

# Public Interest Disclosure Policy

Version 7.0

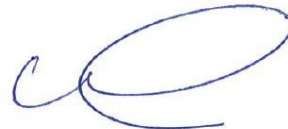
## Approval



Pat Vidgen

**Electoral Commissioner**

23 / 05 2024



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**Assistant Electoral Commissioner**

23 / 05 / 2024

## Version history

| Version | Notes                     | Author                    | Date of Change |
|---------|---------------------------|---------------------------|----------------|
| 1.0A    | Draft                     | Human Resources           | July 2015      |
| 1.0     | Issued for use            | Human Resources           | August 2015    |
| 2.0     | Legislation changes       | Human Resources           | May 2017       |
| 3.0     | Updating ECQ address      | Human Resources           | January 2018   |
| 4.0     | Changes to CCC processing | Human Resources           | February 2019  |
| 5.0A    | Review                    | Human Resources           | September 2020 |
| 5.0     | Issued for use            | Electoral<br>Commissioner | October 2020   |
| 6.0A    | Review                    | Executive Officer         | March 2022     |
| 6.0     | Issued for use            | Electoral<br>Commissioner | March 2022     |
| 7.0     | Reviewed                  | Corporate Services        | January 2024   |
|         |                           |                           |                |

## Review

This policy will be reviewed **every two years** from the approval date, or if the relevant regulatory frameworks change in a way that means this policy is no longer contemporary.

This policy is available for public viewing on the Electoral Commission of Queensland website ([www.ecq.qld.gov.au](http://www.ecq.qld.gov.au)).

## Purpose

The Electoral Commission of Queensland (ECQ) is committed to fostering an ethical and transparent culture. In pursuit of this, the ECQ values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated. The ECQ will provide 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).

## Rationale

By complying with the PID Act, the ECQ will:

- promote the public interest by facilitating public interest disclosures (PIDs) of wrongdoing
- ensure that PIDs are properly assessed and, where appropriate, properly investigated and dealt with
- ensure appropriate consideration is given to the interests of persons who are the subject of a PID
- ensure protection from reprisal is afforded to persons making PIDs.

As required under the PID Act, the ECQ will implement procedures to ensure that:

- any public officer who makes a PID is given appropriate support
- PIDs made to the ECQ are properly assessed and, where appropriate, properly investigated and dealt with
- appropriate action is taken in relation to any wrongdoing which is the subject of a PID
- a management program for PIDs made to the ECQ consistent with the standards issued by the Queensland Ombudsman, is developed and implemented
- public officers who make PIDs are offered protection from reprisal by the ECQ or other public officers of the ECQ.

## Guiding Principles

1. Every employee 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 a reprisal action.
2. The principles of natural justice (procedural fairness) will apply to all investigations of matters which are subject of public interest disclosures (PIDs). The ECQ is committed to treating PIDs appropriately and making the process fair for both the discloser and the person who is the subject of the disclosure.
3. The rights of any person who is subject to, or is in some way associated with, a PID will be safeguarded.

## Policy

### 1. Public Interest Disclosure Management Program

The Electoral Commissioner has overall responsibility for ensuring that the ECQ develops, implements and maintains a PID management program. The ECQ PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- senior management endorsement of the value to the ECQ of PIDs and the proper management of PIDs
- a communication strategy to raise awareness among employees about PIDs and the ECQ's Public Interest Disclosure Policy
- a training strategy to give employees access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed
- specialist training and awareness about PIDs for senior management and other employees whomay receive or manage PIDs, disclosers or workplace issues relating to PIDs
- the appointment of a specialist officer to be responsible for issues related to the management of PIDs
- ensuring effective systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls
- regular review of the Public Interest Disclosure Policy and evaluation of the effectiveness of the PID management program.

