment from another department. This policy also applies to members of the public.

7. Delegations

Delegations are to be exercised in accordance with the [Human Resource delegations and authorisations](#). Delegation Schedules are reviewed on a regular basis to ensure they remain current and relevant to the operational needs of the department. It is recommended that delegate authority levels are confirmed prior to exercising any powers in relation to determination.

8. What is a public interest disclosure?

A PID is a disclosure of information from a public officer (which includes departmental employees) or a member of the public that meets the definition in either section 12 or section 13 of the PID Act. Specifically:

8.1 Public officers may make a PID about:

- conduct of another person that could, if proved, be
 - corrupt conduct, or
 - maladministration that adversely affects a person's interests in a substantial and specific way
- substantial misuse of public resources (other than an alleged misuse based on mere disagreement over a policy that may be properly adopted about amounts, purposes or priorities of expenditure)
- substantial and specific danger to the environment
- substantial and specific danger to public health or safety
- substantial and specific danger to the health or safety of a person with a disability or
- conduct of another person that could, if proved, be a reprisal.

8.2 Members of the public may make a PID about:

- substantial and specific danger to the environment
- substantial and specific danger to the health or safety of a person with a disability
- conduct of another person that could, if proved, be a reprisal.

Under the PID Act, a person may make a PID:

- if the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter or
- the information tends to show the conduct or other matter, regardless of whether or not they honestly believe the information tends to show the conduct or other matter

Further:

- the evidence does not have to be admissible in court
- the person making the disclosure does not need to identify the matter as a PID for it to be treated as one, as long as it meets the definition in the PID Act
- a disclosure does not have to identify a particular person
- a disclosure may be about a matter that occurred before the commencement of the PID Act
- a disclosure may be about a matter that happened, is happening or, the discloser reasonably believes is going to happen
- it is not necessary for a discloser to have documented evidence of the conduct. Rather, it is the responsibility of the investigating officer to determine if wrongdoing has occurred

A discloser can make a PID in any way, including anonymously, either verbally or in writing.

While it is at the discretion of the discloser as to whether they wish to remain anonymous or fully disclose their identity, remaining completely anonymous can prove difficult to progress enquiries into the matter and can be a barrier to provide the necessary protections afforded under the PID Act, including protection against reprisal.

To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to:

- provide contact details. This could be an anonymous email address that is created for the purpose of making the disclosure (subject to restrictions on the handling of public records) or a telephone number. If you use an anonymous email account, you should monitor it for any response from the department.
- provide as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are
 - any evidence that supports the PID, and where the evidence is located
 - any further information that could help investigate the PID
- provide this information in writing.

A PID must be made to a proper authority.

8.2.1 Proper Authority to report a PID – public officers

Public officers may make a PID about matters listed in section 8.1 of this policy & procedure to any proper authority listed below.

- the Director-General, Deputy Director-General, Assistant Director-General
- a Divisional head (e.g. Executive Director)
- a line manager or supervisor of the discloser
- the Head of Internal Audit, Internal Audit Services
- Chief Human Resources Officer, People and Culture, Corporate Services (the '*PID Coordinator*')
- the Queensland Ombudsman (in relation to maladministration)
- the Crime and Corruption Commission (in relation to corrupt conduct)
- a member of the Legislative Assembly
- the Employee Alternative Reporting Service (Stoplevel Pty Ltd), or
- by completing an [Online Reporting Form](#) available on the Intranet.

A disclosure will be assessed by the PID Coordinator to determine if it meets the definition in either section 12 or section 13 of the PID Act.

Public officers are required by section 1.1 of the Code of Conduct for the Queensland Public Service to disclose any suspicion of wrongdoing on the part of a Queensland Government employee.

8.2.2 Proper Authority to report a PID – Members of the public

Under the PID Act, the department is the appropriate agency to receive and manage PIDs that allege substantial and specific danger to the environment.

Members of the public may make a PID about matters listed in section 8.2 of this policy & procedure to any proper authority listed below:

- the Director-General of the department
- Chief Human Resources Officer, People and Culture, Corporate Services (the '*PID Coordinator*')
- Deputy Director-General, Corporate Services
- the Crime and Corruption Commission
- a member of the Legislative Assembly
- any employee responsible for receiving the type of information being disclosed
- or by completing the [Complaints Form](#) published on the department's internet site.

