

Public Interest Disclosure Policy and Procedures

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2. Introduction

The reporting of suspected misconduct within the Queensland public sector is fundamental to its ongoing integrity and health. The most effective protection for a person making a public interest disclosure is the right organisational culture.

The Queensland Sentencing Advisory Council (QSAC), in line with its values, is committed to creating and sustaining a positive ethical climate with accountable behaviour. This comes from leadership that openly recognises the significant contribution staff make to our success and strongly encourages disclosure of unethical and fraudulent behaviour so that it can be properly assessed and appropriately investigated. QSAC aims to provide clear guidance on how to handle and deal with the complex issues associated with an ethical dilemma and when faced with potential wrongdoing.

QSAC is committed to providing support to an employee or others who make disclosures about matters in the public interest. This policy demonstrates this commitment, and ensures that practical and effective procedures are implemented which comply with the requirements of the *Public Interest Disclosure Act 2010* ('PID Act').

3. Purpose

The policy establishes a system for managing public interest disclosures (PIDs) and provides guidance to:

- individuals (whether a public officer or anyone else) who wish to make a PID
- staff about whom a PID has been made, and
- officers responsible for the management of a PID investigation.

The policy is supported by a guide for Council members and Secretariat staff (see [Appendix A](#)) and works in conjunction with the Council's Complaints Management Policy, which has been put in place to manage complaints that do not reach the criteria of a PID. A third policy – the DJAG Client Complaints Management Policy – will be used to manage complaints about public servants employed by DJAG to support the Council where the complaint does not amount to a PID. Finally, a separate policy oversees any complaints about corrupt conduct by the Chair of the Council (as required by s 48A of the *Crime and Corruption Act 2001*).

The PID Act sets out the ethical framework for ensuring public sector misconduct can be identified and reported, and includes the protections in place for disclosers. The *Crime and Corruption Act 2001* establishes the Crime and Corruption Commission as an external reporting mechanism and an independent investigative and enforcement body.

The Council further aims to provide clear guidance to Secretariat staff and Council members on how to handle and deal with the complex issues associated with an ethical dilemma and when faced with potential wrongdoing.

Principles

This policy is based on the following central principles:

- Every employee of the Queensland public sector has an ethical responsibility to report suspected corrupt conduct, maladministration, wasting of public funds, substantial and specific danger to public health and safety, the environment or a person with a disability, and reprisal action. This includes part-time members of government boards and committees.
- The Council encourages individuals to come forward if they have concerns about the behaviour of a public sector employee they have observed, and all officers are offered protection from reprisals by the Department of Justice and Attorney-General (DJAG), DJAG employees, QSAC or QSAC Secretariat members.
- The principles of natural justice (procedural fairness) will apply to all investigations of matters which are the subject of a PID. The Council 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.

- The rights of any person who is subject to, or is in some way associated with, a PID will be safeguarded.
- Managers and supervisors are to ensure employees are aware of their responsibilities in making a PID and are able to advise others of the appropriate reporting process.
- Individuals who make a PID will be appropriately supported and protected from any reprisal action.

4. Roles and responsibilities

All staff, especially managers and supervisors, should make themselves familiar with this policy and their obligations under the Code of Conduct. Managers and supervisors must provide clear guidance to staff on how to handle complex issues and how to deal with an ethical dilemma when faced with potential wrongdoing.

Managers must ensure staff are provided with information about making a disclosure and must be familiar with the process of making a PID.

All staff should also be able to identify potential situations where behaviour may be unethical or fraudulent and know how to report it.

Secretariat staff and Council members will be clear that staff have a responsibility to denounce unethical and inappropriate behaviour.

The Council Chair has responsibility under the PID Act to ensure the Council has a procedure in place for managing PIDs and to keep a record of all PIDs made.

The Council Chair has appointed the Secretariat Director as the PID Coordinator for the Council.

This policy refers to the ‘responsible officer’, who is the officer tasked with assessing and responding to any PID received by the Council. This may be the PID Coordinator, the Executive Director of DJAG’s Ethical Standards unit, or a third party who has been asked to undertake the role of responsible officer, where this is determined to be the most appropriate course of action.

Role	Description and responsibilities	Nominated officer
PID Coordinator	<p>A PID Coordinator is an officer of the entity, with responsibility for the implementation of the entity’s PID management program, including acting as a principal point of contact with the oversight agency. The role of the Council’s PID Coordinator is to:</p> <ul style="list-style-type: none"> • regularly review and update the PID policy • inform and advise employees (including Council members) about their rights and responsibilities under the PID Act • inform and advise others who may be able to make disclosures, such as members of the public • educate Secretariat staff and Council members about the agency’s responsibilities under the PID Act • maintain and update internal records of PIDs received 	Director

