

# Public Interest Disclosure

## Organisational Procedure

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### Version history

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**Document sign off**

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

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Position Director-General

Signature Neil Scales. Date 19<sup>th</sup> July 2015.

This organisational policy is **endorsed** by:

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Signature [Signature] Date 8/7/15.

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

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Position Director (Ethical Standards)

Signature [Signature] Date 08.07.2015

**Effective date**

This procedure will take affect from the approval date

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# 1. Procedural Statement

The Department of Transport and Main Roads is dedicated to promoting the public interest by ensuring disclosures of wrongdoing and public interest disclosures (PIDs) are correctly assessed and when appropriate, thoroughly investigated and dealt with in accordance with [Public Interest Disclosure Act 2010](#) (the Act). Reporting suspected wrongdoing is vital to the integrity of Transport and Main Roads and the Queensland public sector.

## 2. Overview

A PID is a report of a suspected wrongdoing or danger. For a report to be considered a PID and attract the protections outlined in the Act, it must be a disclosure about public interest information and fall within the definition of a PID under the Act. A disclosure of information can be made by any person whether a public officer (employee) or a member of the public. The disclosure must be made to a proper authority. In the event of any uncertainty about the making of a disclosure the matter should be referred to the Ethical Standards Unit for assessment.

Any person can disclose information if they honestly believe the information they have is about:

- Substantial and specific danger to the health and/or safety of a person with a disability
- The commission of an offence that is or would be of a substantial and specific danger to the environment
- The conduct of any other person could, if proved, be a reprisal against the person making the PID.

A public officer may also make a disclosure about the conduct of another person that if proven could be corrupt conduct, maladministration, substantial misuse of public resources, or danger to public health and/or safety.

A person making a PID should be aware of their responsibility to ensure the information provided is complete, honest, and accurate and made to a proper authority.

When a PID is reported the department has the responsibility to ensure the disclosure is managed thoroughly, impartially and in a timely manner. The management of the PID includes initial evaluation, including a risk assessment of reprisal and determining the appropriate action. Upon completion the department will deal with the matter appropriately and in accordance with established procedures. The discloser is entitled to be advised of the outcome.

## 3. Objectives

Transport and Main Roads is committed to creating and maintaining an organisational climate where all employees feel comfortable and confident to report wrongdoing that is:

- Unlawful, corrupt, negligent or improper conduct that could amount to corrupt conduct
- Maladministration
- Substantial misuse of public resources
- Substantial and specific danger to public health and safety
- Danger to public health and safety and the environment.

The department must also ensure appropriate consideration is given to the rights and interests of employees who are subject of a PID and that these employees are afforded natural justice.

The purpose of this procedure is to establish and maintain an effective reporting framework for the management of disclosures of wrongdoing in accordance with the Act and to provide protection, when required, to employees who make disclosures about suspected wrongdoing.

## 4. Scope

This procedure provides administrative guidelines for all employees regarding a disclosure of wrongdoing which falls within the definition of a public interest disclosure as defined in the Act, including to whom (proper authority) the disclosure can be made and how it is to be managed. This procedure applies to all suspected wrongdoing assessed as a PID and is supported by the PID policy and guidelines for making and managing a PID.

All other employee complaint matters are to be reported and dealt with in accordance with TMR's [Employee Complaints Procedure](#).

## 5. Responsibilities

### 5.1 The Director-General

- Communicating to all employees it is essential to carry out their role and responsibilities to a high professional and ethical standard and to always act in the public interest
- Ensuring appropriate training and awareness strategies and control systems are implemented to effectively manage suspected wrongdoing, including matters of suspected corrupt conduct
- Establishing realistic procedures to protect employees from reprisal action who make a PID.

### 5.2 General Managers

- Providing the discloser with appropriate support in their workplace
- Providing sufficient support to the employee who is subject of the complaint of wrongdoing
- Maintaining confidentiality of the matter and ensuring all attempts are made to keep the identity of the discloser confidential
- Providing access to education and training for managers and supervisors on how to manage a PID in the workplace and how to provide the appropriate support and protections as the workplace support person for an employee making a PID.

### 5.3 The Director (Ethical Standards)

- Monitoring and reviewing legislative, policy and procedural obligations relevant to PIDs, corrupt conduct and misconduct prevention strategies
- Providing advice to managers and employees regarding the disclosure of PIDs and corrupt conduct matters as outlined in section 1.6 of the Complaints Management procedures
- Overseeing matters disclosed relating to suspected corrupt conduct, maladministration or other wrongdoing within the department and ensure these are assessed and dealt with in accordance with specified timeframes
- Overseeing the development and delivery of employee training and awareness about PIDs



- Notifying the Crime and Corruption Commission (CCC), in accordance with the *Crime and Corruption Act 2001* Crime and Corruption Act 2001, of complaints or information that may represent corrupt conduct
- Establishing a mechanism for the collection, reporting and reviewing of data about PIDs
- Reporting on PID data to the Public Service Commission (PSC), as the oversight agency, as required.