8.2.3 Anonymous disclosures

A discloser may remain anonymous. However if you choose to be an anonymous discloser, the department cannot contact you to clarify your disclosure or to seek additional information. This may limit the agency's ability to investigate an allegation. Further, if you are an anonymous discloser, it will not be possible to keep you informed of the progress or outcome of your disclosure or to offer you PID Act protections.

8.2.4 Disclosures to journalists

Disclosure to a journalist is **an avenue of last resort** and can only be made when a valid PID has been made to a proper authority, and the proper authority—

- decided not to investigate or deal with the disclosure,
- investigated the disclosure, but did not recommend taking any action in relation to the disclosure, or
- did not notify the employee, within 6 months after the date 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 these circumstances is protected under the PID Act. However, disclosers should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

If these conditions are not met, department employees disclosing information to a journalist or otherwise sharing information externally (for example on social media) is likely to breach confidentiality and be considered as a disciplinary matter.

9. Procedure

9.1 Step 1 – Disclosure made

The first step is for the disclosure to be made and received by the department.

The discloser	Initiates the disclosure, preferably in writing and to the department.
The recipient of the PID	<p>If the recipient is an employee and receives a disclosure, it must be treated seriously and confidentially. The disclosure can be referred to:</p> <ul style="list-style-type: none"> • their line manager or supervisor • a Business Group or Divisional head (e.g. Deputy Director-General, Assistant Director-General, Executive Director) • Chief Human Resources Officer, People and Culture, Corporate Services (CHRO, PC CS) (the '<i>PID Coordinator</i>'), or • Deputy Director-General, Corporate Services. <p>The PID Coordinator (CHRO, PC CS) <u>must</u> be advised either by the discloser or the recipient of the disclosure without unreasonable delay.</p>
The PID Coordinator (CHRO)	Must be advised either by the discloser or the recipient of the disclosure.

9.2 Step 2: Determining whether a disclosure is a PID

The second step requires an assessment to determine whether the disclosure is a PID.

The discloser	Provides further information to the PID Coordinator if required.
WRI, PC CS	<p>Supports the PID Coordinator if required.</p> <p>If there is any doubt about whether a disclosure is a PID, it should still be managed as if it were a PID until the assessment has been completed by the PID Coordinator.</p>
The PID Coordinator (CHRO)	Conducts assessments of the disclosure to determine if the disclosure is a PID and to determine further actions including to refer the PID to the CCC (refer to the Corrupt Conduct Management Policy and Procedure).

If the disclosure is not a PID, the department may decide to deal with the disclosure as a complaint or grievance (refer to the [Customer Complaints Management Policy and Procedure](#) and the [Individual Employee Grievance Management Policy and Procedure](#)).

Provides advice to the discloser as to the status of the PID (see 9.6 below).

9.3 Step 3: Further action

The third step requires a decision to be made about what further action is required in relation to the disclosure/PID.

The discloser	<p>Provides further information if requested and liaises with the PID Support Officer regarding the risk assessment.</p> <p>Maintains confidentiality.</p>
The subject officer and any witnesses	<p>Provides further information if requested.</p> <p>Maintains confidentiality.</p> <p>If necessary, liaises with the PID Support Officer regarding risk assessments.</p>
The PID Coordinator (CHRO)	<p>Assigns a suitable delegate as per the Human Resource delegations and authorisations. In some circumstances the PID Coordinator may act as delegate.</p> <p>Notifies the discloser of their assessment (including whether the disclosure is a PID) and any proposed actions, including referral of the PID to another Queensland Government agency.</p> <p>Appoints a PID Support Officer, provides resources to the PID Support Officer and notifies the discloser of that appointment.</p> <p>If appropriate, the PID Coordinator will also notify other parties involved in the PID and direct the PID Support Officer to conduct risk assessments.</p>
The PID Support Officer	<p>Liaises with the parties (the discloser and if appropriate, witnesses and subject officers) to conduct a risk assessment.</p> <p>Proactively monitors the situation and risk assessment.</p> <p>Takes proportionate steps to manages risks.</p> <p>Maintains regular contact with the discloser.</p>
WRI, PC CS	<p>Supports the PID Coordinator if required.</p> <p>Supports the Delegate.</p>
The Delegate	<p>Considers the available information to determine appropriate action, including:</p> <ul style="list-style-type: none">• no further action (notice must be provided within 28 days) (see 9.5);• investigation to be conducted; or• any other action (refer to the Conduct Assessment Policy and Procedure).

