

Corporate Procedure

Public Interest Disclosure

Effective Date 20/12/2019

Version:3.0

Purpose

To highlight the Public Interest Disclosure (PID) process for public officers, disclosers and third-party members. Queensland Treasury's (Treasury) PID procedure:

- encourages internal and external reporting of wrongdoing while ensuring all PIDs are properly and appropriately assessed, reported, investigated and managed
- outlines Treasury's commitment to manage and mitigate the risk of reprisal associated with making a PID and the support, protections and rights that will be provided for both the discloser and subject officer throughout the process
- reinforces Treasury's commitment to a strong ethical culture and complies with section 28 of the *Public Interest Disclosure Act 2010* (PID Act) and the Standard No.1 issued by the Queensland Ombudsman under section 60 of the PID Act.

Scope

Applies to all Treasury employees, and any external person making a PID to Treasury under the PID Act. Employees of a government-owned corporation (GOC) are outside this procedure and will need to contact the PID Coordinator for guidance.

Treasury's PID procedure is available for public viewing on Treasury's website, as well as on Treasury's intranet site. The PID procedure will be reviewed annually and updated as required to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

What is a PID?

The PID Act distinguishes between PIDs made by public officers and those made by anyone else. What constitutes a PID depends on who is making the disclosure.

PID by a public officer	PID by any other person
<p>A public officer can make a disclosure about the following public interest matters:</p> <ul style="list-style-type: none"> • corrupt conduct, as defined by the <i>Crime and Corruption Act 2001</i> 	<p>Any person (including a public officer) can make a disclosure about:</p> <ul style="list-style-type: none"> • a substantial and specific danger to the health or safety of a person with a disability

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<ul style="list-style-type: none"> maladministration that adversely affects another person's interests in a substantial and specific way a substantial misuse of public resources a substantial and specific danger to public health or safety a substantial and specific danger to the environment 	<ul style="list-style-type: none"> 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.
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A discloser can have either a '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 or makes an anonymous disclosure.
- the discloser does not identify the information as a PID. It is up to the PID Coordinator to assess the information received and decide if it amounts to a PID.

Roles and responsibilities

The Chief Executive Officer has delegated the overall responsibility for PIDs in Treasury to the Chief Human Resources Officer.

The following table outlines roles and responsibilities for managing PIDs within Treasury:

Roles	Responsibilities	Contact
Responsible Officer	Overall responsibility under the PID Act for Treasury's compliance with the Act, including: <ul style="list-style-type: none"> receiving and assessing PIDs establishing reasonable procedures to deal with PIDs keeping a record of disclosures reviewing Treasury's decisions not to investigate or deal with PIDs on request providing disclosure information to the oversight agency delegating responsibilities under the PID Act as considered appropriate ensuring effective management and oversight of Treasury's PID management program and procedures. 	Chief Human Resources Officer
PID Coordinator	The PID Coordinator in Treasury is the Principal Employee Relations Officer, who will: <ul style="list-style-type: none"> document and manage implementation of the PID management program, including acting as 	Letter: Attn: PID Coordinator Queensland Treasury GPO Box 611, Brisbane, Qld, 4001

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	<p>a principal point of contact with the Queensland Ombudsman and for all PID related issues within Treasury</p> <ul style="list-style-type: none"> • review and update the PID procedure annually • maintain and update internal records of PIDs received and assessed • report data on PIDs to the Queensland Ombudsman • provide receipt of acknowledgement to a discloser • undertake risk assessments in consultation with disclosers and other relevant officers • liaise with other agencies about referral of PIDs • allocate Investigator and Support Officer to PID matter. 	<p>Phone: (07) 3035 3536</p> <p>Email: PIDCoordinator@treasury.qld.gov.au</p>
PID Support Officer	<p>An appropriate PID Support Officer will be appointed for the discloser/s, the subject officer and each of the witnesses in each PID investigated depending upon the type of disclosure and other relevant considerations.</p> <p>The Support Officer will:</p> <ul style="list-style-type: none"> • provide support to a discloser, subject officer or witness who is involved in the management of a PID • provide advice and information to the discloser on Treasury's PID procedure • provide support and referral to other sources of advice or support as required • facilitate updates to relevant parties on the progress of the investigation • proactively contact discloser throughout PID management process. 	People and Culture Branch Officers will be appropriately assigned to support the discloser of each PID.
Delegated Decision-Maker	Review investigation report and determine whether alleged wrongdoing is substantiated.	An appropriate decision-maker will be appointed for each PID investigated
Managers/ Supervisors	All leaders and managers across Treasury will promote an environment in which reporting of negligent or inappropriate behaviour is encouraged.	
Investigator	Conduct an investigation of the information in the PID in accordance with terms of reference and prepare a report for the delegated decision-maker.	
Discloser	Report information about the suspected 'wrongdoing' and provide sufficient information to substantiate the disclosure. The discloser is encouraged to provide contact details so they can be communicated with throughout the PID process.	
Queensland Public Service Employees	Have 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.	