	<ul style="list-style-type: none"> • report data on PIDs to the Queensland Ombudsman • assess PIDs received • provide acknowledgment of receipt of PID to discloser • undertake risk assessments in consultation with disclosers and other relevant officers • liaise with other agencies about referral of PIDs • allocate Support Officer to PID matter • conduct investigation of information in PID • prepare report for delegated decision-maker. 	
PID Support Officers	<p>A PID Support Officer is an officer of the entity, delegated by the chief executive officer or the PID Coordinator with responsibility for providing support to a discloser, subject officer or witness who is involved in the management of a PID. The role of PID Support Officers is to:</p> <ul style="list-style-type: none"> • provide advice and information to discloser on the Council's PID procedure • provide personal support and referral to other sources of advice or support as required • facilitate updates on progress of investigation • proactively contact discloser throughout PID management process. 	<p>Manger, Policy Manger, Research and Statistics Manager, Media and Engagement</p>

5. What is a Public Interest Disclosure?

What constitutes a PID depends on who is making the disclosure, with the PID Act distinguishing between disclosures made by a public officer and those made by anyone else.

PIDs made by public officers

- **Corrupt conduct**, including fraud and corruption.
- **Maladministration** that adversely affects anyone's interest in a substantial and specific way.
- Substantial **misuse** of public resources (including funds, but not based on a mere disagreement over policy that may properly be adopted about amounts, purposes and priorities of expenditure)
- Conduct by another person causing a substantial and specific danger to **public health or safety** or to the **environment**.

PIDs made by any person

- A substantial and specific danger to the health or safety of a **person with a disability**.

- Specific offences or contraventions presenting a substantial and specific danger to the **environment**.
- A **reprisal** taken against someone because of a belief that a person has made, or intends to make a PID disclosure.

To be a PID, the discloser must have a 'reasonable belief' that the wrongdoing has occurred or provide evidence which objectively tends to show the wrongdoing has occurred.

A disclosure amounts to a PID and is covered by the PID Act even if it is not substantiated, provided the discloser honestly believed on reasonable grounds that the available information showed the conduct or danger concerned. This means you should disclose anything you think may be a PID. You do not need proof, as long as you have reasonable suspicion that it occurred. If in any doubt, seek advice from the PID Coordinator.

A PID disclosure may be made anonymously – the discloser is not required to give their name or any identifying information.

Disclosures that are **not protected** by the PID Act, include:

- disclosures made to a journalist (except in the circumstances listed below)
- those made frivolously
- those which primarily question the relative merits of government or agency policy
- those that are made substantially to avoid disciplinary action.

It is an offence under the PID Act to intentionally give information that is false or misleading.

A disclosure can **only** be made to a **journalist** if the following conditions have been met:

- A valid PID was initially 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 discloser within six months from when 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, DJAG staff 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.

Complaints that do not reach the threshold of a PID, such as dissatisfaction about staff conduct that does not constitute corrupt conduct or maladministration, should be pursued by following either the DJAG [Employee Complaints Policy](#) or [Client Complaint Management Policy](#).

6. Who is covered by this policy?

This policy provides guidance to members of the Council and staff of the QSAC Secretariat. It also provides information and guidance to members of the public who wish to make a PID.

Disclosures about public servants employed by the Council are not covered by this policy. For this type of complaint, please see the [DJAG Public Interest Disclosure Policy](#).

7. To whom should I make the disclosure?

A PID must be made to the 'proper authority' to receive disclosures of the type being made.

If you wish to make a PID, or if someone discloses something to you which may be a PID, the Council's preferred approach is that you immediately contact the PID Coordinator, who is the Secretariat Director. You can, however, make a disclosure to any individual member of the Council, who will consult with you in determining who the responsible officer for the PID will be.

If you think these officers are not appropriate, you can make a disclosure to the Executive Director, Ethical Standards Unit, DJAG.

Alternately, you can make your disclosure to any external entity with the power to investigate or remedy the matter for which they are the proper authority, for example:

- the Queensland Police Service, if it concerns criminal conduct
- the Crime and Corruption Commission, if it concerns corrupt conduct or suspicions of corrupt conduct including reprisal
- the Queensland Ombudsman, if it concerns maladministration
- the Queensland Audit Office, if it concerns a substantial misuse of resources
- a Member of Parliament (although a Member of Parliament does not have an investigative role, but rather will pass the matter on to another appropriate authority).

If the disclosure relates to the alleged conduct of:

- the Secretariat Director – make the disclosure to the Executive Director, Ethical Standards Unit, the Crime and Corruption Commission, the Queensland Ombudsman or a Member of Parliament
- the Director-General – make the disclosure to the Executive Director, Ethical Standards Unit, the Crime and Corruption Commission, the Queensland Ombudsman or a Member of Parliament, or
- the Executive Director, Ethical Standards Unit or staff of the Unit – make the disclosure to the Director-General, the Crime and Corruption Commission, the Queensland Ombudsman or a Member of Parliament.

8. How do I make a disclosure?

Your disclosure can be made either orally (by telephone or in person) or in writing, and anonymously if you prefer.

Where an employee receives an oral disclosure that may amount to a PID they should request the discloser put the details in writing. If they are unable or unwilling to do so, the employee receiving the PID should document it and ask the discloser to confirm the contents before signing it. If circumstances (e.g. a telephone caller who remains anonymous) prevent this occurring, the officer receiving the PID should record the date, time and circumstances of the PID. It should then be forwarded to the PID Coordinator (Secretariat Director) or the Executive Director, Ethical Standards Unit, DJAG.

