

Public Interest Disclosure

Organisational Policy

Prepared by Ethical Standards Unit
Branch Corporate Operations
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Contact for enquiries and proposed changes

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Version history

Version no.	Date	Changed by	Nature of amendment
1.0			Initial draft.
2.0	28/6/2011	BFO	CA review
3.0	1/4/2015	ESU	Update
3.1	1/06/2015	ESU	Updates following OGM review

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Document sign off

This organisational policy is **approved** by the Director-General:

Name Neil Scales

Position Director-General

Signature



Date

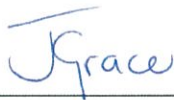
19th July 2015.

This organisational policy is **endorsed** by:

Name Jenny Grace

Position Chief Operations Officer

Signature



Date

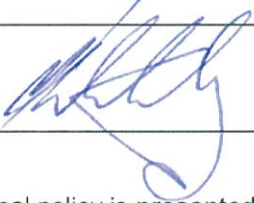
20/7/2015.

This organisational policy is **endorsed** by:

Name Don Bletchly

Position General Manager (Corporate Operations)

Signature



Date

8/7/15

This organisational policy is **presented for approval** by the operational owner:

Name Trevor Chippindall

Position Director (Ethical Standards)

Signature



Date

08.07.2015

Effective date

This policy will take effect from the approval date.

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1. Policy Statement

The Department of Transport and Main Roads (TMR) is a large and diverse organisation. On occasion employees, contractors, suppliers and members of the public report problems about TMR's operations. These reports are encouraged and welcomed.

TMR is committed to responding appropriately to public interest disclosures, and having procedures in place to properly assess and, where appropriate, investigate these disclosures. In dealing with disclosures, TMR is committed to protecting people making disclosures and addressing the cause of confirmed problems.

2. Scope and Applicability

This policy is primarily intended to apply to complaints or information received by any TMR staff member that meets the definition of a "public interest disclosure" in the *Public Interest Disclosure Act 2010*. However, the principles of protection and support, as outlined, should apply uniformly to all persons who raise a concern about TMR in good faith, regardless of whether the concern is a public interest disclosure.

This policy is not intended to undermine established complaint management protocols such as the Managing Employee Complaints policy, the Employee Complaints procedure, the Case Management Framework and the departmental environmental complaints and incident reporting processes. Because not every TMR employee can be expected to know and apply the provisions of the *Public Interest Disclosure Act 2010*, it is TMR's intention to continue to encourage disclosures within existing frameworks. This is in conjunction with educating those staff who are more likely to receive, manage or provide advice on public interest disclosures of their responsibilities in helping TMR meet its obligations under the *Public Interest Disclosure Act 2010*.

3. Benefits

Employees, contractors and members of the public who are prepared to speak up about misconduct, corrupt conduct, maladministration or other wrongdoing are one of the most important and accurate sources of information to identify and address problems that disadvantage or endanger other people, and damage the reputation of TMR.

Creating an environment in which employees, contractors and members of the public feel confident that making a public interest disclosure is valued and taken seriously, allows TMR to:

- Identify wrongdoing as early as possible
- Expose weak or flawed programs that make TMR vulnerable to loss, criticism or legal action
- Avoid financial loss, inefficiency and misuse of public resources
- Maintain a positive corporate reputation
- Reduce the risks to the environment or the health or safety of employees or the community
- Improve accountability
- Deter employees from engaging in improper conduct.

4. Objectives

The objectives of this policy are to:

1. Ensure public interest disclosures are properly assessed and, when appropriate, properly investigated
2. Promote the public interest by facilitating public disclosures from within TMR and by members of the public
3. Ensure appropriate consideration is given to interests of persons who may be the subject of a public interest disclosure
4. Afford protection from reprisal to persons making public interest disclosures.

5. Rationale

This policy exists to ensure TMR appropriately deals with reports of misconduct, corrupt conduct, maladministration or other disclosures. In particular, to ensure appropriate consideration is given to the interests of the person who is the subject of a public interest disclosure and to afford protection from reprisals to those who make public interest disclosures.