The Electoral Commissioner has designated the following roles and responsibilities for managing PIDs within the ECQ:

| Role                   | Responsibilities  | Officer   |
|------------------------|---|---|
| <b>PID Coordinator</b> | <ul style="list-style-type: none"> <li>▪ principal contact for PID issues within the ECQ</li> <li>▪ document and manage implementation of PID management program</li> <li>▪ review and update PID procedure annually</li> <li>▪ maintain and update internal records of PIDs received</li> <li>▪ report data on PIDs to Queensland Ombudsman</li> <li>▪ assess PIDs received</li> <li>▪ provide acknowledgment of receipt of PID to discloser</li> <li>▪ undertake risk assessments in consultation with disclosers and other relevant officers</li> <li>▪ liaise with other agencies about referral of PIDs</li> </ul> | <p>Assistant Electoral Commissioner</p> <p><b>By email:</b><br/><a href="mailto:complaints@ecq.qld.gov.au">complaints@ecq.qld.gov.au</a></p> <p><b>By post:</b> Assistant Electoral Commissioner<br/>Electoral Commission of Queensland<br/>GPO Box 1393<br/>Brisbane QLD 4001</p> <p><b>By fax:</b> 07 3036 5776</p> <p><b>By phone:</b> 1300 881 665</p> <p><b>In person:</b> Level 20, 1 Eagle Street, Brisbane Qld 4000. If you wish to make a complaint in</p> |

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|                                 | <ul style="list-style-type: none"> <li>▪ allocate Investigator and Support Officer to PID matter</li> <li>▪ provide the Electoral Commissioner with updates during and at the outcome of a PID</li> </ul>  | person, please phone first for an appointment.  |
| <b>PID Support Officer</b>      | <ul style="list-style-type: none"> <li>▪ provide advice and information to discloser on ECQ PID Policy</li> <li>▪ provide personal support and referral to other sources of advice or support as required</li> <li>▪ facilitate updates on progress of investigation</li> <li>▪ proactively contact discloser throughout PID management process</li> </ul> | Executive Officer<br>Team Leader Human Resources<br><br><b>By email:</b><br><a href="mailto:complaints@ecq.qld.gov.au">complaints@ecq.qld.gov.au</a><br><br><b>By phone:</b> 1300 881 665 |
| <b>Investigator</b>             | <ul style="list-style-type: none"> <li>▪ conduct investigation of information in PID in accordance with terms of reference</li> <li>▪ prepare report for delegated decision-maker</li> </ul>   | An appropriate internal or external investigator will be appointed for each PID investigated depending upon the type of disclosure and other relevant considerations.                     |
| <b>Delegated decision-maker</b> | <ul style="list-style-type: none"> <li>▪ review investigation report and determine whether alleged wrongdoing is substantiated</li> </ul>  | An appropriate decision-maker will be appointed for each PID investigated.  |

### 1.1. Employee and management responsibilities

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

Managers must ensure employees are provided with information about making a disclosure and are familiar with the process of making a public interest disclosure. All employees should be able to identify potential situations where behaviour may be unethical or fraudulent and know how to report it.

## 2. Public Interest Disclosures

### 2.1. What is a PID?

Under the PID Act, any person can make a disclosure about a:

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

In addition, employees can make a disclosure about the following public interest matters

- corrupt conduct
- maladministration that adversely affects a person's interests in a substantial and specific way
- a 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)
- a substantial and specific danger to public health or safety or the environment.

A discloser can have either an 'honest and reasonable belief' that wrongdoing has occurred, or provide evidence which tends to show the wrongdoing has occurred.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- discloser reports the information as part of their duties – such as an auditor reporting a fraud or an occupational health and safety officer reporting a safety breach.
- disclosure is made anonymously – the discloser is not required to give their name or any identifying information.
- discloser has not identified the material as a PID – it is up to the ECQ to assess information received and decide if it is a PID.
- disclosure is unsubstantiated following investigation – the discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

Complaints concerning an expression of dissatisfaction about employee conduct, a service, procedure, practice or ECQ policy that are not resolved at the point of service, should be pursued by following the ECQ's Employee Complaints Policy.

## 2.2. Why make a PID?

Employees who are prepared to speak up about public sector misconduct, wastage of public funds, suspected unlawful activity or danger to health, safety or the environment can be the most important sources of information to identify and address problems in public sector administration. The ECQ supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of the ECQ.
- the outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to the ECQ.
- the community's trust in public administration is strengthened by having strong processes in place for reporting wrongdoing.