The Council has established a dedicated email inbox – QSAC-PID@sentencingcouncil.qld.gov.au – to enable a PID to be reported via email.

The best way to make an anonymous report of wrongdoing is to do so via email to the QSAC PID email.

Where possible, be prepared to give information about:

- the name, job title and workplace address of the person the subject of your disclosure
- details of relevant events, dates and places
- the names of people who may be able to back up what you say
- any other evidence that supports your view.

9. Where do I make a disclosure?

If you wish to make a disclosure to **the Council** please use the following details:

Name	Email contact	Postal address	Street address	Telephone
Director PID Coordinator	QSAC- PID@sentencingcouncil. qld.gov.au	GPO Box 2360 BRISBANE QLD 4001	Level 25 50 Ann Street Brisbane	07 3738 9897

If you wish to make a disclosure to **DJAG** please use the following details (please call for an appointment if you wish to report in person):

Name	Email contact	Postal address	Street address	Telephone
Executive Director, Ethical Standards Unit DJAG	ethicalstandards@justic e.qld.gov.au	GPO Box 69 BRISBANE QLD 4001	Level 13 50 Ann Street Brisbane	07 3738 9822

If you wish to make a disclosure to the **Crime and Corruption Commission**, please use the following details (please call for an appointment if you wish to report in person).

Name	Email contact	Postal address	Street address	Telephone
Director, Complaints Section Crime and Corruption Commission	mailbox@ccc.qld.gov.au	GPO Box 3123 BRISBANE QLD 4001	Level 2, North Tower Green Square 515 St Pauls Terrace Fortitude Valley, Brisbane	07 3360 6060 1800 061 611 (toll free outside Brisbane)

10. What support and protection is available to me if I make a PID?

The Council will ensure that anyone making a PID is provided with support and protection from any potential reprisal action. The responsible officer will take your concerns seriously and ensure the protection of your privacy and confidentiality (as far as possible) throughout the process.

The level of support afforded to those making disclosures will depend on an assessment of their needs over the course of the PID management process (see section 11). The responsible officer will conduct a risk assessment as early in the process as possible to determine the risk of reprisal action and any associated steps or supports to be provided to a discloser (**Appendix B** provides a set of templates for use by the responsible officer in undertaking this task).

Supports that can be provided to someone who has made a disclosure include:

- information about the PID process and updates about progress in relation to the disclosure
- help to manage expectations and prepare for stressful situations
- information about services provided by external organisations that can offer more professional or structured support with stress management, or other counselling support
- monitor the workplace for potential reprisal or conflict arising from the disclosure
- appointment of a dedicated PID Support Officer.

Where appropriate, appointment of a PID Support Officer will be made by the Council for any discloser, subject officer or witness who is involved in the management of a PID, regardless of whether they are an employee or a non-employee. The PID Support Officer will be a QSAC officer, or other appropriate DJAG officer, appointed by the responsible officer.

In appointing a PID Support Officer, the responsible officer will ensure the PID Support Officer has been briefed about their role and responsibilities, and offered assistance where required.

If you are an employee (or Council member), you are also free to access the Employee Assistance Program for additional support. The responsible officer can assist you to access this service. The Employee Assistance Program provides free, professional counselling and well-being support to all employees and their immediate family members (including partner, child, or other family members residing with the employee). The service provider's telephone number is 1800 604 640.

Any person who makes a PID, whether an employee or any other person, can contact the Office of the Queensland Ombudsman, which can provide information and advice for people who are considering making or who have made a PID.

If an employee suffers an injury (including a psychological condition), which could have been prevented by the Council taking appropriate steps to provide support, the employee may be able to seek compensation under the *Workers' Compensation and Rehabilitation Act 2003* (Qld).

For those making a PID, section 36 of the *Public Interest Disclosure Act 2010* states that a person is not liable civilly, criminally or under an administrative process for making a PID. Under section 73(2)(f) of the *Industrial Relations Act 1999*, it constitutes an unfair dismissal if an employee is dismissed on the basis of making a PID or because of a belief that an employee has made or may make a PID in accordance with the PID Act.

If you make a disclosure, you are reminded that the matter must remain confidential and you are directed to maintain the integrity of the process by not discussing it with your work colleagues or others unconnected with it. Section 65 of the PID Act creates a penalty if a person recklessly discloses information provided under the PID Act. Please note that the confidentiality provision will not preclude you from sharing this information with a union representative/support person.

Where required, interpreters or other assistance will be provided to employees or other persons wanting to make a PID.

For more information on how to make a PID read *Thinking about blowing the whistle*, a guide for individuals working in the public sector. This is available on the website of the Queensland Ombudsman: <https://www.ombudsman.qld.gov.au>

11. What support and protection is available to me if someone makes a PID against me?

The Council will uphold the rights of any person who is the subject of, or is in some way associated with, a disclosure. As a person against whom a PID is made, you are entitled to confidentiality, the presumption of innocence and procedural fairness.

