

Procedure

Office of Industrial Relations Public Interest Disclosure Procedure

Audience

Office of Industrial Relations

Purpose

To outline the process under which a public interest disclosure (PID) can be made, ensuring that information disclosed is properly assessed and dealt with, and that all parties involved in a disclosure, or affected by a disclosure, are supported and where appropriate offered protections.

Overview

The Office of Industrial Relations (OIR) has an obligation to serve the public interest by providing appropriate avenues for reporting allegations of wrongdoing or substantial danger in accordance with the [Public Interest Disclosure Act 2010](#)(Act).

This procedure should be read in conjunction with OIR's [Public Interest Disclosure](#) policy, relevant pieces of legislation, and the Queensland Ombudsman's [Public Interest Disclosure Standards](#)

Responsibilities

Employees

- Make a PID to a [proper authority](#) if they believe they have disclosable information or can provide evidence to which tends to show the wrongdoing has occurred, regardless of whether the person honestly believes the information tends to show the conduct or other matter.
- Employees involved in a PID in any capacity are required to:
 - maintain confidentiality, to ensure process integrity and mitigate the risk of reprisal
 - immediately raise any concerns about reprisal with Ethical Standards (ES) OIR at oir.ethicalstandards@oir.qld.gov.au

- assist in any investigation involving a PID, by providing all requested relevant information.

Managers and supervisors

- Immediately forward any disclosure to ES OIR for assessment, management and possible investigation.
- Maintain confidentiality about potential and actual PIDs and all parties associated with them.
- Where required or requested, manage those employees involved in a PID.
- Monitor the behaviour and actions of a subject officer for signs of reprisal against a complainant or discloser, or any other person and report all related concerns to ES OIR.
- Report any concerns about potential or actual reprisal against any person involved in the PID to ES OIR.

Ethical Standards (ES) OIR

- Provide training on identifying conduct and making disclosures and role responsibilities for employees, supervisors and managers as part of the department's mandatory all staff training programs and in accordance with [Public Interest Disclosure Standard No. 1/2019 – Public Interest Disclosure Management Program](#) (PID Standard No. 1).
- Assess, investigate and deal with all PIDs in accordance with the [Act](#) and [Public Interest Disclosure Standard No. 2/2019 – Assessing, Investigating and Dealing with Public Interest Disclosure](#) (PID Standard No.2).
- Record and report on PID data in accordance with the Act and [Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting](#) (PID Standard No. 3)
- Undertake and record a risk assessment (assess risk of reprisal) in consultation with complainants or disclosers and other relevant parties.
- Oversee the coordination of support and risk mitigation strategies.
- Communicate in writing with a complainant or discloser as soon as practicable, providing confirmation of the disclosure, the description of the action proposed or already taken.
- Keep a written record of assessments that determine information does not meet PID requirements, including factors or reasons for the decision.
- In addition to the above, providing the complainant or discloser with written reasons (this may be via email or written correspondence) for a decision explaining if the complaint is not a PID, the information relied upon in making that decision, the name of the delegated officer responsible for making the decision, the person's right of review and how to exercise that review right as soon as practicable.
- Implement a secure and confidential reporting system to record and manage disclosures.

Public Interest Disclosure Coordinator

Director, ES OIR

- Act as principal contact for PIDs within OIR.
- Document and manage implementation of the PID management program.
- Review and update the PID policy and procedure biennially.
- Liaise with other agencies about possible referrals of PIDs to their agency.

- Refer PIDs to other agencies where required, in consultation with relevant officers (i.e. Chief Executive Officer, Internal Audit, and external agencies).
- Refer relevant PID information and details of the parties to the responsible OIR PID Support Officer work unit.
- Arrange for the investigation or other management of the PID.
- Liaise with the PID Support Officer to ensure organisational support for the complainant or discloser and subject officer, including communication during the investigation process, and, if action is taken by the department, a description of the outcome/s of the action.
- Review investigation report (where investigation undertaken) and determine whether alleged wrongdoing is substantiated, or not.
- Review and endorse alternative management actions (alternative to investigation) in response to PID.
- Provide investigation outcome advice to the subject officer.
- Prepare outcome advice to the complainant or discloser.
- Report data on PIDs to the Queensland Ombudsman.