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Who can a PID be disclosed to?

Under the PID Act proper authorities are persons or organisations who are authorised to receive disclosures.

Treasury authorities	External authorities
<p>Any person (including non-government employees) can make a disclosure to:</p> <ul style="list-style-type: none"> • a member of the People and Culture team • the organisations PID Coordinator • any person in a supervisory or management position • the Chief Executive Officer • the Chief Human Resources Officer • Executive General Manager, Risk and Intelligence • Treasury's General Counsel. 	<p>Disclosures can be made to agencies that have responsibility for investigating the information disclosed:</p> <ul style="list-style-type: none"> • Crime and Corruption Commission (CCC) for disclosures about corrupt conduct including reprisal • Queensland Ombudsman for disclosures about maladministration • Queensland Audit Office for disclosures about a substantial misuse of resources • Department of Child Safety, Youth and Women for disclosures about danger to the health and safety of a child or young person with a disability • Department of Communities, Disability Services and Seniors for disclosures about danger to the health and safety of a person with a disability • Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability • Department of Environment and Science disclosures about danger to the environment • Member of the Legislative Assembly • The Chief Judicial Officer of a court or tribunal in relation to a disclosure about wrongdoing by a judicial officer.

How to make a PID

A discloser can make a PID openly or anonymously either verbally or in writing. To assist in the assessment and any subsequent investigation of a PID, disclosers are encouraged to:

- provide contact details (this could be an email address that is created for making the disclosure or a telephone number)
- provide as much information as possible about the suspected wrongdoing, including:
 - who was involved?
 - what, when and where it happened?
 - were there 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 assist in investigating the complaint
- provide this information in writing.

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If circumstances prevent the discloser from providing the information in writing, the employee who received the PID should record the date, time and circumstances of the PID and ask the discloser to confirm the contents before signing it. This information should then be forwarded to the PID Coordinator.

Disclosures that are false or misleading, and that are made to the media (except as described in section 20 of the PID Act) are not protected by the PID Act.

Assessment and investigation process

Any disclosures made to Treasury or referred to the department by another entity will be assessed in accordance with the PID Act, the PID [standards](#), Treasury's PID procedure and any other relevant procedures. A [PID Assessment Guide](#) has been designed as a template to help assess whether a matter is a disclosure under the PID Act. The PID Coordinator will assess a disclosure and determine whether it meets the requirements of a PID.

Once the matter has been assessed, Treasury will advise the discloser:

If the matter does amount to a PID	If the matter does not amount to a PID
<ul style="list-style-type: none"> • that their information has been received and assessed as a PID • the PID Action to be taken by Treasury in relation to the disclosure, which could include referring the matter to an external agency, or investigating and providing the likely timeframe involved • the name and contact details of the Treasury support officer they can contact for updates or advice of the discloser's obligations regarding confidentiality • the protection's the discloser has under the PID Act • the commitment of Treasury to keep appropriate records and maintain confidentiality, except where permitted under the PID Act • how updates regarding the intended actions and outcomes will be provided to the discloser • contact details for Treasury's Employee Assistance Program (for Treasury employees only). 	<ul style="list-style-type: none"> • 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 Treasury proposes to take in relation to the matter • any other options the discloser has in relation to the matter.

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

The appropriate officer within Human Resources will then determine whether the disclosure should be referred to the CCC or another agency for review and investigation.