Employees who are the subject of an allegation may seek assistance from a union and may wish to consider obtaining legal advice. Employees may utilise the services of the Employee Assistance Program for advice and counselling (phone 1800 604 640). This service provides free confidential counselling and support to staff through stressful times.

Protection exists for those against whom an intentionally false PID is made. It is an offence under section 66 of the PID Act, punishable by up to two years imprisonment, to intentionally make a false or misleading statement intending it to be acted upon as a PID.

If you are a person against whom a PID has been made, you are reminded that by participating in an investigation of a PID, staff are performing their duty in accordance with the Code of Conduct, and should not be treated adversely as a result. Any substantiated allegations of adverse treatment of staff on these grounds may result in disciplinary action being taken against you and may, in itself, form the grounds for a PID.

12. The PID management process

The following steps outline the assessment and investigation process that will be undertaken as soon as practicable following the receipt of a PID.

Acknowledging receipt of a disclosure

1. The responsible officer receiving the disclosure will acknowledge its receipt from the discloser in writing as soon as practicable (unless there are no contact details for the discloser). If a PID has been received from another agency, the responsible officer will also acknowledge receipt of the PID in writing to the discloser, and if there are no contact details for the discloser, receipt will be acknowledged in writing to the relevant agency.

Assessment of a disclosure

2. The responsible officer receiving the disclosure (Secretariat Director or Executive Director, Ethical Standards Unit), will make an assessment to determine if:
 - the disclosure is a matter about which a PID can be made
 - the disclosure meets either the subjective or objective test set out in the PID Act
 - the disclosure has been made to an individual or entity who may receive a PID
 - whether the disclosure is to be referred to another agency for review and investigation, such as the Crime and Corruption Commission.

This assessment will not take into account any irrelevant consideration, such as:

- how it was received
 - if it was made anonymously
 - if the information identifies the conduct of a particular person
 - if the discloser identifies the information as a PID
 - whether the discloser wishes to proceed with the PID.
3. If a matter does not meet the eligibility criteria outlined above, the responsible officer will notify the discloser in writing as to why the disclosure has not reached the threshold of a PID, as well as providing an outline of how the disclosure will be further managed and finalised. The responsible officer will also advise of the review rights available if the discloser is dissatisfied with the decision and how to request a review.
 4. If it is unclear whether the complaint can be assessed as a PID, further information may be obtained by the Ethical Standards Unit to inform the decision. If doubt still remains, the responsible officer will treat the disclosure as though it were a PID and apply the PID Act to the management of the disclosure.
 5. If a complaint has been assessed as falling within the eligibility criteria of a PID as outlined above in point 2, the responsible officer (Secretariat Director or Executive Director, Ethical Standards Unit) will conduct a risk assessment to determine the support needs of the discloser, the risk of reprisal to the discloser or other person associated with a PID, and any risk that the confidentiality of the disclosure or person making the PID may be compromised. A plan will be established by the responsible officer to respond to the level and nature of the risks identified, which will ensure risks can be mitigated as far as possible over the course of the investigation and following the resolution of the PID. If the risk of reprisal is determined to be high, a specific protection plan will be put in place, in consultation with the discloser and any other relevant stakeholders.
 6. Where it has been determined that the complaint meets the eligibility criteria of a PID, the responsible officer will write to the discloser. This correspondence will:
 - acknowledge that making the PID was the right thing to do
 - make it clear that the Council will support the discloser
 - provide information about the protections that apply under the PID Act
 - outline that the discloser's identity and the information disclosed will be kept confidential, except as allowed under the PID Act
 - explain the discloser's obligation to maintain confidentiality, except as allowed by the PID Act

- outline the action the responsible officer proposes to take and the likely timeframe
- detail the discloser's likely role as part of the proposed action to be taken
- outline how the discloser will be kept informed about progress, and at what likely intervals
- explain the steps taken to provide support to the discloser, including the contact details of any PID Support Office assigned and, where relevant, the details of the DJAG Employee Assistance Program
- provide information about who to contact if the discloser requires further information, or if they are concerned about reprisals.

7. The responsible officer will:

- Appoint an appropriate person, separate to the investigative function, to oversee and ensure the discloser has access to adequate support and protection from reprisal; this will include regular review and update of the risk assessment for the discloser as the risk of reprisal is re-assessed
- Regularly check on the discloser's wellbeing, or ensure a PID Support Officer does so
- Liaise with DJAG's Human Resources unit if the health and wellbeing of the discloser becomes a concern.

Investigation of a PID

8. If a decision is made to investigate a PID, this will be done with consideration for the:

- Principles of natural justice
- Obligations under the PID Act to protect confidential information;
- Obligation under the PID Act to protect officers from reprisal;
- Interests of subject officers.

9. If a PID requires investigation, the PID Coordinator (Secretariat Director), will be responsible, unless the PID relates to the conduct of the PID Coordinator, in which case the responsible officer will be the Executive Director, Ethical Standards Unit. An investigation may be conducted internally within the Council, or an external investigator may be engaged.