PID Support Officer – Disclosers

- As soon as practicable after a disclosure is assessed as a PID, contact the complainant or discloser to:
 - provide advice and information about this procedure
 - offer professional support by assisting the complainant or discloser to access information about PIDs, protections available under the PID Act and the PID management process.
 - refer the complainant or discloser to other sources of advice or support as required.
- Update the complainant or discloser about the progress of the process involved in responding to their PID.
- Maintain and update internal records of PIDs received.
- Proactively contact the complainant or discloser until the matter is finalised.
- Provide professional support to witnesses as required.

PID Support Officer – Subject Officers

- Advise subject officers that they are subject of a PID and provide information regarding confidentiality, reprisal and its consequences.
- Provide or facilitate support to a person who is subject of a disclosure by applying the principles of natural justice in that impartiality is demonstrated.
- Maintain and update internal records of public interest disclosures received, on a dedicated case recording system, and submit to the PID Coordinator at the conclusion of the matter.

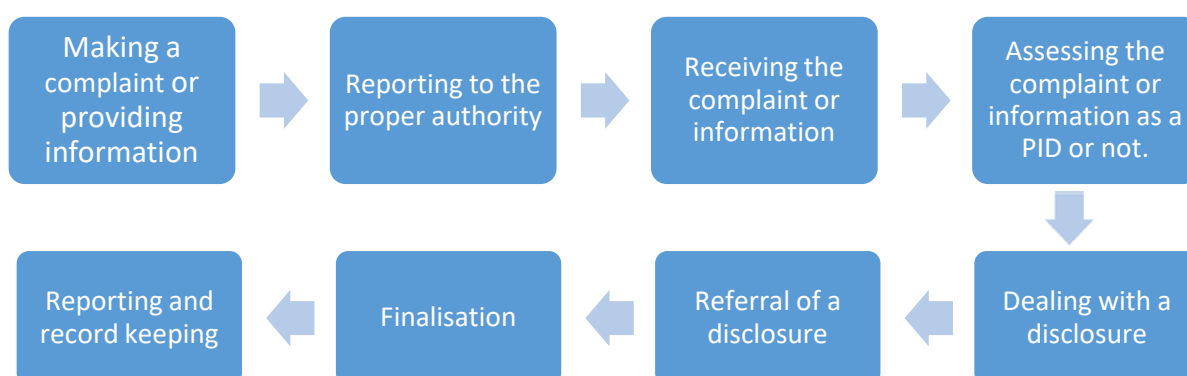
Investigator

- Understand an investigator's role does not include the provision of support to complainants or disclosers, subject officers or other interviewees; in order to maintain impartiality and avoid any potential, perceived or real conflict/s of interest.
- Conduct investigation of the PID in accordance with terms of reference.
- Ensure investigations comply with the principles of natural justice.
- Prepare report for delegated decision-maker.

Director-General or OIR delegate

- Ensure compliance with the Act, including:
 - Receiving and assessing PIDs.
 - Establishing reasonable procedures to deal with PIDs.
 - Keeping a record of disclosures.
 - Reviewing the department's decisions not to investigate or deal with PIDs on request.
 - Providing disclosure information to the Queensland Ombudsman.
 - Ensuring effective management and oversight of the entity's PID management program and procedures.
 - Delegating or designating responsibilities under the Act as they consider appropriate.

Process



1) Making a disclosure

Under [section 12](#) of the Act, any person (whether or not the person is a public officer) can make a disclosure about a:

- substantial and specific danger to the health or safety of a person with a disability; or
- the commission of an offence or contravention of a condition imposed under a provision of legislation mentioned in [schedule 2](#) of the Act, if the offence or contravention is or would be a substantial and specific danger to the environment; or
- substantial and specific danger to the environment; or
- reprisal because of a belief that a person has made or intends to make a disclosure.

In addition, [section 13](#) of the Act provides for public sector officers to make disclosures about the following public interest matters:

- the 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; or
- 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)
- a substantial and specific danger to public health or safety
- a substantial and specific danger to the environment.

