

Public Interest Disclosure (PID) POLICY

Division

People and Culture

Policy number

Updated

March 2020

Implemented

November 2017

Review date

March 2022

Reviewed by

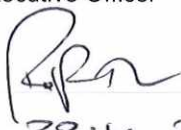
Maree Westbrook
General Counsel &
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People & Culture Manager

Approved by

Rolf Moses
Chief Executive Officer

Signed

Date


20.4.2020

1. Policy validity statement

- 1.1. If this document has passed its review date (as shown on the cover page), it may be invalid. Please ensure you are referring to the most current version before relying on its contents.

2. Purpose

- 2.1. The purpose of this policy is to facilitate disclosure, in the public interest, of information about wrongdoing and to provide protection for those who make disclosures.

The aim of this policy is for Queensland Law Society to:

- Promote the public interest by facilitating public interest disclosures of wrongdoing
- Ensure that public interest disclosures are properly assessed and, when appropriate, properly investigated and dealt with
- Ensure that appropriate consideration is given to the interests of persons who are the subject of a public interest disclosure
- Afford protection from reprisals to persons making public interest disclosures

3. Scope

- 3.1. This policy applies to all current and former QLS employees, Councillors, Committee members, work experience students, volunteers, subcontractors or agents (collectively, **Workers**).

4. References

- 4.1. *Public Interest Disclosure Act 2010*
- 4.2. *Public Interest Disclosure Standard No. 1/2019 – Public Interest Disclosure Management Program*
- 4.3. *Public Interest Disclosure Standard No. 2/2019 – Assessing, Investigating and Dealing with Public Interest Disclosures*
- 4.4. *Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting*
- 4.5. *Queensland Law Society's Code of Conduct*

5. Definitions

- 5.1. **Public Interest Disclosure (PID)**
A public interest disclosure (PID) is a disclosure:
1. About wrongdoing or danger in the public sector;
 2. That serves the public interest;
 3. Is an appropriate disclosure;
 4. To a proper authority.

5.2. **Appropriate disclosure**

This exists where a person honestly believes it on reasonable grounds OR the information tends to show the conduct or danger or the information tends to show the conduct or danger regardless of the discloser's belief.

5.3. **Public interest information**

Any person may make a disclosure about:

- information about a substantial and specific danger to the health or safety of a person with a disability;
- the commission of certain offences or the contravention of a condition imposed by legislation if it would be a substantial and specific danger to the environment; or
- a reprisal after making a public interest disclosure.

A public officer (which includes Workers) may make a disclosure about:

- corrupt conduct;
- maladministration adversely affecting a 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; or
- a substantial and specific danger to the environment.

It also includes matters notifiable under the *Crime and Corruption Act 2011*.

5.4. **Proper Authority**

This includes Queensland Law Society, other external entities with the authority to investigate, a Member of Parliament, or the Chief Judicial Officer of the relevant court or tribunal where the report is about conduct or reprisal about a judicial officer or the Crime and Corruption Commission (if disclosure is about a judicial officer). The Ombudsman is also a proper authority for PIDs about maladministration in public sector entities.

Disclosure may be made to the President, Vice President, Deputy President, Council or the Chief Executive Officer who has the function of receiving and taking action about disclosures and reprisals, another person who directly or indirectly manages or supervises the person making the disclosure or the Manager, People and Culture.

5.5. **Corrupt conduct**

Corrupt conduct is conduct of a person, regardless of whether the person holds or held an appointment that:

- (a) adversely affects or could adversely affect, directly or indirectly, the performance of functions or the exercise of a power of:
 - (i) a unit of public administration; or
 - (ii) a person holding an appointment; and
- (b) it results or could result, directly or indirectly, in the performance of a function or the exercise of powers in a way that:
 - (i) is not honest or impartial; or
 - (ii) involves a breach of trust in a person holding an appointment, either knowingly or recklessly; or
 - (iii) involves the misuse of information or material in connection with the function or power; and

- (c) would, if proved, be:
- (i) a criminal offence; or
 - (ii) disciplinary breach providing reasonable grounds for terminating the person's appointment if the person were the holder of an appointment.