## 5.4 The Ethical Standards Unit

- Assessment of disclosures to determine if the information meets the threshold of a PID
- Determining what action is to be taken if assessed as a PID matter. For example, should the PID be referred to another entity or managed by the department
- Ensuring a risk assessment is conducted on the PID and managed accordingly
- Ensuring initial advice is provided to the discloser of the PID and the provision of support and appropriate protection against reprisal is afforded to the discloser
- Ensuring appropriate ongoing support and protection to employees who report suspected wrongdoing
- Overseeing the collection and recording of relevant information into the PID database
- Ensuring the PID is managed in a timely manner and in accordance with the legislative requirements
- Ensuring appropriate advice on the outcome of the matter is provided to the discloser.

## 5.5 A manager/supervisor

- Maintaining a workplace culture which values professionalism, integrity and diligence
- Demonstrating positive ethical standards through their own conduct and communications at work and values all employees
- Creating a supportive reporting environment that encourages employees to report any concerns about wrongdoing
- Providing appropriate confidential support to employees who report suspected wrongdoing and provide assurance to them by making clear statements of support. For example, 'I will help you with this by...'
- Liaising with the Ethical Standards Unit to ensure appropriate protective measures are in place for the discloser
- Monitoring the workplace and taking all reasonable steps to minimise the risk of reprisal action towards the discloser
- Implementing appropriate controls to prevent harm to the departments assets and resources
- Assisting employees to resolve ethical dilemmas as required.

## 5.6 A public officer

- Conducting their duties to a high professional and ethical standard, compliant with public service policies and legislation
- Seeking appropriate guidance if they have an ethical dilemma

- Immediately reporting a matter, to a proper authority, if they honestly believe some wrongdoing has occurred
- Maintaining confidentiality about the fact a PID has been made, the information disclosed and the identity of those referred to in the PID
- Being prepared to assist in an investigation of the PID if requested by an investigator to provide information
- Reporting any reprisal action to their workplace manager or the Ethical Standards Unit.

## 6. Consultation

This procedure has been informed by the legislative requirement under the *Public Interest Disclosure Act 2010*. The Public Service Commission Standard No.1 applies to and is binding on the department to ensure a management program is developed, implemented and maintained in accordance with the Act. The PSC Public Interest Disclosure Coordinators network has been consulted with the provision and sharing of whole of government resources to assist departments with the development of policy and procedures relating to the making and managing of a PID.

## 7. Review

This procedure and associated documentation along with the PID policy will be maintained and reviewed by the Ethical Standards Unit, Corporate Operations Branch. The policy, procedure and other associated documentation and processes will be reviewed annually to establish and maintain legislative compliance.

## 8. Definitions

The following definitions are applied to the procedure when making and managing a public interest disclosure under the *Public Interest Disclosure Act 2010* and the guidelines for making and managing a public interest disclosure.

Term, abbreviations and acronyms	Definition
<b>Any person</b>	Any person irrespective of whether that person is a public officer (employee) or not
<b>Corrupt conduct</b>	As described in the <i>Crime and Corruption Act 2001</i> ss, 14-15, corrupt conduct is conduct that: <ol style="list-style-type: none"> <li>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"> <li>• A unit of public administration; or</li> <li>• A person holding an appointment; and</li> </ul> </li> <li>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:               <ul style="list-style-type: none"> <li>• Is not honest or is not impartial; or</li> </ul> </li> </ol>



	<ul style="list-style-type: none"> <li>• Involves a breach of trust placed in a person holding an appointment, either knowingly or recklessly; or</li> <li>• 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</li> </ul> <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"> <li>• A criminal offence; or</li> </ul> <p>A disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p>
<b>Department</b>	The Department of Transport and Main Roads
<b>Detriment</b>	<p>An attempt to cause detriment includes an attempt to induce a person to cause detriment</p> <p>Detriment includes:</p> <ul style="list-style-type: none"> <li>• Personal injury or prejudice to safety</li> <li>• Property damage or loss</li> <li>• Intimidation or harassment</li> <li>• Adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business</li> <li>• Financial loss</li> <li>• Damage to reputation, including personal, professional or business reputation.</li> </ul> <p>Detriment must be in response to the making of or the intention to make a disclosure</p>
<b>Discloser</b>	A person who makes a public interest disclosure
<b>Maladministration</b>	<p>Is an administrative action that was:</p> <ul style="list-style-type: none"> <li>• Undertaken contrary to law</li> <li>• Unreasonable, unjust, oppressive, or improperly discriminatory</li> <li>• 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</li> <li>• Taken for an improper purpose; on irrelevant grounds or having regard to irrelevant considerations</li> <li>• An action for which reason should have been given, but were not given</li> <li>• Based wholly or partly on a mistake of law or fact</li> <li>• Wrong.</li> </ul>
<b>Misconduct</b>	The <i>Public Service Act 2008</i> , section 187 (4) defines misconduct 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
<b>Public health and safety</b>	Includes the health and safety of persons: <ul style="list-style-type: none"> <li>• Under lawful care or control</li> <li>• Using community facilities or services provided by the public or private sector</li> <li>• In employment workplaces</li> </ul>
<b>Public interest disclosure</b>	A PID is a disclosure of information made to the proper authority by: <ol style="list-style-type: none"> <li>1. A public officer about: <ul style="list-style-type: none"> <li>• 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</li> <li>• 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)</li> <li>• A substantial and specific danger to public health or safety</li> <li>• A substantial and specific danger to the environment.</li> </ul> </li> <li>2. Any person (including a public officer) about: <ul style="list-style-type: none"> <li>• A substantial and specific danger to the health or safety of a person with a disability</li> <li>• 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 substantial and specific danger to the environment</li> <li>• 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</li> <li>• The conduct of another person that could, if proved, be a reprisal.</li> </ul> </li> </ol>
<b>Public Officer</b>	The <i>Public Interest Disclosure Act 2010</i> defines a public officer as an employee, member or officer of a public sector entity, including a Minister or Assistant Minister responsible for the administration of the entity, or a staff member in their office
<b>Public sector entity</b> ( <i>Public Interest Disclosure Act 2010, section 6</i> )	A public sector entity is any of the following: <ul style="list-style-type: none"> <li>• <b>A department</b></li> <li>• A committee of the Legislative Assembly, whether or not a statutory committee</li> <li>• The parliamentary service</li> <li>• A court or tribunal</li> <li>• The administrative office attached to a court or tribunal</li> <li>• The Executive Council</li> </ul>