10. The responsible officer will establish a formal terms of reference for the investigation, which will include:

- that reasonable steps will be taken to protect the discloser and others from reprisal
- that officers conducting the investigation will comply with the confidentiality obligations at section 65 of the PID Act
- reference to the standards issued by the Office of the Queensland Ombudsman
- reference to the investigator's obligation to continually monitor the matter for information indicating a breach of legislation that must or may be referred to another entity with jurisdiction to deal with the matter
- that reasonable steps will be taken to ensure the investigation of the PID is conducted in accordance with the principles of natural justice
- that the investigation will consider the individual issue and also take a systems view of the matter, to identify any systemic issues that gave rise to the PID or where identified during the investigation, and any action that should be taken to address these
- that the final investigation report include advice as to appropriate corrective or disciplinary action that could be considered by the Council or DJAG.

At the conclusion of the investigation, the investigator is to evaluate whether there is any evidence of a breach of an offence provision under the PID Act, and if so, to recommend what action needs to be taken.

11. Once the investigation is completed and relevant agencies and other decision makers consulted, corrective or disciplinary action will be taken by the Council, DJAG or other appropriate authority, where appropriate.
12. Correspondence will be issued to all officers involved in the process to notify them of the outcome of the PID assessment and investigation process, and about their review rights (see section 14 below).

Assistance and guidance from DJAG's Human Resources or Ethical Standards units will be sought by the Council as necessary.

Complaints made to other agencies (e.g. to the Crime and Corruption Commission) regarding the conduct of Secretariat staff and Council members, staff from the DJAG Ethical Standards Unit or by the Director-General will follow that agency's assessment and investigation process.

13. How will any potential reprisal be managed?

A reprisal is defined by the PID Act as any attempt to cause detriment to another person in the belief that:

- the other person or someone else has made a PID
- the other person or someone else is, has been, or intends to be involved in a proceeding under the PID Act against any person.

It is an offence under the PID Act to take reprisal action against someone who has made a PID.

If you believe you have been disadvantaged or subjected to a reprisal for making a disclosure, you should raise the issue with the responsible officer or with an appointed PID Support Officer.

The Council will take all action to minimise reprisals, and will monitor the workplace to ensure all officers are safe at work. The safety of a discloser or affected third party will be prioritised, and any risk strategy in place will be reviewed and strengthened if required.

The Council will also ensure that an individual who is not an employee of the Secretariat or DJAG will be similarly protected from reprisal action. This may involve the responsible officer or the appointed PID Support Officer making contact with the employer or workplace of a person who is external to the Secretariat or DJAG, to discuss the risk strategy if necessary (and only with the consent of the discloser).

If there is alleged or suspected reprisal action detected or reported, the Council will determine if it comprises conduct that must or may be referred to another entity with jurisdiction to deal with the conduct (for example, the Crime and Corruption Commission, Queensland Police Service, Public Service Commission, or Ethical Standards Unit in DJAG). The responsible officer will advise the discloser that a complaint of reprisal can be made as a separate PID, which will be subject to the same process as the original disclosure. Any additional support required by the discloser as a result of alleged, suspected or reported reprisal action will be provided by the Council following a review of the risk strategy.

Under section 47 of the PID Act, a public service employee has a right to apply for relocation if:

- it is likely a reprisal will be taken against the officer if they continue in the existing work location
- the only practical way to remove or substantially remove the danger of a reprisal is to relocate the employee.

A decision not to relocate an employee who has made an application under section 47 of the PID Act is a reviewable decision.

14. Referring the PID to another agency

In certain circumstances, the responsible officer is obliged to refer matters to another agency. This includes:

- matters of suspected corrupt conduct, which must be referred to the Crime and Corruption Commission under the *Crime and Corruption Act 2001*
- if the conduct reported amounts to a criminal offence, which should be referred to the Queensland Police Service or the Crime and Corruption Commission.

Section 31 of the PID Act enables the Council to refer a disclosure to another public sector entity (the referral entity) for investigation, if the disclosure is about:

- the conduct of the referral entity or an employee of the referral entity
- the conduct of an entity, or another matter, that the referral entity has the power to investigate or remedy.

However, the responsible officer must not refer a disclosure if there is an unacceptable risk of a reprisal being taken. To determine whether such a risk exists, the responsible officer must conduct a referral risk assessment in consultation with the discloser, unless it is not possible to do so. If the discloser is anonymous, the referral risk assessment will consider the information disclosed in the PID and any other information reasonably available to make a risk determination. Consent of the discloser must be sought if the discloser's identity is to be referred to another agency, subject to the exceptions provided at section 65(3) of the PID Act.

The responsible officer will notify the discloser in writing about their decision to refer the matter to another agency, and will outline what actions have been taken to minimise any risk to the discloser of the referral.

These procedures do not override an obligation under another law to report a matter, such as the duty of the responsible officer to report corrupt conduct.