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 by the ECQ and employees of the ECQ 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.

### 2.3. Who can a PID be disclosed to?

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

Disclosers are encouraged to make a disclosure to an appropriate officer of the ECQ first. If the matter is not resolved, or the discloser is concerned about confidentiality, the disclosure may be made to another appropriate agency.

If you wish to make a PID or anyone makes a PID to you, the ECQ’s preferred approach is that you contact the Assistant Electoral Commissioner immediately.

If the disclosure relates to the alleged conduct of the Electoral Commissioner or the Assistant Electoral Commissioner, you should make the disclosure to the Chief Executive of the Crime and Corruption Commission, the Queensland Ombudsman or a Member of Parliament. Disclosures that may involve corrupt conduct by the Electoral Commissioner can also be directed to the Director-General of the Department of Justice and Attorney-General, as per the Corrupt Conduct Complaints involving the Electoral Commissioner Policy.

| <b>Who to contact within the ECQ:</b>  | <b>Other agencies that can receive PIDs:</b>   |
|--|--|
| <p>Any person (including employees) can make a disclosure to:</p> <ul style="list-style-type: none"> <li>• the PID Coordinator (Assistant Electoral Commissioner)</li> <li>• any person in a supervisory or management position</li> <li>• the Human Resources team</li> <li>• the Electoral Commissioner</li> </ul> | <p>Disclosures can be made to an agency that has a responsibility for investigating the information disclosed:</p> <ul style="list-style-type: none"> <li>• Crime and Corruption Commission (CCC) for disclosures about corrupt conduct including reprisal</li> <li>• Queensland Ombudsman for disclosures about maladministration</li> <li>• Queensland Audit Office for disclosures about a substantial misuse of resources</li> <li>• Department of Children, Youth Justice and Multicultural Affairs for disclosures about danger to the health and safety of a child or young person with a disability</li> <li>• Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships for disclosures about danger to the health and safety of a person with a disability</li> <li>• Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability</li> </ul> |

|   |  |
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| <p><b>ECQ's preferred approach is to make a disclosure to the Assistant Electoral Commissioner.</b></p> | <ul style="list-style-type: none"> <li>• Department of Environment and Science disclosures about danger to the environment</li> <li>• A Member of the Legislative Assembly (MP) for any wrongdoing or danger</li> <li>• The Chief Judicial Officer of a court or tribunal in relation to a disclosure about wrongdoing by a judicial officer.</li> </ul> |
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Where an employee receives an oral PID they should request the discloser to put the details in writing. If the discloser is 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 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 Assistant Electoral Commissioner.

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, or
  - investigated the disclosure but did not recommend taking any action, or
  - failed to notify the discloser within six months of making the disclosure whether or not the disclosure was to be investigated or otherwise 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, ECQ employees disclosing information to a journalist or otherwise sharing information externally (for example on social media) is likely to breach confidentiality and/or the *Code of Conduct for the Queensland Public Service* and be investigated as a disciplinary matter.

#### 2.4. How to make a PID

A discloser can make a PID in any way, including anonymously, either orally or in writing. To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to:

- provide contact details (This could be an email address that is created for the purpose of making the disclosure or a telephone number. The discloser will be responsible for monitoring their email for any response from the ECQ.)
- provide as much information as possible about the suspected wrongdoing, including:
  - who was involved
  - what happened



- when it happened
- where it happened
- whether there were any witnesses, and if so, who they are
- any evidence that supports the PID, and where the evidence is located
- any further information that could help investigate the PID
- provide this information in writing.

### **3. Public Interest Disclosure Management Process Guide**

#### **3.1. Deciding whether a matter is a PID**

If there is any doubt as to whether a matter is a PID, further information may be obtained from the Assistant Electoral Commissioner to inform the decision. If doubt still remains, the matter will be considered and managed as a PID.

Mere disagreements over policy do not meet the threshold for a PID under the PID Act.