A complainant or discloser can either have a reasonable belief that wrongdoing has occurred or provide evidence which tends to show the wrongdoing has occurred.

Under [section 17](#) of the Act, a person can make a disclosure to a proper authority in any way, including anonymously.

If a disclosure is made anonymously, in order for a PID Coordinator to further the investigation, they may need to make further contact and request for the information to be provided in writing.

The person making the disclosure does not need to state that the information, or complaint, is a PID for the matter to be assessed as a PID under the Act.

PIDs can be made in any way, including anonymously, either verbally or in writing.

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

- ensure their own awareness of, and compliance with, the department's PID policy and this procedure.
- provide contact details (this could be an email address that is created for the purpose of making the disclosure, or a telephone number)
- 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 that evidence is located
 - any further information that could help investigate the PID.

False or misleading information and misconduct

Under [section 66](#) of the Act, a person must not make a false or misleading statement with the intent that it be acted on as a PID, or in the course of inquiries into the statement, intentionally give information that is false or misleading.

Additionally, under [section 67](#) of the Act, a public officer is guilty of misconduct, if the officer contravenes any of the following:

- [section 41](#) of the Act (Offence of taking reprisal)
- [section 65](#) of the Act (Preservation of confidentiality)
- [section 66](#) of the Act (False or misleading information).

2) Determining the appropriate reporting avenue – Proper authority

Under [section 17](#) of the Act, a PID must be made to a proper authority in any way, including anonymously. However, if a proper authority has a reasonable procedure for making a PID, the person must use the procedure. [Section 5](#) of the Act defines a 'proper authority' as a public sector entity or a member of the Legislative Assembly.

Internal authorities	External authorities
<p>Any person can make a disclosure to:</p> <ul style="list-style-type: none"> • the Director-General, or • the Deputy Deputy-General, or • the Minister for the department • any person in a management role • Ethical Standards 	<p>Disclosures can be made to an agency that has a responsibility for investigating a complaint or information disclosed including:</p> <p>Crime and Corruption Commission (CCC) for disclosures concerning corrupt conduct; including reprisal</p> <p>Queensland Ombudsman for disclosures concerning maladministration</p> <p>Queensland Audit Office for disclosures concerning a substantial misuse of resources</p> <p>Department of Child Safety, Youth and Women for disclosures about danger to the health and safety of a child or young person with a disability</p> <p>Department of Communities, Disability Services and Seniors for disclosures about danger to the health and safety of a person with a disability</p> <p>Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability</p> <p>Department of Environment and Science for disclosures about danger to the environment</p> <p>A Member of the Legislative Assembly (MP) for disclosures about any wrongdoing or danger.</p>

Disclosure to a journalist

A disclosure can also be made to a journalist in accordance with section 20 of the [Act](#) if the following conditions have been met:

- a valid PID was initially made to a proper authority; and
- the proper authority / or department:
 - decided not to investigate or deal with the disclosure
 - investigated the disclosure but did not recommend taking any action, or
 - failed to notify the complainant or discloser within six months of their making the disclosure, whether or not the disclosure was to be investigated or dealt with.

Under the [Act](#) a person who makes a disclosure to a journalist in these circumstances is protected. However,

complainants or disclosers should be aware that journalists are not bound by the confidentiality provisions of section 65 of the [Act](#).

Accordingly, persons considering making a disclosure to a journalist are encouraged to obtain legal advice prior to making such a disclosure.

3) Receiving the disclosure

The department must receive and assess disclosures in accordance with [PID Standards No 2/2019](#)

Upon receipt of the disclosure, the receiving officer must notify ES OIRas soon as practicable and forward to it all information, material and evidence provided as part of the disclosure.

The information, material or evidence could include:

- the complainant's or discloser's name and contact details, unless the complainant or discloser prefers to remain anonymous
- the name (and position) of the person, or people, subject of the disclosure
- information about the suspected wrongdoing or danger, relevant events, dates and places
- the names of people who may be able to provide additional information (e.g. any witnesses)
- correspondence or other supporting documents such as a diary of events and conversations, or file notes, where relevant
- advice about whether any action was taken in response to the suspected wrongdoing.

