

Public Interest Disclosure Procedure

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V1.0	August 2012	Drafted and Reviewed by ethical Standards Branch, Public Service Commission
V1.1	June 2015	Reviewed based on changes to Crime and Corruption Commission Act 2001 and recommendations from Queensland Ombudsman.
V1.2	July 2018	Administrative amendments
V2.0	December 2020	Reviewed to comply with new Public Interest Disclosure Standards

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1. Purpose

The purpose of this procedure is to:

- establish a system for reporting, recording, managing and investigating public interest disclosures (PIDs).
- ensure reasonable procedures are in place to offer protection from reprisals to a person making a PID.
- ensure appropriate support and information is provided to members of the public making disclosures.

2. Legislation and Related Information

This procedure has been prepared to comply with the [Public Interest Disclosure Act 2010](#) and the [Public Interest Disclosure Standards published by the Queensland Ombudsman](#).

The procedure should be read in conjunction with the PID Policy, PID Management Program and TEQ's Code of Conduct.

Other relevant legislation includes:

- Crime and Corruption Act 2001
- Public Sector Ethics Act 1994

3. Definitions

Term	Definition
Discloser	The person who makes the PID.
Subject Officer	The person about whom a PID is made
PID Coordinator	The PID Coordinator delegated by the CEO, is responsible for educating employees and the overall management of the PID process, including acting as a principal point of contact.
Support Officer	The person delegated by the Chief Executive Officer or the PID Coordinator with responsibility for providing support to a disclosure, subject officer or witness who is involved in the management of a PID
Corrupt Conduct	Corrupt Conduct is defined formally in the Crime and Corruption Act 2001 but can be summarised as being any conduct relating to the performance of an officer's duties that is dishonest, lacks impartiality, involves a breach of trust or a misuse of officially obtained information. To be corrupt conduct, the conduct must, if proven, be a criminal offence and/or be serious enough for which dismissal is considered to be one of the disciplinary options available. Trying to influence a public official to act improperly is also classed as corrupt conduct
Reprisal	A person must not cause or attempt to cause detriment to another person because (or in the belief) that person has made or intends to make a PID and includes physical and psychological injury, property damage/loss, intimidation, harassment, threats, discrimination or disadvantage.

4. PID Process

4.1 Receiving a PID

The PID Coordinator must if possible (e.g. if it is not received anonymously) inform the discloser:

- that an acknowledgement of receipt will be sent to them;
- that the information provided needs to be assessed in order to determine whether it is a disclosure or not; and
- that notification of the assessment outcome will be sent to the discloser, if a postal or email address has been provided.

4.2 Assessing a PID

Information provided by the discloser must be assessed to determine the nature of it; how it should be dealt with; who should be involved; and whether further information is required. For an allegation to be considered a PID and attract the protections under the [PID Act](#) it must meet the following three elements:

1. **Public interest information** about substantial and specific wrongdoings or danger as defined under the [PID Act](#).
2. **An appropriate disclosure:** The person disclosing the information must have an honest belief, on reasonable grounds, that there is wrongdoing or danger (subjective test), or the information must tend to indicate the wrongdoing (objective test).
3. **Made to a proper authority:** For example, a public sector entity (e.g. TEQ, QLD Audit Office) Crime and Corruption Commission (for corrupt conduct), Queensland Ombudsman (for maladministration), a Member of the Legislative Assembly, or a Chief Judicial Officer (if the disclosure relates to a wrongdoing by a judicial officer).

If the information falls outside the above scope, a complaint may still be made. However, this will not be a PID under the [PID Act](#) and the particular requirements for confidentiality and protections otherwise provided by the [PID Act](#), will not apply. The discloser will be notified of the outcome of the assessment, including an alternative course of action where applicable.

4.3 Deciding on what action to take

The PID Coordinator will make an assessment as to whether TEQ is able to investigate the disclosure internally or whether the matter should be referred to another proper authority, an independent investigator or the Crime and Corruption Commission such as with matters of corrupt conduct. Before referring the PID, TEQ will conduct a risk assessment and will not proceed with the referral if there is an unacceptable risk of reprisal.

4.4 Notifying discloser of result of assessment

No action required if:

- the disclosure has already been investigated or dealt with by another appropriate process.
- the disclosure should be dealt with by another appropriate process.
- the age of the information is impracticable to investigate.
- the disclosure is minor enough not to warrant an investigation and that treating the matter as a PID would not be using TEQ's resources appropriately.
- another entity that has jurisdiction to investigate the disclosure has notified TEQ that investigation of the disclosure is not warranted.

TEQ will provide reasons for its decision to the discloser for not investigating the disclosure. After receiving the written reasons, a discloser may apply to the Chief Executive Officer or PID Coordinator for a review of the decision within 28 days of receipt.

An administrative review can be made by contacting the Queensland Ombudsman if dissatisfied with the management or outcome of a PID.

Action will be required if:

a disclosure meets the definition of a PID. The PID Coordinator must provide the discloser with reasonable information about the disclosure in writing, such as:

- confirmation that the disclosure was received by TEQ
- a description of the action proposed to be taken, or taken, by TEQ in relation to the disclosure, which could include referring the matter to an external agency; likely timeframes;
- their involvement in the investigation process, e.g., providing further information to other jurisdictions;
- the protections under the [PID Act](#) that will apply,
- their responsibilities, e.g. maintaining confidentiality
- that TEQ will keep the appropriate records and maintain confidentiality, except in certain circumstances allowed under the [PID Act](#),
- who the contact person is, should they require any additional information, or are concerned about reprisals.

