

# Public Interest Disclosure Policy and Procedure

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## 1. Purpose

The Department of Environment and Heritage Protection (EHP) is committed to maintaining public confidence in the integrity, accountability, honesty and impartiality of departmental operations and decisions. This policy and procedure is intended to ensure effective processes are in place for employees and members of the public to report serious wrongdoing by employees, as required by the *Public Interest Disclosure Act 2010* (the Act).

This policy and procedure provides information about:

- Matters that may be disclosed as a public interest disclosure (PID) under the Act;
- The procedure and proper authority to whom disclosers may make a PID to receive protection under the Act;
- The support and protection available to people making a PID and to employees who are the subject of a PID;
- Responsibilities in relation to confidentiality and the fair treatment of people who make a PID, or employees who are the subject of a PID; and
- The responsibility for Department of Environment and Heritage Protection (the department) employees' to report suspected wrongdoing under the Code of Conduct for the Queensland Public Service.

### 1.1 What is a Public Interest Disclosure?

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. Employees must report suspected wrongdoing immediately, as it is an obligation under the Code of Conduct and disciplinary action can be taken if you do not.

Employees do not have to be absolutely certain that the wrongdoing has occurred; only honestly suspect that it has. There should be no investigation undertaken locally, without prior consultation with the PID Coordinator, as it may jeopardise a possible departmental investigation by alerting the subject who may attempt to cover up evidence. As Public Interest Disclosures are confidential it is essential that the matter only be discussed with authorised staff.

A PID needs to be made to a proper authority in order for the discloser to be eligible for the legal protections available under the Act).

### 1.2 Department employees may make a PID about:

- Conduct of another person that could be corrupt conduct;
- Conduct of another person that could be maladministration that adversely affects a person's interests in a substantial and specific way;
- A substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be 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
- A reprisal because of a belief that a person has made, or intends to make a PID.

### 1.3 Members of the public may make a PID about:

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

## 2. Policy

Encouraging people to report their concerns about suspected wrongdoing will assist in creating improved transparency, accountability and openness in decisions and actions. It will also enable corrective action to be taken where serious problems are found. The Code of Conduct for the Queensland Public Service requires employees to report any concerns about wrongdoing in their workplace.

The department will ensure that all public interest disclosures received are properly assessed and dealt with, including appropriate action being taken in relation to any wrongdoing disclosed in a PID.

A person who makes a PID in accordance with the Act and this Policy and Procedure will be given protected discloser status. EHP will put in place all reasonable measures to ensure that the discloser is not subject to reprisal action. EHP has zero tolerance towards reprisals against a person making a PID or who has made a PID.

EHP will ensure all people involved in PIDs (as discloser or subject) are offered an appropriate level of support and case management. Action will be taken to ensure, to the extent possible, that the discloser's identity and details of the disclosure remain confidential.

It is an offence under the Act for a person to intentionally give false or misleading information intended to be acted upon as a PID. The maximum penalty is 2 years imprisonment.

Where it is established that the discloser has not acted in good faith, or has intentionally made a false report, the person may be subjected to a disciplinary process. False allegations of corrupt conduct may be investigated by the Crime and Corruption Commission.

## 3. Principles

- The department will ensure appropriate processes are in place, as required by the *Public Interest Disclosure Act 2010*.
- An employee who receives information as a PID must refer the matter to the appropriate manager (as listed in 6.1.1) regardless of whether they believe the PID has substance.
- Allegations of corrupt conduct will be assessed and, if they meet the criteria, will be reported to the Crime and Corruption Commission (CCC) through the Director, Executive Services.
- All reports of suspected corrupt conduct will be dealt with promptly and effectively while ensuring confidentiality, procedural fairness, preservation of evidence, and the efficient use of public resources.
- All eligible employees who make a public interest disclosure (PID) in relation to suspected corrupt conduct will be granted Protected Discloser (formerly known as Whistleblower) status under the provisions of the Public Interest Disclosure Act 2010.
- To the extent reasonably possible, the department will provide protection from reprisal and detrimental treatment of people who make a PID, and will provide support and fair treatment to employees who may be the subject of an allegation.
- Support and confidential treatment will be provided for people who make a PID in accordance with the approved departmental procedure and the Act, and for employees who may be the subject of an allegation.
- A case management strategy will be developed and implemented by the person nominated as the Case Manager.
- People who make a disclosure and the subject officer(s) will be provided reasonable information in writing about the outcome of the matter.
- Staff will be given access to training: identifying wrongdoing; how to make a PID; support and protection for disclosers and how the department manages PIDs.
- Appropriate resources and assistance will be available to staff who receive or manage a 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); and  
Queensland Ombudsman Public Interest Disclosure Standard No 1.