	<ul style="list-style-type: none"> <li>• A local government</li> <li>• A university, university college, TAFE institute or statutory TAFE institute</li> <li>• The agricultural college</li> <li>• An entity established under an Act or under state or local government authorisation for a public, state or local government process</li> <li>• An entity, prescribed under a regulation, which is assisted by public funds.</li> </ul> <p>Employees can make a report of wrongdoing within the department to the following:</p> <ul style="list-style-type: none"> <li>• The Director-General</li> <li>• The Minister of the department</li> <li>• Human Resources Manager</li> <li>• Their manager or supervisor</li> <li>• Any other person in a management position within the department</li> <li>• Director, Ethical Standards Unit</li> <li>• An officer of the Ethical Standards Unit.</li> </ul> <p>A disclosure may also be made to an external body such as the Crime and Corruption Commission if the information relates to conduct that if proved could amount to corrupt conduct or a reprisal relating to a previous disclosure under the <a href="#"><i>Public Interest Disclosure Act 2010</i></a>.</p>
<p><b>Proper authority</b> (<i>Public Interest Disclosure Act 2010</i>, section 5)</p> <p>Employees of a <b>Proper authority</b> to whom a disclosure of wrongdoing can be made (<i>Public Interest Disclosure Act 2010</i>, section 17)</p>	<p>A proper authority is:</p> <ul style="list-style-type: none"> <li>• A public sector entity</li> <li>• A member of the Legislative Assembly</li> </ul> <p>For the purpose of making a disclosure of wrongdoing under the <i>Public Interest Disclosure Act 2010</i>, if an employee or any person makes a complaint of wrongdoing, that when assessed falls within the meaning of a PID, that person may make the disclosure in any way, including anonymously.</p> <p>However, if a <b>proper authority</b> has a reasonable procedure for making a PID to the <b>proper authority</b>, the person must use the procedure.</p> <p>Despite this subsection, if a proper authority is a public section entity, the person may make the disclosure to:</p> <ul style="list-style-type: none"> <li>• Its chief executive officer</li> <li>• For a public entity that is a department, the Minister responsible for its administration</li> <li>• If the proper authority that is a public sector entity has a governing body, a member of it governing body</li> <li>• If the person is an officer of the entity, another person who, directly or indirectly, supervises or manages the person</li> <li>• An officer of the entity who has the function of receiving or taking action on the type of information being disclosed. For example, an</li> </ul>



	officer of the Ethical Standards Unit, if the disclosure is made under section 13 (1)(a)(i) of the <i>Public Interest Disclosure Act 2010</i> .
<b>Reprisal</b>	<p>When a person causes or attempts or conspires to cause a detriment to another person because or in the belief that:</p> <ul style="list-style-type: none"> <li>• The other person or someone else has made or intends to make a PID</li> <li>• The other person or someone else is, has been or intends to be involved in a proceeding under the Act against any person.</li> </ul> <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>

*Crime and Corruption Act 2001*

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/CrimeandCorruptionA01.pdf>

*Public Service Act 2008*

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PublicServA08.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](http://www.ombudsman.qld.gov.au/Portals/0/Public%20Interest%20Disclosure%20Standard%20No%201_V1.pdf)

*Blowing the whistle in Queensland, Public Service Commission*

<http://www.ethics.qld.gov.au/publications/Blowing-the-whistle-in-queensland-fact-sheet-2011.pdf>

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

[http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/Agency\\_Resources/WWTW%20Agency%20Guide\\_25.02.14.pdf](http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/Agency_Resources/WWTW%20Agency%20Guide_25.02.14.pdf)

*Handling a public interest disclosure – A guide for public sector managers and supervisors 2011, Crime and Corruption Commission, Queensland Ombudsman and Public Service Commission*

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