The principle of natural justice (procedural fairness) will apply to all investigations of matters that are subject of PIDs. Treasury is committed to treating the PID appropriately and making the process fair for both the discloser and the person who is subject to the disclosure.

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Referral to another proper authority

A disclosure may be referred to another agency or proper authority when:

- the PID received relates to the conduct of another public-sector agency and/or
- another agency has the necessary jurisdiction, expertise and technical knowledge to investigate or take other action.
- it's a legislative obligation (e.g. refer matter to the CCC because it involves corrupt conduct)

The PID coordinator will:

- advise the discloser of this decision
- conduct a risk assessment using the PID Risk Assessment template, and will not proceed with the referral if there is an unacceptable risk or reprisal.
- seek consent from the discloser to forward the information to the proper authority; or
- invite the disclosure to redirect the information to the proper authority

The confidentiality obligations of the PID Act permit appropriate officers of Treasury to communicate with another agency about the referral of a PID. Officers will exercise discretion when in contact with another agency.

Decision not to investigate a PID

If a decision is made to not investigate a PID it could be because:

- information disclosed should be dealt with by another process or it has already been investigated
- the age of the information makes it impractical to investigate
- another agency with the jurisdiction to investigate the information has informed the department that an investigation is not warranted.

The PID Coordinator will inform the discloser in writing of the progress and outcome of the PID. The discloser will be advised if the decision has been made to not investigate the PID. Reasons will be provided to the discloser upon the decision. The discloser will also be notified of their right to apply to the Chief Executive for a review of the decision within 28 days after receiving the written reasons.

Deciding to investigate

If the matter is required to be investigated by Treasury, Human Resources will be responsible for coordinating the investigation which may be completed by an independent investigator.

If a decision is made to investigate a PID, this will be done with consideration for 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 investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken.

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

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Risk assessment and protection from reprisal

Disclosers should not suffer any form of detriment from making a PID. Upon receiving a PID, Treasury 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 suffering from 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.

The PID Coordinator will determine the appropriate level of protection and support for a discloser by developing a risk management plan.

In the event of reprisal action being alleged or suspected, Treasury 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.

Communication with disclosers

Under the PID Act, Treasury must give reasonable information to a discloser. Treasury 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 PID action that will be taken in response to the PID
- the protections under the PID Act
- confidentiality obligations of the discloser and Treasury
- support arrangements.

Treasury 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, Treasury will advise the discloser in writing of the PID action taken and the results of the PID action.

Confidentiality

Treasury will make every attempt to protect confidentiality, however a discloser's identity may need to be disclosed to:

- provide natural justice to subject officers
- respond to a court order, legal directive or court proceedings.

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

Strict confidentiality is to always be maintained in relation to reporting and investigation of PIDs. All Treasury records of PIDs will be held and securely filed by Human Resources.

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Discloser support and protection

When making a PID it is important to note that the discloser will receive the following protections provided under the PID Act:

- confidentiality – 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 Treasury and employees of Treasury as a result of making a 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.

Treasury recognizes that providing appropriate support to a discloser is an important feature of effective PID management.

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.

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

Queensland Treasury is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, Queensland Treasury 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. When making a decision about Public Interest Disclosures, decision makers must comply with that obligation.

Further information about the *Human Rights Act 2019* is available at <https://www.forgov.qld.gov.au/humanrights>

Rights of subject officers

Treasury acknowledges that for officers who are the subject of a PID the experience may be stressful. Treasury 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.

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

Record-keeping

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

- accurate data is collected about the receipt and management of PIDs

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- 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.

Where to lodge a disclosure?

Lodging a disclosure within Treasury:

- In person: People and Culture Branch
- By phone: (07) 3035 3536
- By email: PIDCoordinator@treasury.qld.gov.au
- By letter: Attn: PID Coordinator
Queensland Treasury
GPO Box 611, Brisbane, Qld, 4001

Disclosures about corrupt conduct can also be made directly to the Crime and Corruption Commission:

- By email: mailbox@ccc.qld.gov.au
- By letter: Director, Complaints Section, Crime and Corruption Commission,
GPO Box 3123, Brisbane, Qld, 4001
- By phone: By phone: (07) 3360 6060 or 1800 061 611 (toll free outside Brisbane)