9.4 Step 4: Finalisation of process

The fourth step signals the end of the reporting process and the finalisation of the process.

The discloser	Is notified of the conclusion of any organised support arrangements following finalisation of action taken. Is notified of the outcome if appropriate.
The subject officer	Is notified of the outcome and the conclusion of any organised support arrangements following finalisation of action taken.
The witnesses	Are notified of the conclusion of any organised support arrangements following finalisation of action taken.
WRI, PC CS	Supports the PID Coordinator if required. Reports de-identified statistical information to the Queensland Ombudsman (QO) about PIDs and PID management.
The PID Coordinator (CHRO)/The Delegate	Provides the discloser with reasonable information in writing about the action taken on their disclosure and the results. However, this information will not be released to the discloser if doing so is likely to adversely affect: <ul style="list-style-type: none">• anybody's safety or• the investigation of an offence or possible offence or• the necessary confidentiality about an informant's existence or identity.

9.5 No further action

The department may decide to take no further action on a PID where:

- the allegations have already been dealt with by another appropriate process
- the allegations should be dealt with by another appropriate process
- the age of the information makes it impractical to investigate the matter
- the information is considered trivial or too demanding of resources to warrant investigation
- the entity that has jurisdiction to investigate the matter has notified the department that investigation is not warranted.

Written reasons for not taking any further action must be provided to the person making the disclosure.

If the person making the disclosure is not satisfied, they may apply to the Director-General for a review of the decision within 28 days after receiving the written reasons.

If the PID relates to suspected corrupt conduct by employees of another Queensland Government agency, the PID Coordinator may refer the complaint to the relevant agency.

Following consultation with the discloser, PIDs regarding danger to public health or safety and danger to the health and safety of a person with a disability will be referred to the appropriate government entity to be dealt with. The PID Coordinator must assess the risk of reprisal prior to referring a PID to another agency.

9.6 Advising the discloser of PID action

Once the matter has been assessed as a PID, the department will advise the discloser:

- that their information has been received and assessed as a PID
- the action to be taken by the department in relation to the disclosure, which could include referring the matter to an external agency, or investigating
- the likely timeframe involved
- the name and contact details of the departmental support officer they can contact for updates or advice
- of the discloser's obligations regarding confidentiality
- the protections the discloser has under the PID Act
- the commitment of the department to keep appropriate records and maintain confidentiality, except where permitted under the PID Act
- how updates regarding intended actions and outcomes will be provided to the discloser
- contact details for the department's employee assistance program (refer to section 8.4.2).

However, the discloser will not be provided with information about the disclosure if the department considers that doing so is likely to adversely affect:

- anybody's safety or
- the investigation of an offence or possible offence or
- the necessary confidentiality about an informant's existence or identity.

10. Protections, case management and management action

10.1 Protection for disclosers

Under the PID Act, the department must establish reasonable procedures to support and protect disclosers from reprisals that are, or may be, taken against them as a result of making a PID and to support them through the investigation process.

Information about the discloser's identity or personal affairs, the information disclosed in the PID and the fact that a PID has been made will be kept confidential. Disclosers will be consulted prior to any action that could identify them to a third party. Only departmental officers directly involved in dealing with the matter will be advised of the details of the PID.

While maintaining confidentiality of the information obtained from a discloser is of paramount importance, there may be instances where confidentiality can prove difficult (e.g. in a very small workplace or when the disclosure has become public knowledge). In this instance the discloser will be consulted about the risk of reprisal and will receive protection and support. The relevant manager will inform employees of the work unit that the department has zero tolerance of reprisal action and maintaining confidentiality is required by the PID Act, the department's Public Interest Disclosure Policy and Procedure.

10.1.1 Risk assessment

The PID Coordinator will undertake a risk assessment of possible reprisal action as a matter of priority. The risk assessment will be conducted in collaboration with the discloser as they are best placed to provide information about the perceived risk of reprisal.

10.1.2 Case Management Support for Disclosers

Disclosers will be appointed a PID Support Officer by the department and offered and provided appropriate support and advice by a suitable Case Manager. The selection of a Case Manager will be made after consultation between the PID Coordinator and the discloser. The person chosen as the Case Manager/PID Support Officer must be impartial and not have had any prior involvement in the complaint, either as a witness or a subject officer.