## 5. Scope

This departmental policy and procedure applies to all permanent employees, temporary employees, trainees and cadets. It **does not** apply to contractors, work experience students, or volunteers.

## 6. Procedure

### 6.1. Making a Public Interest Disclosure

#### 6.1.1. EHP employees

Under the Code of Conduct for the Queensland Public Service (section 1.1), it is an ethical obligation of public officials to report suspected wrongdoing when they become aware of it or suspect it is occurring. Employees may make a PID about matters listed in Section 1.2 of this Policy and Procedure.

Employees may make a PID to:

- 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, Queensland Government Internal Audit Service;
- the Executive Director, Human Resources, Corporate Services;
- the Director, Executive Services. (PID Coordinator);
- the Executive Director, Governance and Strategy, Corporate Services;
- the Crime and Corruption Commission (CCC);
- A member of the Legislative Assembly;
- A Chief Judicial Officer of the relevant court or tribunal (if the disclosure relates to a judicial officer); or
- By completing an [Anonymous Complaint Form](#) available on the Intranet.

An employee does not need to identify that their disclosure is a PID for it to be assessed and managed as one. The disclosure will be assessed by the PID Coordinator/CCC Liaison Officer to determine if it meets the definition of corrupt conduct or misconduct and reports the matter to the appropriate authority. If the disclosure is assessed as a PID, the discloser will receive the legal protections available under the Act.

Where the employee's manager is involved in the complaint or is the subject of the complaint, the PID should be made to a more senior manager, or one of the appropriate officers listed above. Where senior or executive management of the department is the subject of the complaint or the PID relates to another Queensland Government agency, the PID may be made directly to the CCC or to a member of the Legislative Assembly.

#### 6.1.2. Members of the public

Members of the public may make a PID about matters listed in Section 1.3 of this Policy and Procedure.

Under the Act, EHP is the appropriate agency to receive and deal with PIDs alleging substantial and specific danger to the environment.

Members of the public may make a PID to the Director-General of EHP, Director Executive Services (Corporate Services), the Crime and Corruption Commission, a member of the Legislative Assembly or to any EHP employee responsible for receiving the type of information being disclosed, or by completing the [complaints form](#) published on the EHP internet site.

When an EHP employee receives a PID from a member of public, they must treat the matter seriously and

confidentially and refer it to:

- Their line manager or supervisor;
- A Business Group or Divisional head (e.g. Deputy Director-General, Executive Director);
- Executive Director, Human Resources;
- Director, Executive Services, Governance and Strategy; or
- Executive Director, Governance and Strategy, Corporate Services.

The PID Coordinator (Director, Executive Services, Corporate Services) must be advised in all cases either by the complainant or the person to whom the complaint was made.

### 6.1.3 Anonymous disclosures

The person making the disclosure may remain anonymous. However, a successful investigation of a disclosure may require the investigating officer to obtain further information from the person making the disclosure.

### 6.1.4 Making disclosures to journalists

Disclosure to a journalist is **an avenue of last resort**. An employee may only make a disclosure to a journalist when they have made a PID using the approved EHP procedure, and the entity to which the disclosure was made or, if the disclosure was referred to another department, the entity to which the disclosure was referred—

- Decided not to investigate or deal with the disclosure; or
- Investigated the disclosure but did not recommend taking any action in relation to the disclosure; or
- Did not notify the person, within 6 months after the date the disclosure was made, whether or not the disclosure was to be investigated or dealt with.