It is an offence under the PID Act to intentionally give false or misleading information intending it be acted on as a PID. Employees may be subject to disciplinary action for intentionally giving false or misleading information in a PID, or during an investigation into a PID.

Where a discloser states they are making a PID, but it is assessed that the matter is not a PID the ECQ will advise the discloser:

- that their information has been received but was not assessed as a PID
- the reasons for the decision
- the review rights available if the discloser is dissatisfied with the decision and how to request review
- any action the ECQ proposes to take in relation to the matter
- any other options the discloser has in relation to the matter.

#### **3.2. Assessing a PID**

The disclosure will be assessed in accordance with the PID Act, the PID standards, the ECQ's Public Interest Disclosure Policy and any other relevant procedure(s).

Once the matter has been assessed as a PID, the ECQ will provide reasonable information to the discloser in writing including:

- that their information has been received and assessed as a PID
- the action to be taken by the ECQ in relation to the disclosure, which could include referring the matter to an external agency, or investigating
- the likely timeframe involved

- the name and contact details of the ECQ support officer they can contact for updates or advice of the discloser's obligations regarding confidentiality
- the protections the discloser has under the PID Act
- the commitment of the ECQ to keep appropriate records and maintain confidentiality, except where permitted under the PID Act
- how updates regarding intended actions and outcomes will be provided to the discloser
- contact details for the ECQ's Employee Assistance Program, for ECQ employees.

If the PID has been made anonymously and the discloser has not provided any contact details, the ECQ will not be able to acknowledge the PID or provide any updates.

### 3.3. Referring a PID

If the ECQ decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency
- that agency has the power to investigate or remedy the matter.

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

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the Crime and Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct (as required by section 38 of the *Crime and Corruption Act 2001*).

The confidentiality obligations of the PID Act permit appropriate officers of the ECQ to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contacts with any other agency. The discloser will be advised of the action taken by the ECQ.

### 3.4. Risk assessment and protection from reprisal

Upon receiving a PID, the ECQ will conduct a risk assessment to assess the likelihood of the discloser (or witnesses or affected third parties) suffering reprisal action as a result of having made the disclosure. This assessment will take into account the actual and reasonably perceived risk of the discloser (or witnesses or affected third parties) suffering detriment and will include consultation with the discloser.

A risk assessment will be undertaken if the discloser is anonymous on the basis of information available in the PID. The risk assessment will also take into account the risk to persons who may be suspected of making the PID.

Consistent with the assessed level of risk, the ECQ will develop and implement a risk management plan and arrange any reasonably necessary support or protection for the discloser (or witnesses or affected third parties).

The ECQ will regularly reassess the risk of reprisal while the PID is being managed, in consultation with the discloser, and review the risk management plan if required.

If a discloser feels as though they have been disadvantaged or subjected to a reprisal for making a disclosure, they should raise the issue with the Assistant Electoral Commissioner who will consider appropriate protections per the PID Act.

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

- attend to the safety of the discloser (or witnesses or affected 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 a reprisal as a PID in its own right, where it meets the definition criteria.

### 3.5. Declining to take action on a PID

Under the PID Act, the ECQ may decide not to investigate or deal with a PID in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process.
- the information disclosed should be dealt with by another process.
- the age of the information makes it impractical to investigate.
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert the ECQ from the performance of its functions.
- another agency with jurisdiction to investigate the information has informed the ECQ that an investigation is not warranted.

If a decision is made not to investigate or deal with a PID, the ECQ will give the discloser written reasons for that decision.

If the discloser is dissatisfied with the decision they can request a review by writing to the Electoral Commissioner within 28 days of receiving the written reasons for the decision.

If a discloser is not happy with the outcome of the ECQ's dealing with the PID they can request further information from the ECQ or contact the Queensland Ombudsman to request a review of the matter. They may also wish to seek independent legal advice.

### 3.6. Communication with disclosers

Under the PID Act, the ECQ must give reasonable information to a discloser.