The Case Manager Support Officer's responsibilities may include:

- Providing advice and information to the Discloser on the department's PID procedure
- Referrals to other sources of advice or support as required
- Updates on the progress of investigation
- Regular contact with the discloser through a mutually agreed method and schedule.

The PID Coordinator will provide access to resources for the Case Manager/PID Support Officer that provide guidance on their responsibilities and available support.

Regular risk appraisals must be undertaken by monitoring the situation during the investigation phase to reduce the possibility of reprisal action against the discloser. The discloser must be consulted about their perceptions of risk, as they are best placed to know the likely risks relating to employees involved in the PID.

Where the risk level is assessed as anything greater than low, a case management strategy will be developed and implemented to mitigate the risk. In some circumstances, relocation to another work group or location may be considered. Relocation can only occur with the consent of the discloser and, in the case of relocation to another department, with the consent of the other department's chief executive.

Disclosers and their families can seek free, professional and confidential counselling through Benestar, the department's employee assistance provider, details of which are published on the intranet.

10.1.3 Members of the Public who are Disclosers

The department will also take all reasonable action to support members of the public who make PIDs through regular contact and advice throughout the process.

10.1.4 Subject officers

Employees who are the subject of a PID will be afforded procedural fairness (natural justice) and will be considered innocent of any allegation until evidence proves otherwise. Employees must be given the opportunity to respond to an allegation before a delegated decision-maker makes an adverse determination following the completion of the process.

Subject officers and their families can seek free, professional and confidential counselling through Benestar, the department's employee assistance provider, details of which are published on the intranet.

10.1.5 When employees do not receive the protections under the PID Act

The PID Act protections are not available to a person if they:

- fail to follow the correct disclosure process
- intentionally give false or misleading information

- make a PID directly to or through the media instead of or before using this policy & procedure (e.g. making a disclosure to a journalist **before** following due departmental process).

10.1.6 Reprisals

Under the PID Act:

- disclosers incur no criminal or civil liability (e.g. for defamation) for PIDs made appropriately
- it is a criminal offence for a public officer to take reprisal action against a discloser (s 41 of the PID Act)
- the CCC can investigate suspected reprisals against public sector employees
- a public sector employee can ask the department for relocation if they suffer from or are at risk of reprisal.

Reprisals against a discloser, or fears that the discloser may be subject to reprisal action, must be reported immediately to the Case Manager, PID Coordinator (CHRO, PC CS) or the employee's manager/supervisor. The PID Coordinator must be advised in every case and may refer allegations of suspected corrupt conduct to the CCC.

In the event that reprisal action is taken, the department will:

- attend to the safety of the discloser (or witnesses or affected third parties, where appropriate) as a matter of priority
- review the risk level and case management strategy as well as any protective measures needed to mitigate further risks of reprisal
- if applicable, manage any allegation of a reprisal as a PID in its own right.

Disclosers may lodge a complaint with the Anti-Discrimination Commission (*Anti-Discrimination Act, 1991*, Chapter 6 and 7) or apply for an injunction through the Queensland Industrial Relations Commission (QIRC) or the Supreme Court. A discloser cannot concurrently apply to both the QIRC and the Supreme Court (s 49 of the PID Act). Also, a discloser cannot apply for an injunction about a reprisal (under section 49 or 50 of the PID Act) if the person makes a complaint under the Anti-Discrimination Act 1991 about the reprisal.

Disclosers may also lodge a claim for damages through the District or Supreme Courts (s 42 of the PID Act). The department may be held liable if an employee commits an act of reprisal in the course of employment. If the discloser is an employee, they may lodge a claim against the department. The department must be able to demonstrate that it took reasonable steps to prevent reprisal against the discloser occurring (s43 of the PID Act).

10.1.7 Reasonable management action

Reasonable management action is not a reprisal action and may be taken against an employee who has made a PID. However, the manager's reason(s) for taking management action must not include the fact the employee has made the PID and must be in accordance with departmental policies and processes, including procedural fairness principles.