In these circumstances **only**, will the disclosing employee retain protected status.

### 6.1.5 Public Interest Disclosures

Under the 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 being alleged, regardless of whether or not they honestly believe the information tends to show the conduct or other matter.
- 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 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 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 to have documented evidence. It is the responsibility of the investigating officer to determine if wrongdoing has occurred.

### 6.1.6 Reporting wrongdoing on matters that are not Public Interest Disclosures

Complaint matters other than PIDs should be reported as follows:

- Employee complaint (grievance) issues and general misconduct (not corrupt conduct) should be reported to the employee's manager, a more senior manager, a human resources officer or the Manager Employee Relations. (Refer to the Employee Complaints Management Procedure for further information).
- Client dissatisfaction with departmental decisions, where no employee misconduct is alleged, should be referred to the manager of the relevant operational unit or a more senior line manager. (Refer to the Complaints, Compliments and Comments Management Procedure.)
- Workplace health and safety issues and complaints must be reported to the employee's supervisor or manager and follow the department's workplace health and safety incident reporting procedures. (Refer to the Workplace Health and Safety Departmental Policy.)

## 6.2 Determining if a disclosure is a PID

### 6.2.1 Initial action and referral

All PIDs received must be referred as soon as possible to the department's PID Coordinator (Director, Executive Services) to determine action to be taken. If there is any doubt whether a disclosure is a PID, it should be assumed that it is protected by the Act and be managed as if it were a PID. The person making the disclosure does not have to identify the matter as a public interest disclosure; the PID Coordinator will make that determination.

The department has a statutory obligation under the *Crime and Corruption Act 2001* to refer suspected corrupt conduct to the CCC. If the matter is assessed and found to meet the corrupt conduct criteria it is referred to the CCC (in accordance with the Section 40 Directions document prepared by the CCC) for direction on action to be taken. If the disclosure is not assessed as suspected corrupt conduct, the matter is referred to HR for action as suspected misconduct.

### 6.2.2 No further action

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

- The subject of the PID has already been dealt with by another appropriate process;
- The matter raised should be dealt with by another appropriate process;
- The age of the information makes it impractical to investigate the matter;
- The information is considered too trivial to warrant investigation; or
- 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. Once received, if the person making the disclosure is not satisfied, they have 28 days to apply for a departmental review of the decision.

### 6.2.3 Referral to another agency.

If the PID relates to suspected corrupt conduct by employees of another Queensland Government agency, the Director Executive Services will refer the complaint to the relevant agency.

Following consultation with the discloser, PIDs about 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 department must assess the risk of reprisal prior to referring a PID to another agency.

## 6.3 Protection of employees

Under the Act EHP has a responsibility to establish reasonable procedures to support and protect its employees 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.

When confidentiality is not possible (e.g. in a very small workplace or when the disclosure has become public knowledge), 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 a zero tolerance of reprisal action and to maintain confidentiality.

### 6.3.1 Risk assessment

A risk assessment of possible reprisal action must be undertaken as a matter of priority. As this may need to occur prior to identifying and arranging a suitable Case Manager, the initial risk assessment may need to be done by the PID Coordinator and/or the manager / supervisor of the discloser. However, if the manager is involved in the matter, the PID Coordinator will identify and recommend a suitable employee. The risk assessment should be conducted in conjunction with the discloser as they are the best placed to provide information about the perceived risk of reprisal.

### 6.3.3. Case Management Support for Disclosers

Disclosers will be offered and provided appropriate support and advice by a suitable Case Manager. The selection of a Case Manager must be in consultation with the PID Coordinator and the discloser. It is important that the Case Manager is impartial and has no involvement in the complaint matter, either as a witness or a potential subject officer.

The Discloser and the Case Manager will be in regular contact through a mutually agreed method and schedule. The Case Manager will also have access to resources (available on the Ombudsman website) that provide guidance on their responsibilities and available support.

Regular appraisal of risk must be undertaken through monitoring the situation during the investigation phase to reduce the possibility of reprisal action against the discloser. The discloser needs to 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 need to 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 are able to seek free, professional and confidential counselling through Optum, the department's employee assistance provider, details of which are published on the [intranet](#).