15. What action may be taken as a result of a disclosure?

The PID Act provides that an agency may decide not to investigate or deal with a PID if:

- the substance of the disclosure has already been investigated or dealt with by another appropriate process
- the agency reasonably considers the disclosure should be dealt with by another appropriate process
- the age of the information the subject of the disclosure makes it impracticable to investigate
- the entity reasonably considers the disclosure is trivial and does not warrant investigation, and that dealing with the disclosure would substantially and unreasonably divert agency resources away from the performance of its functions
- another entity that has jurisdiction to investigate the disclosure has notified the agency that investigation of the disclosure is not warranted.

Other action that may be taken will depend on the seriousness of the alleged conduct, however in the first instance, the Council will refer the disclosure to the Ethical Standards Unit or the Crime and Corruption Commission for their investigation.

16. Right of review

If the Council decides to take no further action following receipt of the PID, written reasons will be provided to the discloser within 14 days of receipt of a written disclosure. A discloser may appeal to the Council Chair within 28 days of receiving the written decision to take no further action.

If a discloser is not satisfied with the outcome of the management of the PID, the discloser can request further information from the Council or may contact the Ethical Standards Unit, or the Queensland Ombudsman to request a review of the matter (natural justice).

The discloser may also wish to seek independent legal advice or apply to the Supreme Court for a review of the decision under the *Judicial Review Act 1991*.

17. Confidentiality

Under section 65 of the PID Act it is an offence for a person to make a record of, or intentionally or recklessly disclose confidential information received in the administration of the Act to anyone, except where authorised to do so by the Act.

A person who has gained confidential information in the administration of the PID Act is permitted to make a record of the information and disclose it:

- for the purposes of the PID Act
- to discharge a function under another Act including, for example, to investigate something disclosed by a public interest disclosure
- for a proceeding in a court or tribunal
- if the person to whom the confidential information relates has consented in writing to the making of the record and the disclosure of it
- if consent cannot be obtained, but the making of the record or disclosing the information is unlikely to harm the interests of the person to whom it relates
- if making the record or disclosing the information is necessary to provide for the safety or welfare of a person
- if authorised under a regulation or another Act.

These confidentiality requirements do not affect an obligation a person may have under the principles of natural justice to disclose information to a person whose rights would otherwise be detrimentally affected. However, disclosing information that is likely to disclose the identity of a person may only be done if it is essential to do so under the principles of natural justice, and reprisal action has been assessed as unlikely.

The Council will consult with the discloser if confidentiality has been, or may reasonably be expected to be, compromised. To ensure effective management of individual situations, the responsible officer (Secretariat Director or Executive Director, Ethical Standards Unit), will work out an appropriate plan, which involves:

- advising the discloser before information is released
- ensuring open communication to keep the discloser informed of the status of the matter
- offering support from the Council and other services such as the Employment Assistance Program
- monitoring the situation.

Strict confidentiality will be maintained at all times in relation to reporting and investigating PIDs. All Council records of PIDs will be securely stored in a manner which protects the personal information of all officers involved.

18. Record-keeping and reporting of PIDs

The Council Chair will ensure records of any PID made to the Council are maintained within eDocs with access restricted to the PID Coordinator. The following information will be recorded:

- all relevant dates associated with the PID - the date it was received, the date an initial risk assessment was completed, the date the assessment was completed, the dates when the investigation was commenced and completed, and the dates of when the discloser was notified of the outcome of the PID assessment and investigation
- the name of the person making the disclosure (if this is known), as well as the status of the discloser (e.g. Secretariat staff, Council member, member of the public, Member of Parliament, other public sector entity) and the location of the discloser

- the information disclosed, particularly the name, status (Secretariat staff or Council member) and location of the subject officer
- if the PID relates to reprisal action taken associated with another PID, the details and history of the original PID
- the relationship, if any, between the discloser and the subject officer
- the involvement of any external individual or agency
- the action taken to minimise any risk of reprisal, including whether or not a PID Support Officer or other support was assigned to the discloser
- the outcome of the assessment and/or investigation
- if no action was taken, the reason for the decision
- if the discloser requested a review of a decision to take no action, the basis for the request, and the dates and outcomes associated with any review
- an explanation why any investigation was discontinued
- details about any other legal, appeal or other complaint processes associated with the disclosure, including any outcomes of these
- information about the resolution action that was taken in response to the PID.

The PID Coordinator is required to provide information about any PID received by the Council to the office of the Queensland Ombudsman, which performs an oversight role for PIDs across the Queensland Government. This information will be entered into the Ombudsman’s RaPID reporting database as soon as possible, but no more than 30 days after having assessed a disclosure as a PID, and updated as soon as possible, but no more than 30 days of finalising the PID.

Any hard copy document relevant to a disclosure will be retained in a locked cabinet in the office of the PID Coordinator.

19. Review of this policy

This policy will be reviewed at least annually by the QSAC Director, along with the Council’s Complaint Management Policy. The reviewed policy will be tabled at a Council meeting for approval.