11. Forms

- Public officers – [Online Reporting Form](#) (which does allow for a disclosers details to be provided)
- Members of the public – [Complaint Form](#)

12. Individual employee grievances and appeals

Employees who are the subject of allegations of wrongdoing do not have any grievance or appeal rights against a person who makes a PID, providing the discloser is acting in good faith and the information is not intentionally false or misleading.

An employee who is the subject of a decision or action is entitled to lodge a grievance in accordance with the departmental [Individual Employee Grievance Management Policy and Procedure](#) should they feel that the decision or action is unfair, biased or limits their human rights.

Employees who are unsatisfied with the outcome of their employee grievance may be entitled to lodge:

- an appeal in accordance with [PSC Directive - Appeals](#) or
- a complaint with an external oversight body including but not limited to the [Queensland Human Rights Commission \(QHRC\)](#) or Queensland Ombudsman.

For further information on lodging an appeal, refer to [Queensland Industrial Relations Public Service Appeals](#). For other external reviews, contact the relevant oversight body for information.

13. Customer complaints and appeals

In accordance with the [Public Service Commission \(PSC\) Directive - Appeals](#), a customer cannot lodge an appeal against a decision or action with the Queensland Industrial Relations Commission.

A customer who is the subject of a decision or action is able to lodge a customer complaint in accordance with the [Customer Complaints Management Policy and Procedure](#), should they feel that the decision or action is unfair, biased or limits their human rights.

All allegations of misconduct are to be reported, managed and resolved in accordance with the Customer Complaints Management Policy and Procedure; Conduct Assessment and Management Policy and Procedure; and/or the Public Interest Disclosure Policy and Procedure, and reported to the Responsible Officer, [Manager WRI PC CS](#) immediately.

Customers who are unsatisfied with the outcome of their complaint may be entitled to:

- request an internal or external review in accordance with the departmental [Customer Complaints Management Policy and Procedure](#), or
- a complaint with an external oversight body; including but not limited to the [Queensland Human Rights Commission \(QHRC\)](#), the [Crime and Corruption Commission \(CCC\)](#) or Queensland Ombudsman.

For further information on lodging a complaint refer to [DES – Complaints](#), or for other external reviews, contact the relevant oversight body for information.

14. Related Information

- [Corrupt Conduct Management Policy and Procedure](#)
- [Code of Conduct for the Queensland Public Service](#)
- [Crime and Corruption Commission guideline: Corruption in focus: A guide to dealing with corrupt conduct in the Queensland public sector](#)
- [Queensland Ombudsman Public Interest Disclosure Standard No 1/2019](#)
- [Queensland Ombudsman Public Interest Disclosure Standard No 2/2019](#)
- [Handling a Public Interest Disclosure – A guide for public sector managers and supervisors](#) (case manager resource)

15. Further information

For advice or assistance, employees should contact:

- your supervisor or manager
- your Human Resource Support contact
- [Workforce Relations and Integrity, People and Culture, Corporate Services](#), or
- Chief Human Resources Officer, People and Culture, Corporate Services (the 'PID Coordinator').

16. Storage of Information

All documentation relating to a PID must be stored in a confidential electronic file, or if hard copies exist, they must be secured in a locked area. No details are to be placed on personnel files. If an employee is appointed to another department/agency, the file remains the property of the department.

All information must be managed and stored in accordance with the [Information Privacy Act 2009](#) and the [Code of Conduct for the Queensland Public Service](#). Information related to corrupt conduct complaints, investigations and reports will be held in the strictest confidentiality. Matters may only be discussed with officers who have a genuine need to know or provide support or advice about the process.

17. Review

This policy & procedure shall be reviewed within two years of the **Last Reviewed** date.

18. Approval

Signed:

Susan Chrisp
Deputy Director-General
Corporate Services
Department of Environment and Science

Date: 04/02/2022

19. Version history

Date	Version	Action	Description / comments
04 February 2022	1.00	Approved by Deputy Director-General, Corporate Services	New Policy and Procedure following the merge (and repeal) of the Public Interest Disclosure Policy (CHC/2018/42431) and Public Interest Disclosure Procedure (CHC/2018/4243) (MECS CTS 01553/22).
10 May 2022	1.01	Approved by Chief Human Resources Officer, People and Culture, Corporate Services	Additional option added as a proper authority.

20. Keywords

Discloser, PID; Public; Interest; Disclosure; Misconduct; Corrupt Conduct, Complaint; Protection; Reprisal, Whistle-blower.