The ECQ will acknowledge receipt of the PID in writing as soon as practicable. The discloser will be provided with information that meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman, including:

- the action that will be taken in response to the PID

- the protections under the PID Act
- confidentiality obligations of the discloser and the ECQ
- support arrangements.

The ECQ will maintain contact with the discloser and provide regular updates during the management of the PID.

In accordance with the PID Act, after finalising action in response to the PID, the ECQ will advise the discloser in writing of the action taken and the results of the action.

### 3.7. Confidentiality

While the ECQ will make every attempt to protect confidentiality, a discloser's identity may need to be disclosed:

- for full investigation of the PID
- under a legal requirement (e.g. during criminal prosecution processes, right to information or information privacy legislation)
- to ensure safety or welfare
- to provide natural justice and procedural fairness to subject officers (after considering the risk of reprisal)
- to respond to a court order, legal directive or court proceedings.

The ECQ will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

Disclosers should be aware that while the ECQ will make every attempt to keep their details confidential, it cannot guarantee that others will not try to deduce their identity.

The ECQ will consult with the discloser should confidentiality be compromised. In order to best manage the situation, the Assistant Electoral Commissioner will work out an appropriate plan which may involve:

- advising the discloser before information is released
- ensuring open communication to keep the discloser informed of the status of the matter
- offering support from ECQ and other services (Employee Assistance Program)
- monitoring the situation.

If you make a disclosure as an ECQ employee, you are reminded that the matters surrounding the investigation will be confidential and you are directed to maintain the integrity of the process by not discussing it with work colleagues or others unconnected with this matter. All statements and correspondence regarding the matter are strictly confidential. Please note that the confidentiality provision will not preclude you from sharing this information with a union representative/support person.

### 3.8. Support and requirements for disclosers

The ECQ recognises that providing appropriate support to a discloser is an important feature of effective PID management. The Assistant Electoral Commissioner will take the discloser's concerns seriously and ensure the discloser's privacy and confidentiality (as far as possible) throughout the process. A discloser can also be confident of protection against reprisal and bullying.

Making a PID does not prevent reasonable management action. That means that the discloser will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

Where the discloser is an employee of the ECQ, they are directed to maintain confidentiality and advise the Assistant Electoral Commissioner of all relevant information. During an investigation or other action to deal with a PID, all ECQ employees must continue to behave in accordance with the *Code of Conduct for the Queensland Public Service*.

An assessment will be undertaken to identify the support needs of the discloser. Where appropriate, a PID Support Officer will be assigned to the discloser. The PID Support Officer will assist the discloser to access information about PIDs, protections available under the PID Act and the PID management process. The PID Support Officer will proactively contact the discloser to offer support. Information and support will be provided to the discloser until the matter is finalised.

If an employee suffers an injury (such as a psychological condition, for example), arising out of or in the course of their employment, the employee has a right to lodge a claim for workers' compensation under the *Workers' Compensation and Rehabilitation Act 2003*. Employees should contact WorkCover for further information.

The ECQ's Employee Assistance Program provides professional counselling and wellbeing support to all employees and their immediate family members (including partner, child, and other family member residing with the employee). The service provider's telephone number is 1800 604 640.

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

### 3.9. Investigating a PID

If a decision is made to investigate a PID, the Assistant Electoral Commissioner will be responsible for the investigation which may be completed by an external investigator. The investigator will give consideration to the:

- principles of natural justice
- obligation under the PID Act to protect confidential information
- obligation under the PID Act to protect officers from reprisal
- interests of subject officers.

If as a result of an investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken. This may include corrective or disciplinary action where necessary.

Where the investigation does not substantiate wrongdoing, the ECQ will review systems, policies and procedures to identify whether there are improvements that can be made and consider if employee training is required.

The person making the PID will be informed of progress and the outcome by the Assistant Electoral Commissioner. Once the matter is finalised the person making the PID, where necessary, will be advised on any follow up requirements that may be necessary to ensure their wellbeing.

Complaints made to other agencies will follow that agency's assessment and investigation process.

### 3.10. Rights of subject officers

The ECQ acknowledges that for officers who are the subject of a PID the experience may be stressful. The ECQ will protect their rights by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice
- confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation
- referring them to the Employee Assistance Program for support.