It also means the conduct of a person, whether they hold or held an appointment that:

- (a) impairs or could impair public confidence in public administration; and
- (b) involves, or could involve –
 - (i) collusive tendering;
 - (ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of:
 - (A) protecting health or safety of persons;
 - (B) protecting the environment;
 - (C) protecting or managing the use of the State's natural, cultural, mining or energy resources;
 - (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;
 - (iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
 - (v) fraudulently obtaining or retaining an appointment; and
- (c) would, if proved be:
 - (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.

5.6. Maladministration

An act or failure to do an act that was unlawful, unreasonable, unfair, oppressive, unjust, improperly discriminatory, taken for an improper purpose or on irrelevant grounds, was an action for which reasons should have been given but were not given, or based on a mistake of law or fact or otherwise wrong. It must adversely affect someone's interest in a substantial and specific way.

5.7. PID Coordinator

The PID coordinator is an officer of the Society, delegated by the Chief Executive Officer with responsibility for implementing the Society's PID management program and acting as the point of contact with the Ombudsman.

The role of the QLS PID Coordinator (Chief Executive Officer is the preferred person to whom a PID should be made or Manager, People and Culture Manager or other officer appointed by the Chief Executive Officer) is to:

- impartially assess information to determine whether it is a PID
- coordinate the reporting system
- manage implementation of the PID management program
- provide advice about PIDs and the PID Act
- ensure the organisation carries out its responsibilities under the PID Act
- appoint an investigator (internal or external) where required
- oversee and coordinates investigations
- undertake risk assessments in consultation with disclosers and other relevant officers
- establish and maintain a confidential filing system
- collate and publish statistics on PIDs
- liaise with the Chief Executive Officer of the organisation

- advising the Chief Executive Officer of all complaints (especially those raised against Councillors) in order to assess whether it is a PID and, if so, ensure compliance with all associated obligations.

5.8. PID Support Officer

The PID Support Officer's role is to provide advice and information to the discloser on the PID procedure and to provide personal support and referral to other sources of advice or support. It is also to facilitate updates on the progress of any investigation and proactively contact the discloser throughout the management process.

6. Policy

QLS and the Chief Executive Officer are committed to ensuring all Workers are treated justly and fairly by providing a prompt and straightforward process for reporting, investigating and dealing with wrongdoing. We encourage any Worker who considers they have witnessed or have knowledge of wrongdoing to come forward and make a disclosure under the PID Act. We aspire to an organisational climate where all Workers feel confident and comfortable about making a disclosure.

If you are aware of any activity or incident that you consider is public interest information, we encourage you to make a public interest disclosure. For your disclosure to receive the unique protections of the PID Act, it must concern public interest information (see 5.3). For all other disclosures or complaints (i.e. bullying, discrimination, staff-related complaints), please refer to the QLS Grievance Policy.

When Workers come forward with information about wrongdoing, we commit to:

- Protecting the dignity, wellbeing, career interests and good name of all persons involved
- Protecting the discloser from any adverse action taken as a result of making the disclosure
- Treating any bullying, harassment, unfair treatment, victimisation or discrimination that results from a disclosure being made as a reprisal and subject to disciplinary procedures
- Responding to the disclosure thoroughly and impartially
- Where some form of wrongdoing has been found, taking appropriate action to deal with it
- Keeping the discloser informed of the progress and outcome.

The Chief Executive Officer has a duty to notify the Crime and Corruption Commission where conduct is reasonably suspected to constitute corrupt conduct. The Chief Executive Officer must be informed about any PID made in relation to a Councillor by another Councillor.

The Chief Executive Officer is the preferred officer to whom a PID should be made

A PID may also be made to the President, Vice President, Deputy President, Council as a whole or an individual Councillor. In this situation, the Chief Executive Officer should always be informed.