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Definitions

Confidential Information	<p>(a) includes —</p> <ul style="list-style-type: none"> (i) information about the identity, occupation, residential or work address or whereabouts of a person — <ul style="list-style-type: none"> (A) who makes a public interest disclosure; or (B) against whom a public interest disclosure has been made; (ii) information disclosed by a public interest disclosure; and (iii) information about an individual’s personal affairs; and (iv) information that, if disclosed, may cause detriment to a person; and <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 Crime and Corruption Act 2001</p> <p>(1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <ul style="list-style-type: none"> (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of— <ul style="list-style-type: none"> (i) a unit of public administration; or (ii) a person holding an appointment; and (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— <ul style="list-style-type: none"> (i) is not honest or is not impartial; or (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or (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 (c) would, if proved, be— <ul style="list-style-type: none"> (i) a criminal offence; or (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>(2) Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <ul style="list-style-type: none"> (a) impairs, or could impair, public confidence in public administration; and

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	<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>(iv) evading a state tax, levy or duty or otherwise fraudulently causing a loss of State revenue;</p> <p>(v) fraudulently obtaining or retaining an appointment; and</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(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>
Detriment	<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>
Disability	<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>

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	<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> <p>(2) or 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 Public Interest Disclosure Act 2010 .
Employee	Of an entity, includes a person engaged by the entity under a contract of service.
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.
Reprisal	<p>The term ‘reprisal’ is defined under the Public Interest Disclosure Act 2010 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"> • has made or intends to make a disclosure; or • has been or intends to be involved in a proceeding under the disclosure Act against any person. <p>Reprisal under the Public Interest Disclosure Act 2010 is a criminal offence and investigations may be undertaken by the Queensland Police Service.</p>
Maladministration	<p>As defined in schedule 4 of the Public Interest Disclosure Act 2010, maladministration is administrative action that—</p> <p>(a) was taken contrary to law; or</p> <p>(b) was unreasonable, unjust, oppressive, or improperly discriminatory; or</p> <p>(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</p> <p>(d) was taken—</p> <p>(i) for an improper purpose; or</p> <p>(ii) on irrelevant grounds; or</p> <p>(iii) having regard to irrelevant considerations; or</p> <p>(e) was an action for which reasons should have been given, but were not given; or</p> <p>(f) was based wholly or partly on a mistake of law or fact; or</p> <p>(g) was wrong.</p>
Natural justice	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

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	<p>is at law a safeguard applying to an individual whose rights or interests are being affected. 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"> • avoid bias; and • give a fair hearing. • act only on the basis of logically probative evidence.
Proper authority	A person or organisation that is authorised under the Public Interest Disclosure Act 2010 to receive disclosures.
Public officer	A public officer, of a public sector entity, is an employee, member or officer of the entity.
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> <p>(a) a reasonable appraisal of the employee’s work performance;</p> <p>(b) a reasonable requirement that the employee undertake counselling;</p> <p>(c) a reasonable suspension of the employee from the employment workplace;</p> <p>(d) a reasonable disciplinary action;</p> <p>(e) a reasonable action to transfer or deploy the employee;</p> <p>(f) a reasonable action to end the employee’s employment by way of redundancy or retrenchment;</p> <p>(g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f);</p> <p>(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.</p>
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 can be identified or particularised as opposed to broad or general concerns or criticisms.</p>

Legislation

- [Public Interest Disclosure Act 2010](#)
- [Crime and Corruption Act 2001](#)
- [Public Service Act 2008](#)
- [Public Records Act 2002](#)
- [Public Interest Disclosure Standard No. 1/2019 – Public Interest Disclosure Management Program](#)
- [Public Interest Disclosure Standard No. 2/2019 – Assessing, Investigating and Dealing with Public Interest Disclosure](#)
- [Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting](#)

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Related policies

- Code of Conduct for the Queensland Public Service
- PID Management Program 2019

Related procedures

- Corrupt conduct procedure

Supporting information/websites

- Queensland Ombudsman Website: www.ombudsman.qld.gov.au

Contact

For further information please contact Human Resources on (07) 3035 3536.

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In developing this procedure, Treasury gratefully acknowledges the Queensland Ombudsman's PID Policy and Procedure.

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Document information

*Public record information not visible on published policy.

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