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

Information and support will be provided to a subject officer until the matter is finalised.

Employees are also reminded of their responsibilities under the *Code of Conduct for the Queensland Public Service* that 'we will support employees who report genuine concerns of wrongdoing and manage any reports of suspected wrongdoing in a fair, transparent and consistent manner'.

Employees are to remember that they will have performed their duty by participating in the investigation. They should not be treated adversely because of their involvement in this process and any substantiated allegations of adverse treatment on these grounds may result in disciplinary action being taken.

### Human Rights Considerations

ECQ is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the ECQ has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

### 3.11. Recordkeeping

In accordance with its obligations under the PID Act and the *Public Records Act 2002*, the ECQ will ensure that:

- accurate data is collected about the receipt and management of PIDs
- anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

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

## **Delegations**

1. Only the Electoral Commissioner or Assistant Electoral Commissioner may approve decisions to apply this policy.



## Appendix 1 — Definitions

### Definitions

| Term                     | Definition   |
|--------------------------|--|
| Administrative action    | <p>(a) means any action about a matter of administration, including, for example:</p> <ul style="list-style-type: none"> <li>(i) a decision and an act; and</li> <li>(ii) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and</li> <li>(iii) the formulation of a proposal or intention; and</li> <li>(iv) the making of a recommendation, including a recommendation made to a Minister; and</li> <li>(v) an action taken because of a recommendation made to a Minister; and</li> </ul> <p>(b) does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.</p>  |
| Confidential information | <p>(a) includes —</p> <ul style="list-style-type: none"> <li>(i) information about the identity, occupation, residential or work address or whereabouts of a person — <ul style="list-style-type: none"> <li>(A) who makes a public interest disclosure; or</li> <li>(B) against whom a public interest disclosure has been made; and</li> </ul> </li> <li>(ii) information disclosed by a public interest disclosure; and</li> <li>(iii) information about an individual's personal affairs; and</li> <li>(iv) information that, if disclosed, may cause detriment to a person; and</li> </ul> <p>(b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.</p>  |
| Corrupt conduct          | <p>As defined in section 15 of the <i>Crime and Corruption Act 2001</i></p> <p>(1) <i>Corrupt conduct</i> means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—</p> <ul style="list-style-type: none"> <li>(i) a unit of public administration; or</li> <li>(ii) a person holding an appointment; and</li> </ul> <p>(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—</p> <ul style="list-style-type: none"> <li>(i) is not honest or is not impartial; or</li> <li>(ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or</li> <li>(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</li> </ul> <p>(c) would, if proved, be—</p> |



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|                   | <p>(i) a criminal offence; or<br/> (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> <p>(2) <i>Corrupt conduct</i> also means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) impairs, or could impair, public confidence in public administration; and</p> <p>(b) involves, or could involve, any of the following—</p> <p>(i) collusive tendering;</p> <p>(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)—</p> <p>(A) protecting health or safety of persons;</p> <p>(B) protecting the environment;</p> <p>(C) protecting or managing the use of the State's natural, cultural, mining or energy resources;</p> <p>(iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;</p> <p>(A) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;</p> <p>(iv) fraudulently obtaining or retaining an appointment; and</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or<br/> (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> |
| <p>Detriment</p>  | <p>includes –</p> <p>(a) personal injury or prejudice to safety; and</p> <p>(b) property damage or loss; and</p> <p>(c) intimidation or harassment; and</p> <p>(d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and</p> <p>(e) financial loss; and</p> <p>(f) damage to reputation, including, for example, personal, professional or business reputation.</p>   |
| <p>Disability</p> | <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>   |