Because of the confidentiality provisions in the PID Act, the Council should generally not be advised of the existence of a complaint by one Councillor against another if the Chief Executive Officer believes it is a PID. If the Chief Executive Officer believes it is necessary, the Council may be provided with some knowledge of the complaint for the purposes of achieving its oversight function (for example, due to the serious nature of the complaint or the length of time that it will take to resolve the complaint or for the purposes of the Council exercising its ability to compromise a claim or litigation). It may be appropriate for de-identified information to be provided to the Council.

Where the issues are not significant and would not constitute a PID or it is readily resolved, Council may not need to be advised except for noting outcomes.

The Chief Executive Officer and the President should be notified of any complaint against a Councillor, particularly if it is a matter to be referred to the Crime and Corruption Commission and in order to coordinate an agreed response.

A Councillor's role includes the oversight of the discharge of Council's statutory functions and duties and individual Councillors are responsible collectively for Council decisions. A Councillor, acting by themselves without appropriate delegation, does not have authority to deal with a grievance, or enter into any settlement or confidentiality agreement that binds the Society. A Councillor does not have authority to facilitate an agreement that would not permit disclosure to the Chief Executive Officer or the President.

The Chief Executive Officer's role is role specific and a new incumbent has the right to be provided with all relevant information to ensure any response is being managed accordingly. The Chief Executive Officer and President should be informed about any issue arising about a former Council or Councillor.

7. Procedure

Staff wishing to make a disclosure are encouraged to do so internally. Disclosures can be made to your direct manager, your General Manager, the Chief Executive Officer or the QLS PID Coordinator (People and Culture Manager) if one is appointed other than the Chief Executive Officer.

Consider who will be the best person to receive your disclosure. If it is a matter that can be resolved by your direct manager, make your disclosure to them. If you think that your manager may be involved, consider disclosing to your General Manager, the Chief Executive Officer or any PID Coordinator.

Disclosures can be made in person or in writing. All disclosures of wrongdoing will be recorded in the same way in line with our 'Checklist for making a PID' (**Attachment A**) to ensure consistency with the way they are dealt with.