Organisational support for employees

Complainants or Disclosers

The PID Coordinator will undertake an assessment to identify the support needs of the complainant or discloser, and where applicable, refer relevant PID information and details of the parties to the responsible OIR PID support officer to provide support until the matter is finalised, particularly if the complainant or discloser suffers from or identifies a fear of reprisal as a result of their disclosure.

Subject officers

OIR acknowledges that subject officers may require support.

OIR will ensure their rights by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably, in accordance with the principles of natural justice
- providing them with information about their rights and the progress and outcome of any investigation
- advising them of the department's Employee Assistance Program
- providing them with information and process support until the matter is finalised.

Confidentiality

OIR will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the complainant or discloser, wherever possible.

While OIR will make every attempt to protect confidentiality, a complainant's or discloser's identity may need to be disclosed to:

- provide [natural justice](#) to the person subject to the allegation(s), or
- respond to a court order, legal directive, or court proceedings.

Complainants or disclosers should also be aware that while OIR will make every effort to keep their name confidential, it cannot guarantee that others will not try to deduce their identity.

Receipt from another entity

If a PID is received from another entity, the PID Coordinator will acknowledge receipt of the disclosure in writing, as soon as practicable and provide the referring entity with reasonable information about the disclosure. In circumstances where the concerns have been reported anonymously and referred to OIR for action, the written advice need only be provided to the entity in accordance with [section 32](#) of the Act.

The PID Coordinator will advise the OIR PID support officer.

The Support Officer – Disclosers will make contact with the complainant or discloser as soon as possible, and offer:

- advice and information to the complainant or discloser on this procedure
- professional support and
- referral to other sources of advice or support as required.

Doubt whether a disclosure is a PID

If there is any doubt as to whether a complaint or disclosure is a PID, where possible, further information will be obtained to inform the decision. If doubt remains, the matter will be considered and managed in accordance with the requirements of a disclosure.

4) Assessing the disclosure

All incoming reports of wrongdoing will be assessed by ES OIR to determine whether the disclosure meets the requirements of the Act. A decision as to whether the disclosure is a PID must be made as soon as practicable.

The assessment will be made in accordance with the Act, the PID standards, OIR's PID Policy, this procedure and any other relevant procedures. In relation to concerns and reports of wrongdoing made by any person, the assessment process must assess the disclosure against [section 12](#) of the Act.

In relation to concerns of wrongdoing reported by a public officer, the assessment must take into account [section 13](#) of the Act.

In conjunction with their assessment of complaint information, assessors will apply the tests set out in [sections 12\(2\), 12 \(3\), 13\(2\)](#) and [13\(3\)](#) of the Act respectively to determine the appropriateness of the information to be assessed as a disclosure.

[Section 12 and 13 \(3\)\(a\)](#) set 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 other matter, and

[Section 12 and 13\(3\)\(b\)](#) set out the objective test, which is that the information tends to show the conduct or danger, regardless of whether the discloser honestly believes their information tends to show the conduct or other matter.

Assessed as a disclosure

On assessing a matter as a disclosure, ES OIR creates an electronic disclosure file with a unique number and advises the complainant or discloser:

- that their complaint or information has been received by the department and assessed as a PID
- the action to be taken by OIR in relation to the disclosure, which could referral of the matter to an external agency, or investigation
- the complainant's or discloser's responsibility to maintain confidentiality
- the protections available to the complainant or discloser under the Act
- the commitment of the department to keep appropriate records and maintain confidentiality except where disclosure is permitted under the Act

- how updates regarding intended actions and outcomes will be provided to the complainant or discloser, and the frequency of updates
- the name and contact details of the PID Support Officer for advice, support and additional information
- contact details of OIR's Employee Assistance Program.

Risk assessment

In accordance with [PID Standard No. 2](#), upon assessing a complaint or information as a disclosure, ES OIR will conduct a risk assessment to ascertain the likelihood of the complainant or discloser suffering a reprisal as a result of their having made the disclosure.