20. Definitions

Term	Definition
Confidential information	As defined in section 65 of the PID Act
Corrupt conduct	As defined in section 15 of the Crime and Corruption Act 2001
Detriment	As defined in schedule 4 of the PID Act
Disability	As defined in section 11 of the Disability Services Act 2006
Discloser	A person who makes a disclosure in accordance with the PID Act
Investigation	Any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.
Journalist	As defined in section 20(4) of the PID Act
Maladministration	As defined in schedule 4 of the PID Act
Natural justice	Natural justice, also referred to as ‘procedural fairness’ applies to any

	<p>decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law a safeguard applying to an individual whose rights or interests are being affected.</p> <p>The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, and:</p> <ul style="list-style-type: none"> • avoid bias; • give a fair hearing; • act only on the basis of logically probative evidence.
Oversight agency	As defined in section 58 of the PID Act
Proper authority	As defined in section 5 of the PID Act
Public officer	As defined in section 7 of the PID Act
Public sector entity	As defined in section 6 of the PID Act
Reprisal	As defined in schedule 4 of the PID Act
Subject officer	An officer who is the subject of allegations of wrongdoing made in a disclosure
Substantial and specific	<p>Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance.</p> <p>Specific means 'precise or particular'. This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms</p>
Support	<p>For the purposes of this procedure, support means actions such as, but not limited to:</p> <ul style="list-style-type: none"> • providing moral and emotional support • advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure • appointing a PID Support Officer to assist the discloser through the process • referring the discloser to the Office's Employee Assistance Program or arranging for other professional counselling • generating support for the discloser in their work unit where appropriate • ensuring that any suspicions of victimisation or harassment are dealt with • maintaining contact with the discloser • negotiating with the discloser and their support officer a formal end to their involvement with the support program when

	it is agreed that they no longer need assistance.
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21. Relevant legislation

[Anti-Discrimination Act 1991](#)

[Crime and Corruption Act 2001](#)

[Disability Services Act 2006](#)

[Human Rights Act 2019](#)

[Ombudsman Act 2001](#)

[Public Interest Disclosure Act 2010](#)

[Public Records Act 2002](#)

[Public Sector Ethics Act 1994](#)

22. Related Policies and Procedures

[Code of Conduct](#)

Council's Code of Conduct

Council's Complaints Management Policy

[Employee Complaints Policy](#)

[Client Complaint Management Policy.](#)

23. Supporting information

[Public Interest Disclosure Standards No. 1/2019, No. 2/2019 and No. 3/2019](#)

[What is a public interest disclosure](#)

[A checklist for making a public interest disclosure](#)

[Discloser information and support](#)

Appendix A

Making or receiving a public interest disclosure

A guide for Council members and Secretariat staff

Any disclosure of improper conduct made either by a colleague, another public servant, or someone external to the public service such as a stakeholder or member of the community, should be considered to be a public interest disclosure (PID) that is relevant to the *Public Interest Disclosure Act 2010* (PID Act), until it is decided otherwise.

Improper conduct that forms the basis of a PID includes:

- corrupt conduct (defined by the *Crime and Corruption Act 2001*)
- maladministration
- substantial misuse of public resources
- any conduct that causes substantial and specific danger to public health or safety or to the environment.

This Guide has been designed to assist members of the Queensland Sentencing Advisory Council (QSAC), or staff in the Council Secretariat, who receive information that could form the basis of a PID. It supports the QSAC PID Policy and Procedures, which is the overarching source of information about how the Council manages PIDs.

You may become aware of behaviour that should be disclosed to a responsible officer in a number of ways:

- You may observe behaviour that you feel does not meet the requirements of the whole-of-government Code of Conduct or the Council's Code of Conduct
- A colleague may confide in you about an observation of improper behaviour
- You may overhear colleagues speaking about improper behaviour.

In any of these circumstances, the steps are the same.

Step 1

Document what you have observed or heard. The person investigating the PID will need the following information:

- 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
- Any contact information for the person making the disclosure.

Even if you do not have all this information, a PID can still be reported; in fact, a PID can be made anonymously, although some ability to contact anonymously (such as an anonymous email address) will assist the Council to keep the discloser up to date with actions that have been taken.

Step 2

If you did not observe the behaviour yourself, approach the person who did observe it. Acknowledge the importance and value to QSAC of making a report of wrongdoing. Ask them whether they would be prepared to formalise a complaint, and explain that they will be protected by the Council and by the provisions of the PID Act. In particular, explain that the PID Act protects a discloser in the following ways:

- immunity from liability
- protection from defamation action
- protection from any reprisal action
- confidentiality – and, in fact, this also applies to the discloser.

Let them know that specific supports will be put in place to ensure their safety. These supports will be based on a risk assessment of the likelihood of reprisal action and can include:

- information about the PID process and updates about progress in relation to the disclosure
- help to manage their expectations and prepare them for stressful situations
- information about services provided by external organisations that can offer more professional or structured support with stress management, or other counselling support
- monitoring the workplace for potential reprisal or conflict arising from the disclosure
- appointment of a dedicated support officer.

It is important to let them know that disciplinary action can and will be taken in any case of reprisal to a discloser.

Step 3

If you are the discloser, approach the responsible officer under the Council's PID Policy and Procedures – the Director (who is the Council's PID Coordinator), or the Executive Director of DJAG's Ethical Standards Unit if the complaint relates to the Director. This can be done by email if there is concern about confidentiality in the office.