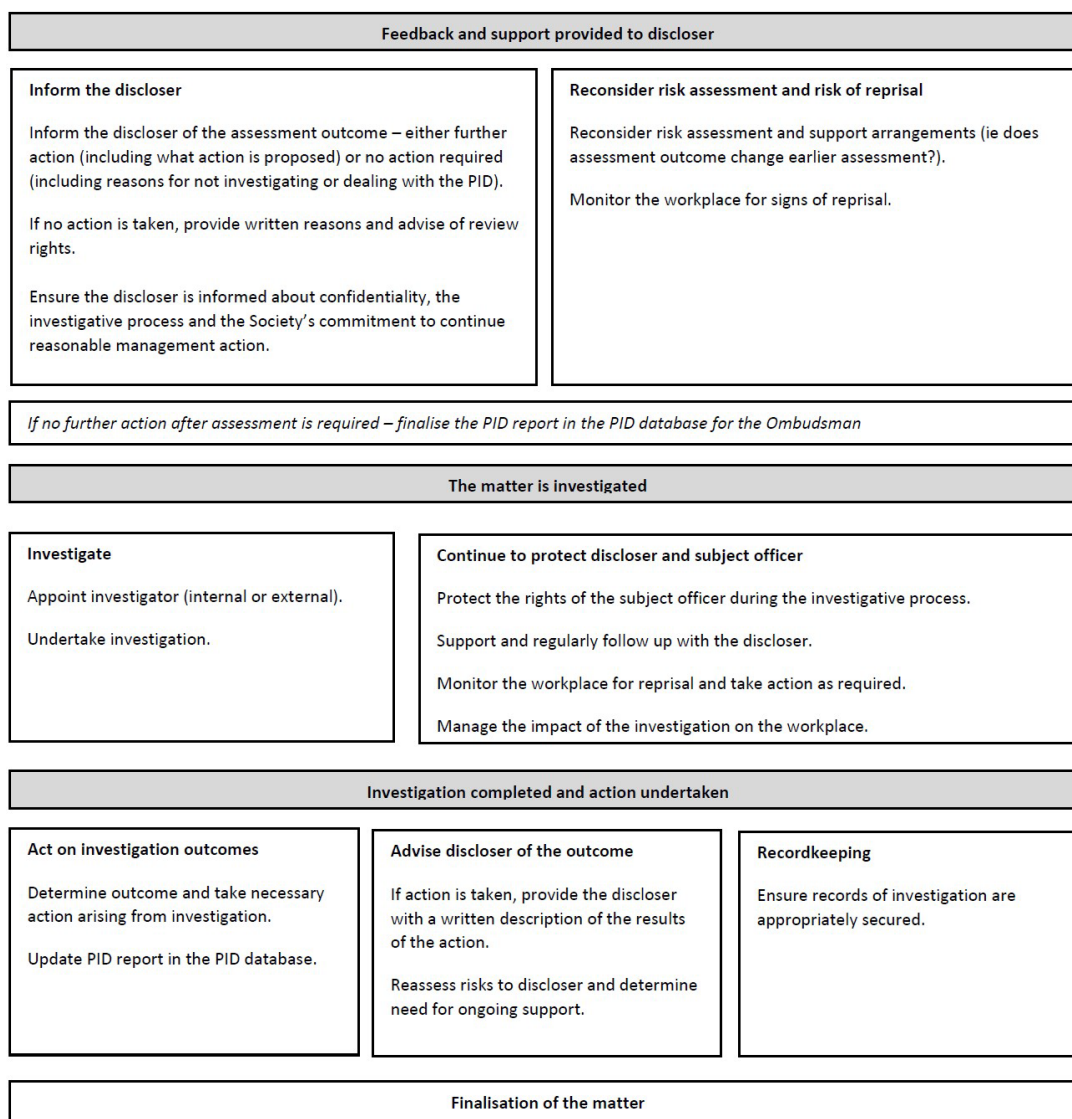
PIDs will be dealt with in the following manner:

- (a) Initially, document the disclosure, do a risk assessment and confirm with the complainant that the disclosure was received;
- (b) Perform an assessment to determine if action is required;
- (c) Inform the complainant of the assessment outcome and whether any further steps are going to be taken;
- (d) Undertake any further steps such as an investigation and take appropriate action if necessary;
- (e) Keep a record in the PID database and report the finalised PID to the Ombudsman; and
- (f) Implement a protection plan for both the complainant and the subject officer, and maintain confidentiality.

8. Procedure for dealing with a disclosure

This process is managed by the QLS PID Coordinator.

Disclosure received		
<p>Document the disclosure</p> <p>Ensure information about the discloser and disclosure is appropriately recorded.</p> <p>Attachment A – Checklist for making a public interest disclosure</p>	<p>Do a risk assessment</p> <p>In consultation with the discloser, use the PID Risk Assessment Guide to assess the risk of reprisal and develop and implement an appropriate program of support.</p> <p>Attachment B – PID Risk Assessment Guide</p>	<p>Communicate and record</p> <p>Provide written acknowledgement to the discloser that the PID has been received and provide available information about planned action.</p> <p>Determine confidentiality and recordkeeping arrangements for this PID.</p> <p>Create an initial record of the PID in the PID reporting database.</p>
Assessment Undertaken		
<p>Undertake the assessment process to determine if action is required.</p> <p>Consider the rights of the subject officer and take appropriate action.</p>		



If the disclosure is about corrupt conduct, it must be reported to the Crime and Corruption Commission.

8.1. Reporting a PID anonymously

You are able to make a disclosure anonymously if this is your preference. You will need to provide sufficient information for the matter to be investigated, however it may not be possible for us to keep you informed on the progress in handling your disclosure in line with normal process.

If you have reported anonymously and provide enough information for the Society to act, we are committed to acting upon your request.

8.2. Confidentiality when it comes to PIDs

Maintaining confidentiality is very important in the handling of a disclosure. Confidentiality not only protects you, but also any other people affected by your disclosure.