The assessment will take into account any actual and reasonably perceived risk of the complainant or discloser (or witnesses or affected third parties) suffering detriment and will include consultation with the complainant or discloser.

If the complainant or discloser is anonymous, a risk assessment will be undertaken based on information available in the PID. Consistent with the assessed level of risk, the PID Coordinator and/or responsible officer with the PID Support Officer, will develop a risk management plan for the complainant or discloser where they are an OIR employee, and arrange any required or reasonably necessary support or protection for the complainant or discloser, witnesses or affected third parties.

OIR will regularly reassess the risk of reprisal while the PID is being managed, in consultation with the complainant or discloser and review the risk management plan if required. It should be noted that while OIR will conduct equally rigorous risk assessments for all disclosures assessed as PIDs, it does not have the ability to provide members of the public with the same level of protection that it would provide to employees.

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

If a matter is determined not to be a disclosure, OIR will provide the complainant or discloser in writing with reasons for the decision if the complainant or discloser has:

explicitly requested that their matter be treated as a disclosure; even though their complaint or information does not meet the conditions of the Act; or

specifically requested that the department provide them with reasons for deciding not to treat their matter as a disclosure.

If the complaint or disclosure is not assessed as a PID, it may still raise concerns of wrongdoing and need to be referred to another agency.

Decision not to deal with a disclosure

Under [section 30](#) of the Act, OIR can decide not to deal with a disclosure if it reasonably concludes:

- the substance of the disclosure has already been investigated or dealt with by another appropriate process; or
- the disclosure should be dealt with by another appropriate process; or
- because of its age or its subject, the disclosure is impracticable to investigate; or
- the disclosure is too trivial to warrant investigation; or
- another entity that has jurisdiction to investigate the disclosure has notified the entity that investigation of the disclosure is not warranted.

If OIR decides not to investigate or deal with a disclosure for one or more of the reasons above, ES OIR must provide

- written advice to the discloser or complainant about:
- the reasons for the decision, including the information relied on to make the decision
- the name of the delegated officer
- the review rights available if the complainant or discloser is dissatisfied with the decision and how to request review
- any action OIR proposes to take in relation to the matter

- any other options the complainant or discloser has in relation to the matter.

Review rights

Complainants or disclosers receiving advice that OIR has decided not to investigate or deal with their complaint or information may make a written request for an internal review of the decision to the Director-General, within 28 days after receiving the written advice from ES OIR. If they remain dissatisfied following the internal review, they may seek external review by raising the matter with appropriate external entities (e.g. the Queensland Ombudsman in cases of maladministration and the Crime and Corruption Commission in cases of corrupt conduct).

5) Dealing with a disclosure

The following actions may be taken to deal with a disclosure:

- providing an explanation to the complainant or discloser (for example, where the complainant or discloser was not aware of the whole circumstances surrounding an action which appeared to them to be improper)
- resolving the disclosure managerially
- conducting an internal audit, or a review of an issue or the operations of a particular unit
- implementing or changing policies, procedures or practices
- formally investigating the allegations
- referring the allegations to an appropriate external entity.

Reprisal, detriment and protections

Complainants or disclosers should not suffer any form of detriment as a result of making a disclosure and are afforded protections under the Act.

The Act defines 'detriment' as including:

- personal injury or prejudice to safety
- property damage or loss
- intimidation or harassment
- adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business
- financial loss
- damage to reputation including for example, personal, professional or business reputation.

Protections

When making a PID, the complainant or discloser receives the protections provided under the Act, including:

- confidentiality – the complainant's or discloser's name and other identifying information will be protected to the extent possible
- protection against reprisal – the complainant or discloser is protected from unfair treatment by OIR and its employees as a result of making the PID
- immunity from liability – the complainant or discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing
- protection from defamation – the complainant or discloser has a defence against an accusation of defamation by any officer who is the subject of the PID.

The Act also provides protection for complainants or disclosers reporting suspected wrongdoing by imposing penalties on anyone who takes detrimental action proven to be substantially in reprisal for their making the PID.

All employees must notify ES of any allegations of reprisal action against a complainant or discloser, if they suspect reprisal action against a complainant or discloser is occurring.