This policy satisfies the requirements of the *Public Interest Disclosure Act 2010* and the *Public Interest Disclosure Standard No. 1*.

6. Consultation

TMR's Legal Services Unit, the Prosecutions Unit and the Chief Operations Officer were consulted in the development of this policy.

7. Review

This policy and any accompanying procedures will be maintained and reviewed annually by the Ethical Standards Unit, Corporate Operations Branch to ensure the policy and procedures meet legislative and policy requirements.

8. Definitions

Term, abbreviations and acronyms	Definition
Corrupt Conduct	<p>As described in the <i>Crime and Corruption Act 2001</i> ss, 14-15, corrupt conduct is conduct that:</p> <ol style="list-style-type: none">1. Adversely affects, or could adversely affect, directly or indirectly, the performance or functions of the exercise of powers of:<ul style="list-style-type: none">• A unit of public administration; or• A person holding an appointment; and

	<p>2. Results, or could result, directly or indirectly, in the performance of functions or the exercise of powers as described above in a way that:</p> <ul style="list-style-type: none"> • Is not honest or is not impartial; or • Involves a breach of trust placed in a person holding an appointment, either knowingly or recklessly; or • Involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers as described above; and <p>3. Is engaged in for the purpose of providing a benefit to the person or another person or causing detriment to another person; and</p> <p>4. Would, if proved, be:</p> <ul style="list-style-type: none"> • A criminal offence; or • A disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.
<p>Maladministration (PID Act, Schedule 4)</p>	<p>Is an administrative action that was:</p> <ul style="list-style-type: none"> • Undertaken contrary to law • Unreasonable, unjust, oppressive or improperly discriminatory • 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 • Taken for an improper purpose; or on irrelevant grounds or having regard to irrelevant considerations • An action for which reasons should have been given, but were not given • Based wholly or partly on a mistake of law or fact • Wrong.
<p>Misconduct</p>	<p>The <i>Public Service Act 2008</i>, section 187 (4) defines misconduct to as inappropriate or improper conduct in an official capacity or inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the public service</p>
<p>Public Interest Disclosure (PID)</p>	<p>A PID is a disclosure of information made to the proper authority by:</p> <p>1. A public officer about:</p> <ul style="list-style-type: none"> • The conduct of another person that could, if proved, be corrupt conduct or maladministration that adversely affects a person's interest in a substantial and specific way • A substantial misuse of public resources (other than an alleged misuse 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 • A substantial and specific danger to the environment. <p>2. Any person (including a public officer) about:</p>

	<ul style="list-style-type: none"> • A substantial and specific danger to the health or safety of a person with a disability • The commission of an offence against the provision mentioned in Schedule 2 of the <i>Public Interest Disclosure Act 2010</i> if the commission of the offence is or would be a substantial and specific danger to the environment • The contravention of a condition imposed under a provision mentioned in Schedule 2 of the <i>Public Interest Disclosure Act 2010</i> if the contravention is or would be a substantial and specific danger to the environment • The conduct of another person that could, if proved, be a reprisal.
Reprisal	<p>When a person causes or attempts or conspires to cause detriment to another person because or in the belief that:</p> <ul style="list-style-type: none"> • The other person or someone else has made or intends to make 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. <p>An attempt to cause detriment includes an attempt to induce a person to cause detriment.</p>

9. References

Public Interest Disclosure Act 2010

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PubIntDisA10.pdf>

Public Interest Disclosure Standard No. 1, Queensland Ombudsman

http://www.ombudsman.qld.gov.au/Portals/0/Public%20Interest%20Disclosure%20Standard%20No%201_V1.pdf

Managing a public interest disclosure program. A guide for public sector organisations, Crime and Corruption Commission, Queensland Ombudsman, and Public Service Commission, 2011

http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/Agency_Resources/WWTW%20Agency%20Guide_25.02.14.pdf