4.5 Identifying the risk of reprisal:

As soon as possible after receiving a PID, the PID Coordinator will arrange a risk assessment to determine the level of risk of a reprisal to the discloser and to any other persons associated with the disclosure.

Appropriate protections proportionate to the level of risk and the potential consequences of a reprisal will be put in place where a risk has been identified.

The risk and effect of reprisal action can often be minimised through a range of actions. For PIDs made by employees, actions may include:

- relocating parties involved.
- offering flexible work arrangements, including working from home.
- offering appropriate information regarding protections and actions available to the discloser that are consistent with the PID Act, including referring the discloser to the Queensland Police Service if they have concerns regarding safety outside of work.

For PIDs made by members of the public, actions may include:

- offering support and counselling to the discloser.
- offering appropriate information regarding protections and actions available to the discloser that are consistent with the PID Act, including referring the discloser to the Queensland Police Service if they have serious concerns regarding safety.

Sharing information with disclosers:

TEQ is not required to provide disclosers with information under the [PID Act](#), if it is likely to adversely affect:

- anybody's safety or
- the investigation of an offence or possible offence

4.6 Discloser support and protection

Employees:

As soon as possible after receiving a PID, the PID Coordinator will make a determination regarding the level of protection and support appropriate for a discloser by conducting a risk assessment of the potential for a reprisal against the discloser and others associated with the discloser

Support is available to employees through:

- **Management support** (if appropriate)

Leaders are usually best placed to support their employees in the workplace, in that they are able to monitor for any signs of harassment or victimisation, anticipate problems before they occur and intervene where necessary.

- **Personal support** (if appropriate)

Encourage disclosers to use their own support networks, including:

- supervisor
- family
- union/professional association
- counsellors

- **Employee Assistance Program (EAP)**

The services of EAP are available to a discloser who is a TEQ employee before, during or after the investigation of a PID and any subsequent action arising.

Members of the Public:

TEQ offers support for disclosers, including members of the public, although TEQ may be more limited in the types of support it may be able to provide. Disclosers can seek support from:

- an appointed contact officer, if appropriate
- family
- union/professional association
- counsellor

Protection for disclosers:

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

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

The [PID Act](#) does not protect a person who makes a PID to someone or an entity other than to a proper authority (for example, disclosure to a journalist prior to making a PID to a proper authority would mean that the person would not receive protection).

The [PID Act](#) does not protect disclosures that are made dishonestly. Intentionally giving false or misleading information as a PID, or in the course of making a PID, is an offence under the [PID Act](#).

4.7 Rights of subject officers:

An employee who is the subject of a PID is entitled to:

- the presumption of innocence; confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation.
- advice and support from their legal representative or union (at their own expense)
- the application of natural justice (procedural fairness)
- referral to TEQ's Employee Assistance Program for support
- outcome of any investigation

The [PID Act](#) provides protection for employees subject to an intentionally false disclosure. It is unlawful to intentionally make a false or misleading statement when intending it to be acted upon as a PID.

4.8 Confidentiality:

Maintaining confidentiality helps protect the PID management process, disclosers, subject officers and witnesses. It is an offence to make a record, or intentionally or recklessly disclose the information that is subject to a PID to anyone except in a limited set of circumstances (e.g. court proceedings, for the purposes of administering the PID Act, authorised by another act or regulation, consent gained in writing from the discloser, or if it is necessary to provide for the safety or welfare of a person).

All TEQ records of PIDs will be held and securely filed by the PID Coordinator.

4.9 Recording and reporting:

All PIDs received must be referred to the PID Coordinator as soon as possible. The PID Coordinator is responsible for the overall management of the PID process, including recording and reporting information regarding PIDs received by TEQ. A record of each PID will be maintained and will include:

- the name of the person making the PID (if known)
- the subject of the PID
- any action taken on the PID
- any other information needed to comply with the reporting requirements of the Queensland Ombudsman.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriate authorised people involved in the management of the PID.

5. Responsibilities

Employees:

All employees are responsible for

- being aware of the possibility that corrupt conduct may exist in the workplace and report any concerns to their leader or the PID Coordinator in accordance with the policy and procedure.
- completing the compulsory Code of Conduct and Public Interest Disclosure training as scheduled by TEQ.

Public Interest Disclosure Coordinator

The PID Coordinator, delegated by the CEO, is responsible for educating employees and the overall management of the PID process, including acting as a principal point of contact.

Leaders:

Management are responsible for maintaining an ethical culture and will therefore lead by example and conduct themselves as outlined in the Code of Conduct and in accordance with the [PID Act](#)

Leaders will also be responsible for ensuring that disclosers are able to continue their work in an environment that is free from reprisal, report reprisal where it is suspected or has occurred, and ensure employees are aware of their obligations in relation to this Policy.

Chief Executive Officer

The Chief Executive Officer has the overall responsibility under the PID Act for TEQ's compliance with the Act.

6. Other Related Policies, Procedures and Information

- Public Interest Disclosure Policy
- Public Interest Disclosure Management Program
- Code of Conduct
- Dispute Settlement Procedure
- Complaints Management Policy
- Complaints Management Procedure
- www.ombudsman.qld.gov.au