In the event of reprisal action being alleged or suspected, ES will:

- attend to the safety of the complainant or discloser, witnesses or third parties as a matter of priority
- review its risk assessment, risk management plan and any protective measures needed to mitigate any further risk of reprisal
- manage any allegation of reprisal as a PID
- assess the alleged reprisal to determine if the conduct is required to be referred to another agency within jurisdiction to deal with the conduct (for example, the Crime and Corruption, Queensland Police Service, Public Service Commission or Office of the Independent Assessor)
- inform the person reporting the alleged reprisal, of the process for making a PID of reprisal in accordance with [section 12 \(1\)\(d\)](#) of the Act.
- provide any necessary support to the person reporting the alleged reprisal to make a PID of reprisal;
- manage information about alleged or suspected reprisal in accordance with [Act](#).

Reprisal under the Act is an indictable offence and investigations may be undertaken by the Queensland Police Service.

Under [section 45](#) of the Act, a manager is not prevented from taking reasonable management action in relation to an employee who has made a public interest disclosure. That means that the disclosure will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

Investigation

If OIR decides to investigate a PID, the investigation will be undertaken with consideration for the:

- principles of natural justice
- obligation under the Act to protect confidential information
- obligation under the Act to protect officers from reprisal
- interests of complainants or disclosers and subject officers.

Irrespective of whether the matters investigated as a result of the PID are substantiated, partially substantiated, not substantiated or the investigation is discontinued, consideration will be given to:

- any systemic issues that gave rise to the PID or were identified during the investigation
- any action that should be taken (apart from disciplinary action) to address any such systemic issues (for example, changes to policy, procedure, controls or governance arrangements).

As appropriate, identifying information contained in investigation reports and evidence gathered that is subject of the PID may be de-identified before being provided to subject officers in any discipline process undertaken.

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

Where conduct is considered to be reprisal, ES OIR may refer the matter to the Queensland Police Service for further investigation. Where the reprisal is assessed as corrupt conduct, ES OIR will refer the matter to the Crime and Corruption Commission.

Complainants, disclosers or subject officers who are dissatisfied with a PID management process may seek an internal review in accordance with OIR's [Employee Complaints](#) procedure. If they remain dissatisfied after exhausting all internal review avenues, they may seek external review by the Queensland Ombudsman, in accordance with section 20 of the [Ombudsman Act 2001](#).

6) Referral of a disclosure

If there is another proper authority that is better able to deal with a PID, the PID Coordinator may refer it to that authority. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency
- the agency has the power to investigate or remedy the matter
- because of a legislative obligation, for example referring a matter to the Crime and Corruption

Commission where there is reasonable suspicion that the matter involves corrupt conduct.

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

In conducting a referral risk assessment, ES OIR will:

- seek consent from the complainant or discloser, if practicable to confer with the proper authority to which it is proposed to refer the PID, if required
- identify and detail the steps that will be followed to assess the risk of reprisal to the complainant or discloser, witnesses or other persons associated with the PID
- implement the steps to follow where a risk has been identified
- develop and record a risk management plan for the complainant or discloser, witness/witnesses, and/or other persons associated with the PID as soon as practicable after completing the risk assessment.

ES OIR will as far as practicable, consult with the complainant or discloser in the development of the risk management plan, and protect the confidential information of the discloser.

The PID Coordinator will provide the other entity with reasonable information about the disclosure as long as giving the information would not be 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.

7) Finalisation

On finalisation of a matter:

- ES OIR will debrief employee complainants or disclosers, subject officers, and witnesses involved in the PID; and other relevant employees, to clarify any decisions or outcomes, without breaching confidentiality, and to emphasise the opportunities to learn from the situation
- ES OIR will provide the complainant or discloser with written advice about the action taken in relation to their disclosure
- where necessary, ES OIR will ensure a final report is prepared to the Deputy Director-General, for dissemination at their discretion, which considers opportunities for operational or administrative improvements and/or recommendations resulting from the PID being made.