### 6.3.4 Subject Officers

Employees who are the subject of a Public Interest Disclosure will be afforded procedural fairness (natural justice), and assumed to be innocent of any allegation until evidence proves otherwise. Employees will also be given the opportunity to respond to an allegation before a final decision is made on the outcome of the investigation.

Subject officers and their families, are able to seek free, professional and confidential counselling through Optum, the department's employee assistance provider, details of which are published on the [intranet](#).

To the best of its ability, the department will also support members of the public who make PIDs through providing regular contact and advice throughout the process.

### 6.3.4. When employees are NOT protected

The Act does **not** provide for protection of a person who:

- Fails to follow the correct disclosure process
- Intentionally gives false or misleading information
- Makes a PID directly to or through the media rather than through the approved process (e.g. Making a disclosure to a journalist **before** following due departmental process).

### 6.3.5 Reprisals

A reprisal against a protected discloser is a criminal offence (s 41 of the Act).

Under the Act:

- Protected 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 protected discloser;
- The CCC can investigate suspected reprisals against public sector employees;
- A public sector employee can ask the department or the Public Service Commission for relocation if they suffer from or risk reprisal.

Reprisals against an employee who makes a disclosure, or fears that they may be subject to reprisal action, must be reported immediately to the Case Manager, the PID Coordinator (Director, Executive Services), the Executive Director, Human Resources or the employee's manager/supervisor. The Director Executive Services must be advised in all cases and will refer allegations of suspected corrupt conduct to the CCC.

In the event that reprisal action is taken, protected 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. (The Queensland Industrial Relations Commission or Supreme Court can grant an injunction against reprisal action.) If an application is lodged with the Anti-Discrimination Commission, the discloser cannot also apply to the QIRC or the Supreme Court, as only one of these options is available (s 50 of the Act).

Disclosers may also lodge a claim for damages through the District or Supreme Court (s 42 of the Act,). If they are departmental employees they may lodge a claim against the department, as the department can be held responsible if an employee commits a reprisal. The department must be able to demonstrate that it took reasonable steps to prevent reprisal against the discloser occurring (s43 of the Act).

### **6.3.6 Reasonable management action**

Reasonable management action is not a reprisal and may be taken against an employee who has made a PID. However, the manager's reasons for taking the action must not include the fact the employee has made the PID and be in accordance with departmental policies and processes, including procedural fairness principles. Reasonable management action includes a fair appraisal of work performance, a requirement to undertake counselling, suspension from the workplace or a disciplinary action that is appropriate or relevant to the circumstances.

Examples of reasonable management action are given below:

**Scenario 1:** The employment contract of an employee who made a PID 6 months previously and was granted protected status is due to expire. Management has decided not to offer another contract as the project on which the employee was working is substantially completed and there is no further budget allocation available. Other employees have the capacity and skills to complete the remainder of the project. In this instance, the decision not to offer another employment contract to the employee is NOT reprisal action but reasonable management action unrelated to the fact the employee made a PID.

**Scenario 2:** The supervisor of an employee who made a PID 12 months ago has noticed the work performance of that employee is not satisfactory. Deadlines are not being met and the quality of the work is poor with the supervisor having to correct many errors. The supervisor requests the employee to attend a meeting with him to discuss the employee's work performance and explore possible reasons for it (e.g. illness, need for further training, personal concerns). At the meeting a detailed Performance and Development Plan is discussed and agreed. The supervisor requests weekly meetings for the next month to discuss work progress. The decision to implement this performance management action was based on the supervisor's assessment of the employee's work performance and was not influenced by the employee having made a PID. Therefore it was reasonable management action.

## **6.4. The investigation**

The Director-General or delegated officer of the department will determine whether an investigation is required based on the seriousness of the allegations and any CCC recommendations. After a decision to investigate has been made, a specialist officer will be engaged to undertake the investigation. During this process, all parties named in the disclosure, and in subsequent interviews, will be contacted for an interview where they may provide their version of events.