If you receive information from a discloser who does not wish to make the disclosure, report what you know to the PID Coordinator or the Executive Director of DJAG's Ethical Standards Unit. They may be able to proceed on the basis of the information you have provided.

Your obligations

Please remember - you are responsible for keeping any PID information completely confidential. In fact, if you do disclose information about the PID, this is an offence under the PID Act. One of the principle aims of the PID Act is to protect a discloser from being identified if possible, and to protect them from any potential reprisal action. This means you must not post anything on social media about the PID.

If you receive correspondence from the Council or from DJAG about the PID, retain this somewhere discrete and secure.

Finally, and most importantly, you must report any reprisal action arising from the disclosure, whether you have experienced it, observed it, or heard about it. Reprisal action is unlawful and an offence under the PID Act, and the Council will take action against it.

Appendix B

Public Interest Disclosure Risk Assessment and Risk Management Guide

In order to comply with the requirements of the Public Interest Disclosure Act 2010 (the PID Act) and the Public Interest Disclosure standards, a risk assessment must be completed as soon as practicable after assessing a PID. The risk assessment should be reviewed on a regular basis, and amended as required, until the management of the PID is finalised.

In conducting a risk assessment, consider the nature of the risks, the consequences if reprisals occur, the likelihood of reprisal occurring and the timeframe/s in which the risks of reprisal may arise.

Internal reference:	
Assessor:	
Date:	
Which party is this risk assessment prepared for?	<input type="checkbox"/> Discloser <input type="checkbox"/> Subject officer/s <input type="checkbox"/> Witness/es <input type="checkbox"/> Other (specify)

Have you:

- explained the PID management process to each party (where appropriate)
- consulted with each party (where practicable) about any potential risks they have identified
- explained your agency’s obligations in relation to confidentiality, the exceptions to confidentiality, and the limitations with respect to affording natural justice to a subject officer
- provided information to each party about their responsibilities and what they can expect, particularly when it comes to their obligations to maintain confidentiality
- provided advice on what outcomes can reasonably be expected.

1. Risk Assessment

What harm?	
Reasons:	<p><i>What is the nature of the risks? What types of harm are possible, both when the PID is initially made and during the process of managing the PID?</i></p> <p><i>Example types of harm include:</i></p> <ul style="list-style-type: none"> • stress • isolation • harassment and intimidation • withholding of resources needed to perform role • physical harms • denial of career opportunities • unreasonable performance management

	<ul style="list-style-type: none"> • <i>financial loss</i> • <i>damage to reputation</i> • <i>damage to property</i> • <i>refusal of access to training and professional development</i>
What consequences?	
<p> <input type="checkbox"/> Minor <input type="checkbox"/> Moderate <input type="checkbox"/> Significant </p> <p>Reasons:</p>	<p><i>What is the potential impact of the harms?</i></p> <p><i>Will the impact be limited and transitory, with the party having the capacity to readily deal with it?</i></p> <p><i>Will the impact have consequences for the party which will affect their work-life and potentially their personal wellbeing and home life, requiring proactive support to effectively manage?</i></p> <p><i>Will the consequences be short-term, medium-term or long-term in nature?</i></p>
What likelihood?	
<p> <input type="checkbox"/> Unlikely <input type="checkbox"/> Possible <input type="checkbox"/> Likely </p> <p>Reasons:</p>	<p><i>What is the likelihood of risks occurring, particularly if confidentiality cannot be maintained?</i></p> <p><i>Will the likelihood of reprisal be exacerbated by the presence of any of the following factors:</i></p> <ul style="list-style-type: none"> • <i>the number of subject officers involved?</i> • <i>the seniority of the subject officer/s?</i> • <i>the number of people who know the discloser has raised the issue?</i> • <i>the seriousness of the alleged wrongdoing?</i> • <i>any history of conflict in the workplace?</i>

Evaluation of risk

	CONSEQUENCE		
LIKELIHOOD	MINOR	MODERATE	SIGNIFICANT
UNLIKELY	Low	Low	Medium
POSSIBLE	Low	Medium	High
LIKELY	Medium	High	High

This matter has been assessed as being:

- High risk
- Medium risk
- Low risk

Additional comments:

2. Risk Management

What treatment?	
	<p>What strategies will be implemented to eliminate, minimise or manage the risks to parties involved in the PID?</p> <p>Possible strategies include:</p> <ul style="list-style-type: none"> • maintain confidentiality to the extent possible, and ensure all parties are aware of their obligations • appoint a PID Support Officer • proactively advise subject officers about the consequences of taking reprisal action • alter reporting structures • increase monitoring of the work environment • temporarily relocate the subject officer to a different location/ role • independently verify the work performance of the discloser • provide access to specialist support services if required
Signature and date:	

3. Risk Management Review

Review of risk treatment plan	
	<p>Periodically monitor the effectiveness of the risk treatment plan (in consultation with the party or parties concerned) and identify any amendments required.</p>
Signature and date:	