8) Reporting and recordkeeping

In accordance with its obligations under the Act and the *Public Records Act 2002*, ES OIR will ensure: accurate data is collected about the receipt and management of PIDs, and

- de-identified data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

ES OIR will maintain a confidential case management system to:

- record all PIDs and possible PIDs,
- search for information about PIDs and possible PIDs, and
- extract data about PIDs and possible PIDs for reporting purposes.

ES OIR will maintain procedures to ensure that all PIDs and possible PIDs received are accurately recorded and will conduct regular audits to identify and address deficits in the recordkeeping.

ES OIR will ensure that it updates and maintains PID records in a timely manner, and will:

- enter PIDs and possible PIDs in the case management system within 30 days of receipt and assessment of relevant disclosures
- update information about the action taken on a PID or possible PID as soon as practicable after the action has been taken, and
- complete the recordkeeping about a PID or possible PID as soon as practicable after the matter has been finalised.

ES OIR will also protect the security and confidentiality of PID records by:

- applying appropriate security protocols to the recordkeeping system, and
- limiting direct access to the recordkeeping system to the PID Coordinator and other officers with delegated responsibility for maintaining PID records.
- details about disclosures, investigations and related decisions will be kept secure and accessible only to people involved in the management of the disclosure.

Definitions

Complaint or information	A matter reported to a receiving officer. A complaint or information is not a disclosure unless assessed as meeting the requirements of a PID.
Corrupt conduct	<p>As defined in section 15 of the Crime and Corruption Act (Qld) 2001:</p> <ol style="list-style-type: none"> 1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that— <ol style="list-style-type: none"> a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of— <ol style="list-style-type: none"> 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— <ol style="list-style-type: none"> i) is not honest or is not impartial; or ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and c) would, if proved, be— <ol style="list-style-type: none"> i) a criminal offence; or ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment. 2) Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that— <ol style="list-style-type: none"> a) impairs, or could impair, public confidence in public administration; and b) involves, or could involve, any of the following— <ol style="list-style-type: none"> i) collusive tendering; ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)— <ol style="list-style-type: none"> (A) protecting health or safety of persons; (B) protecting the environment; (C) protecting or managing the use of the State's natural, cultural, mining or energy resources; iii) dishonestly obtaining, or helping someone to dishonestly obtain, a

	<p>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>As defined in Schedule 4 of the Act, 'detriment' includes:</p> <ul style="list-style-type: none"> • personal injury or prejudice to safety • property damage or loss • intimidation or harassment • adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business • financial loss • damage to reputation, including, for example, personal, professional or business reputation.
Disability	<p>As defined in section 11 of the <i>Disability Services Act 2006</i>, for the purposes of this procedure:</p> <p>1) A disability is a person's condition that—</p> <p>a) is attributable to—</p> <p>i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p>ii) a combination of impairments mentioned in subparagraph (i); and</p> <p>b) results in—</p> <p>i) a substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self-care or management; and</p> <p>ii) the person needing support.</p> <p>2) For subsection (1), the impairment may result from an acquired brain injury.</p> <p>3) The disability must be permanent or likely to be permanent.</p> <p>4) The disability may be, but need not be, of a chronic episodic nature.</p>
Discloser	A provider of information that is assessed as a PID.
Employee	A public service employee as defined under section 9 of the <i>Public Service Act 2008</i> . For the purposes of this policy, an 'employee' of an entity includes a person engaged by the entity under a contract of service.
Maladministration	<p>'Maladministration' is defined in Schedule 4 of the Act as administrative action that—</p> <p>a) was taken contrary to law; or</p> <p>b) was unreasonable, unjust, oppressive, or improperly discriminatory; or</p> <p>c) was in accordance with a rule of law or a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; or</p> <p>d) was taken—</p> <p>i) for an improper purpose; or</p> <p>ii) on irrelevant grounds; or</p> <p>iii) having regard to irrelevant considerations; or</p> <p>e) was an action for which reasons should have been given, but were not given; or</p>