At the conclusion of the interview stage, the investigating officer collates the information they have gathered and prepares a report for the department, which may include recommendations, and makes a determination as to whether on the balance of probabilities the complaint (or each allegation) has been substantiated or not.

An investigation may result in one or more of the following outcomes:

- Disciplinary action being commenced
- A recommendation that there be administrative changes
- A recommendation that corruption prevention strategies be developed
- A criminal charge
- The complaint being dismissed as unsubstantiated.

## **6.5. After the investigation**

The delegate receives the investigating officer's report, considers the recommendations, then approves or does not

approve the recommended action.

The discloser will be provided with reasonable information in writing about the action taken on their disclosure and the results. Before information is released it must be considered whether giving the information is likely to adversely affect:

- Anybody's safety; or
- The investigation of an offence or possible offence; or
- Necessary confidentiality about an informant's existence or identity.

The discloser will be advised of the conclusion of any organised support arrangements following completion of the investigation and the finalisation of action taken. This will signal the end of the reporting process and the finalisation of the matter.

## 7. Responsibilities

### The Director-General is responsible for:

- Creating an ethical workplace culture where employees report suspected wrongdoing when they become aware of it and are supported when they do so. (*Code of Conduct for the Queensland Public Service*);
- Ensuring reasonable procedures are in place to deal with a PID and that those procedures are published to enable members of the public and employees to access them (*Public Interest Disclosure Act 2010*);
- Ensuring that PIDs are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any wrongdoing in a PID (*Public Interest Disclosure Act 2010*);
- Ensuring that employees making a PID receive support and protection from reprisal (*Public Interest Disclosure Act 2010*);
- Ensuring that all legislative obligations in relation to reporting and investigation are met (*Public Interest Disclosure Act 2010*);
- Ensuring that all matters involving suspected corrupt conduct are referred to the Crime and Corruption Commission. (*Crime and Corruption Act 2001*).

### Deputy Director-Generals, Assistant Director-General and Executive Directors are accountable within their areas of responsibility for:

- Ensuring reasonable procedures are in place to receive and deal with a PID made by:
  - employees reporting corrupt conduct and making PIDs within their business areas about any matters which may be disclosed (under sections 12 and 13 of the PID Act 2010); and
  - members of the public making a PID to EHP about:
    - a substantial and specific danger to the environment;
    - a substantial and specific danger to the health or safety of a person with a disability; or
    - a reprisal because of a belief that a person has made or intends to make a PID.
- Ensuring employees are aware of these procedures and the support and protection that is provided to employees who make a PID and for those employees who are the subject of a PID;
- Ensuring employees are aware of the protection offered to members of the public as a protected discloser when making a PID to EHP under the *Public Interest Disclosure Act 2010*;
- Ensuring employees, managers and supervisors are trained in ethical decision-making, Code of Conduct for the Queensland Public Service, misconduct prevention and relevant EHP policies;
- Ensuring approved recommendations arising from reports investigating information provided as a PID are acted upon appropriately; and
- Creating an ethical workplace culture through leading by example.

### PID Coordinator (Director, Executive Services) is responsible for:

- Overall co-ordination of the EHP Public Interest Disclosure process;
- Development, maintenance and communication of the EHP Public Interest Disclosure Policy and Procedure;
- Arranging resources or training in identifying and managing PIDs, disclosers or workplace issues relating to a PID;
- Informing the Director-General and the Crime and Corruption Commission of any cases of suspected corrupt conduct;
- Providing advice in relation to the department's obligations under the *Public Interest Disclosure Act 2010*;



- At the direction of the Delegate, arranging for a PID to be investigated;
- Reporting investigation outcomes to relevant parties;
- Advising line managers and supervisors with regard to case management of disclosers and employees who are the subject of a PID to ensure they receive fair treatment, have access to support and assistance and protected disclosers are safeguarded from reprisal;
- Ensuring legislative reporting obligations on PID issues are met; and
- Providing information concerning PIDs to the Director-General, relevant senior executives and the Audit and Risk Committee as required.