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|                        | <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 person who makes a disclosure in accordance with the <i>Public Interest Disclosure Act 2010</i> .  |
| Employee               | A public service employee of a public service entity, includes a person engaged as per section 13 of the Public Sector Act 2022  |
| Investigation          | For the purposes of this procedure, investigation includes any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.  |
| Journalist             | A person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.  |
| Maladministration      | <p>As defined in schedule 4 of the <i>Public Interest Disclosure Act 2010</i>, maladministration is administrative action that—</p> <ul style="list-style-type: none"> <li>(a) was taken contrary to law; or</li> <li>(b) was unreasonable, unjust, oppressive, or improperly discriminatory; or</li> <li>(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</li> <li>(d) was taken— <ul style="list-style-type: none"> <li>(i) for an improper purpose; or</li> <li>(ii) on irrelevant grounds; or</li> <li>(iii) having regard to irrelevant considerations; or</li> </ul> </li> <li>(e) was an action for which reasons should have been given, but were not given; or</li> <li>(f) was based wholly or partly on a mistake of law or fact; or</li> <li>(g) was wrong.</li> </ul> |
| Natural justice        | <p>Natural justice, also referred to as ‘procedural fairness’ applies to any 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, are:</p> <ul style="list-style-type: none"> <li>• avoid bias; and</li> <li>• give a fair hearing.</li> <li>• act only on the basis of logically probative evidence.</li> </ul>  |
| Organisational support | For the purposes of this procedure, organisational support means actions such as, but not limited to:  |

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|                              | <ul style="list-style-type: none"> <li>• providing moral and emotional support</li> <li>• advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure</li> <li>• appointing a mentor, confidante or other support officer to assist the discloser through the process</li> <li>• referring the discloser to the agency's Employee Assistance Program or arranging for other professional counselling</li> <li>• generating support for the discloser in their work unit where appropriate</li> <li>• ensuring that any suspicions of victimisation or harassment are dealt with</li> <li>• maintaining contact with the discloser</li> <li>• 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.</li> </ul>                                   |
| Proper authority             | A person or organisation that is authorised under the <i>Public Interest Disclosure Act 2010</i> to receive disclosures.  |
| Public officer               | A public officer, of a public sector entity, is an employee, member or officer of the entity as per section 7 of the <i>Public Interest Disclosure Act 2010</i> .   |
| Reasonable belief            | A view which is objectively fair or sensible.   |
| Reasonable management action | <p>Action taken by a manager in relation to an employee, includes any of the following taken by the manager—</p> <ul style="list-style-type: none"> <li>(a) a reasonable appraisal of the employee's work performance;</li> <li>(b) a reasonable requirement that the employee undertake counselling;</li> <li>(c) a reasonable suspension of the employee from the employment workplace;</li> <li>(d) a reasonable disciplinary action;</li> <li>(e) a reasonable action to transfer or deploy the employee;</li> <li>(f) a reasonable action to end the employee's employment by way of redundancy or retrenchment;</li> <li>(g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f);</li> <li>(h) a reasonable action in relation to the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the employee's employment.</li> </ul> |
| Reprisal                     | <p>The term 'reprisal' is defined under the <i>Public Interest Disclosure Act 2010</i> as causing, attempting to cause or conspiring to cause detriment to another person in the belief that they or someone else:</p> <ul style="list-style-type: none"> <li>• has made or intends to make a disclosure; or</li> <li>• has been or intends to be involved in a proceeding under the disclosure Act against any person.</li> </ul> <p>Reprisal under the <i>Public Interest Disclosure Act 2010</i> is a criminal offence and investigations may be undertaken by the Queensland Police Service.</p>  |

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| 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> |

## Appendix 2 — Regulatory Framework

### Regulatory framework

- *Public Interest Disclosure Act 2010*
- Public Interest Disclosure Standard No. 1/2019
- Public Interest Disclosure Standard No. 2/2019
- Public Interest Disclosure Standard No. 3/2019
- *Public Sector Act 2022*
- *Human Rights Act 2019*
- *Public Sector Ethics Act 1994*
- *Public Records Act 2002*
- *Crime and Corruption Act 2001*
- *Disability Services Act 2006*
- *Ombudsman Act 2001*
- *Industrial Relations Act 2016*
- Code of Conduct for the Queensland Public Service
- Corrupt Conduct Complaints involving the Electoral Commissioner Policy
- ECQ's Employee Complaints Policy.