	<p>f) was based wholly or partly on a mistake of law or fact; or</p> <p>g) was wrong.</p>
Natural justice	<p>Natural justice is at law a safeguard which applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way</p> <p>The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, are:</p> <ul style="list-style-type: none"> • avoid bias • give a fair hearing and • act only on the basis of logically probative evidence.
Organisational support	<p>For the purposes of this procedure, organisational support means actions such as, but not limited to:</p> <ul style="list-style-type: none"> • providing professional support • advising complainants or disclosers about departmental resources available to handle any concerns they have as a result of making their disclosure • appointing separate support officers to assist the complainant or discloser and the subject officer through the process • referring the complainant or discloser and the subject officer to the department's Employee Assistance Service • arranging support for the complainant or discloser and the subject officer in their work unit where appropriate • ensuring that any suspicions of victimisation or harassment are dealt with • maintaining contact with the complainant or discloser and the subject officer • negotiating with the complainant or 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.
PID Coordinator	<p>An officer of the entity, delegated by the chief executive officer or their delegate, with responsibility for the implementation of the entity's PID management program.</p>
PID Support Officer	<p>An officer of the entity, delegated by the chief executive officer, their delegate or the PID Coordinator, with responsibility for providing support to a complainant or discloser, subject officer or witness who is involved in the management of a PID.</p>
Public officer	<p>A public officer, of a public sector entity is an employee, member or officer of the entity, as defined at section 7 of the Act.</p>
Public Interest Disclosure	<p>A disclosure of information as specified under Chapter 2 of the Act.</p>
Public resources	<p>A public resource is government/ department owned property, material, or facility; including tangible and intangible assets such as information and intellectual property.</p>
Reasonable management action	<p>Reasonable management action taken by a manager in relation to an employee's performance or conduct may include any of the following:</p> <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 workplace; • disciplinary action;

	<ul style="list-style-type: none"> • action to transfer or redeploy the employee; • 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 complainant or 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 taken into account the complainant's or discloser's particular circumstances; • not involve taking action because the complainant or discloser has made a disclosure.
Receiving officer	The person to whom a suspected PID is reported.
Referral risk assessment	An assessment of the risk of reprisal to the complainant or discloser if a PID received by an entity under section 15 of the Act, or received by way of referral under section 34 of the Act, is referred to another proper authority.
Reprisal	<p>Under section 40 of the Act, 'reprisal' constitutes attempting or conspiring to cause detriment to another person in the belief that they or someone else:</p> <ul style="list-style-type: none"> • have made or intend to make a PID; or • have been or intend to be involved in a proceeding under the disclosure Act against any person. <p>Reprisal under the Act is an indictable offence and investigations may be undertaken by the Queensland Police Service.</p>
Risk assessment	A risk assessment is the process by which information obtained by the PID is analysed to determine the risks of reprisal to complainants or disclosers, witnesses and others involved in the management and environment of the PID process.
Substantial and specific	For the purposes of this procedure, 'substantial and specific' means 'significant conduct or detriment that is able to be identified or particularised'.

Legislation

[Public Interest Disclosure Act 2010 \(Qld\)](#)

[Crime and Corruption Act 2001 \(Qld\)](#)

[Disability Services Act 2006 \(Qld\)](#)

[Ombudsman Act 2001](#)

[Public Records Act 2002 \(Qld\)](#)

[Public Sector Ethics Act 1994](#)

[Public Service Act 2008](#)

[Work Health and Safety Act 2011](#)

Delegations/Authorisations

[Human Resource Delegations Manual](#) (OIR employees only)

Related policies

[Public interest disclosure](#)

[Code of Conduct for the Queensland Public Service](#)

OIR's Workplace Behaviour and Environment Policy

[Public Interest Disclosure Standard No. 1/2019 – Public Interest Disclosure Management Program](#)

[Public Interest Disclosure Standard No. 2/2019 – Assessing, Investigating and Dealing with Public Interest Disclosures](#)

[Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting](#)

[Managing employee complaints](#)

Guidelines

Nil

Supporting information/websites

[Disclosure Fact sheet 1: What is a disclosure?](#)

[Disclosure Fact sheet 2: Checklist for making a disclosure](#)

[Disclosure Fact sheet 3: Discloser information and support](#)

Contact

For further information, please contact:

Ethical Standards

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Superseded versions

Public Interest disclosure procedure (undated)

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