#### **PID Case Manager is responsible for:**

- advising the discloser about what making a PID means;
- assessing the immediate protection needs of the discloser;
- listening and responding to any concerns of harassment, intimidation or victimisation in reprisal for making a PID;
- coordinating and providing support to the discloser;
- working with management to foster a supportive work environment;
- advising the discloser of progress;
- keeping records of all aspects of case management of the discloser, including all contact and follow-up action; and
- endeavouring to ensure that the expectations of the discloser are realistic.

#### **Audit and Risk Committee is responsible for:**

- Analysing tabled data to identify trends and areas of concern and recommending strategies to address these issues; and
- Ensuring strategies are in place within EHP to promote awareness about PIDs, ethical behaviour and decision-making and misconduct prevention for managers, supervisors and employees.

#### **Managers and Supervisors are responsible for:**

- Ensuring employees in their area are aware of their obligations in relation to the requirements of this policy and procedure;
- Continually assessing and monitoring the workplace for any signs of reprisal against an employee making a PID and taking reasonable action to protect them;
- Monitoring the welfare of an employee who has made a PID on an ongoing basis and arranging appropriate support;
- Ensuring an employee, who is the subject of a PID, receives fair treatment and has access to support and assistance; and
- Ensuring that where allegations made in a PID are substantiated, recommendations from the investigation are implemented as soon as practicable, with effective systems and processes put in place to reduce the likelihood of recurrence.

#### **Employees are responsible for:**

- Being aware of and complying with all relevant whole-of-Government and EHP policies and procedures, including the Code of Conduct for the Queensland Public Service and EHP Fraud and Corruption Prevention Policy and Procedure;
- Attending training in ethical decision-making, Code of Conduct for the Queensland Public Service and misconduct prevention when offered;
- Being aware of the possibility that corrupt conduct may exist in the workplace and reporting any concerns to their manager or supervisor or an appropriate official in accordance with this policy and procedure; and
- Creating an ethical culture by leading by example.

## **8. Reporting requirement**

The department must report to the Queensland Ombudsman (QO) statistical information about PIDs and any other information requested by the QO regarding the department's performance in relation to the administration of the Act. The information will not include any details that could identify the discloser.

## 9. Forms

- Employees – [Anonymous Complaint Form](#)
- Members of the public – [Complaint Form](#)

## 10. Employee complaints and appeals

Employees who are the subject of allegations of wrongdoing do not have any grievance or appeal rights against the allegation itself, providing the employee making the PID is acting in good faith and the information is not intentionally false or misleading.

However, an employee who is the subject of an administrative decision or action is entitled to lodge a complaint in accordance with the department's Employee Complaints Management Policy and Procedure should they feel that the administrative **decision** is unfair or biased.

If the employee considers that the issue is not resolved following the finalisation of the complaints process, they may be able to lodge an appeal with the Industrial Registry of the Queensland Industrial Relations Commission (QIRC). The QIRC website ([http://www.qirc.qld.gov.au/qirc/prod\\_form\\_leg/public\\_service\\_appeals/index.htm](http://www.qirc.qld.gov.au/qirc/prod_form_leg/public_service_appeals/index.htm)) provides general information about appeals.

Disclosers who are not satisfied with the PID investigation outcome are also entitled to raise the matter with other appropriate entities (refer to the Queensland Ombudsman website).

## 11. Definitions and glossary of terms

**Administrative Action** means any action about a matter of administration, including, for example—

- a decision and an act; and
- a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and
- the formulation of a proposal or intention; and
- the making of a recommendation, including a recommendation made to a Minister; and
- an action taken because of a recommendation made to a Minister.

**Appropriate Person** means an authorised person to whom a PID may be made (refer to *Section 6. Procedure*).

**Disability** means a permanent disability or one likely to be permanent –

- (a) that is attributable to an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment or a combination of impairments; and
- (b) that results in -
  - (i) a substantial reduction of the person's capacity for communication, social interaction, learning or mobility; and
  - (ii) the person needing support.

**Discloser** means a person who makes a public interest disclosure.

**Employee complaint** means a complaint made, in writing (including email), by a current employee who has an honest belief based on reasonable grounds that:

- an administrative decision or action is unfair or unreasonable; or
- the conduct or behaviour of an employee, agent or contractor is unfair or unreasonable or constitutes sexual harassment or workplace harassment; and
- the decision, conduct or behaviour has a substantial and direct adverse effect on the employee concerned.

The following decisions cannot be the subject of an employee complaint:

- a decision about the policy, strategy, nature, scope, resourcing or direction of the department;
- a decision to discipline;
- a decision to retire an employee on the ground of ill-health under chapter 5, part 7 of the *Public Service Act 2008*; and
- a decision that is the subject of another complaint by the same employee under the Employee Complaints

Management Procedure or another industrial instrument.

**Maladministration** is administrative action that:

- was taken contrary to law;
- was unreasonable, unjust, oppressive, or improperly discriminatory;
- was unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances even though it is within the law;
- was taken for an improper purpose, or on irrelevant grounds, or having regard to irrelevant considerations; or
- was an action for which reasons should have been given, but were not given;
- was based wholly or partly on a mistake of law or fact; or
- was wrong.

**Misconduct** is inappropriate or improper conduct in an official capacity or inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the public service.

**Corrupt conduct** means conduct of a current or former public service employee, that:

- (1.) directly or indirectly adversely affects, or could adversely affect, the performance of functions or the exercise of powers of: (i) a unit of public administration; or (ii) a person holding an appointment; **and**
- (2.) directly or indirectly results, or could result, in the performance of functions or the exercise of powers mentioned 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**
  - (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**
- (3.) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; **and**
- (4.) would, if proved, be: (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.

*(adapted from s15, Crime and Corruption Act2001)*

**Protected Discloser** means a person who makes a PID and is granted protected status (previously known as "whistleblower protection status") in accordance with provisions contained within the Act

**Public Health or Safety** includes the health or safety of persons:

- under lawful care or control; or
- using community facilities or services provided by the public or private sector; or
- in employment workplaces.

**Public Interest Disclosure** means a disclosure of information specified in the *the Act* and made to an appropriate public sector entity that has the responsibility or power to take appropriate action about the information disclosed or to provide an appropriate remedy.

**Reprisal** means causing, attempting to or conspiring to cause, detriment to another person because, or in the belief that, they have made, or intend to make, a PID. **Detriment** includes –

- (a) personal injury or prejudice to safety;
- (b) property damage or loss;
- (c) intimidation or harassment;
- (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
- (e) financial loss; and
- (f) damage to reputation, including, for example, personal, professional or business reputation.

## 12. Effective date

This policy and procedure is effective from the date of approval.

## 13. Transitional arrangements

PID allegations received and investigations commenced prior to this date and yet to be finalised will be managed in accordance with the provisions of this policy.

## 14. Further information

For advice or assistance, employees should contact:

- Their supervisor or manager;
- Manager, Business and Professional Services, Governance and Strategy, Corporate Services; and
- Director, Executive Services (PID Coordinator).

Related documents:

- Corrupt Conduct Complaints 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, 2014.
- Queensland Ombudsman Public Interest Disclosure Standard No.1.

Resources for Case Managers:

- *Handling a Public Interest Disclosure – A guide for public sector managers and supervisors*

## 15. Storage of information

All documentation relating to a PID must be stored in a separate confidential file, 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 EHP.

## 16. Review

This policy and procedure is due for review two years from date of approval.

## 17. Approval

### Amended policy and procedure

Signed: *Signed*

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Jon Black  
Director-General,  
Department of Environment and Heritage Protection

Date: 9 December 2014

## 18. Version history

Date	Version	Action	Description / comments
13 December 2012	1.00	Amended departmental policy for Deputy Director-General, Corporate Services approval	Former Policy No.: CGS/2010/4316
December 2014	2.00	Update to reflect changes to <i>Crime and Corruption Commission Act 2001</i> .	Amendment to existing policy and procedure

## 19. Keywords

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

## 20. Appendix A: PID process flowchart