When we talk about confidential information, what we mean is:

- the fact a disclosure has been made
- any information that may identify you or any person who may be the subject of a disclosure
- the actual information that has been disclosed
- information relating to the disclosure that, if known, may cause detriment.

In protecting your confidentiality, we will ensure that the details of your disclosure, the investigation and related decisions will be kept secure.

Be aware that, while every attempt to protect confidentiality will be made, there will be occasions when disclosure of your identity may be necessary. These include:

- providing natural justice to the subject officer
- responding to a court order or legal directive (e.g. subpoena, notice to produce, direction by a parliamentary committee)
- in court proceedings.

We will advise you if your identity needs to be revealed for any reason listed above and seek your consent, if possible. We will attempt as far as possible to avoid a situation where your identity will need to be revealed even though you have not given consent.

While we are prepared to take all steps necessary to protect the confidentiality of the information that you have provided, you also have some obligations. The fewer people who know about your disclosure — both before and after you make it — the more likely it is that we will be able to keep your identity confidential and protect you from any detriment reprisal. Please do not talk about your disclosure to your work colleagues or any other unauthorised person.

9. Support

If you have made a disclosure, we will appoint a PID Support Officer and we undertake to provide you with advice and assistance on the process and to inform you of the outcome. This will include information on the action taken or proposed to be taken as a result of your disclosure, and the reasons for this decision. Your notification will not contain any information likely to adversely affect any person's safety or their personal privacy.

We will initiate and coordinate action to support you if you make a disclosure. If you feel that you need any additional support as a result of making a disclosure, you are urged to contact the PID Support Officer or Coordinator to further discuss.

All managers in the organisation, if they are aware of the disclosure, are under an obligation to notify the PID Coordinator if they believe any staff member is suffering detriment as a result of reporting a wrongdoing.

10. Declining to take action on a PID

It may be decided not to investigate or deal with a PID in some cases, including:

- the matter has already been investigated or dealt with;
- the information should be dealt with by another process;
- the age of the information makes it impractical to investigate;
- the information is too trivial and dealing with it would substantially divert the resources of QLS;
- another agency is more appropriate to investigate the matter.

11. Rights of subject officers

The QLS will protect the subject officer's rights by dealing with the matter impartially, fairly and reasonably in accordance with the principles of natural justice, confirming that it is only an allegation until the investigation substantiates the allegation, providing information about rights and progress of the investigation and referring them to the Employee Assistance Program.

12. Review

Officers dissatisfied with a decision not to assess information as a PID or with the way the matter was handled may pursue the matter through a complaint by the internal complaints process. If the officer is still dissatisfied, they may complain to the Ombudsman.

If a decision is made not to investigate a complaint, written reasons will be given and the officer may apply to the Chief Executive Officer (or the President or Council if the disclosure was made to the Chief Executive Officer) for a review of the decision within 28 days of receiving the reasons. If the officer is still dissatisfied, they may complain to the Ombudsman.

13. Compliance

13.1. Council

Under this policy, Council has a responsibility to:

- Notify the Chief Executive Officer of any disclosures
- Notify any appointed PID Coordinator of any disclosures
- Be informed of the PID if it is considered necessary for its oversight functions
- Be collectively responsible for Council's decisions
- Not enter into any agreement or settlement arrangement that binds the Society or prevents disclosure to the Chief Executive Officer or the President if acting in an individual capacity
- Maintain confidentiality at all times and only disclose information to others as considered necessary
- Ensure disclosers are not treated adversely or suffer detriment as a result of a PID
- Comply with the procedures set out in this policy

13.2. Chief Executive Officer and Managers

Under this policy, managers have a responsibility to:

- Notify the PID Coordinator of any disclosures
- Provide support to all Employees involved in PIDs
- Maintain confidentiality at all times and only disclose information to others as directed
- Ensure that disclosers are not treated adversely or suffer detriment as a result of a PID
- Comply with the procedures set out in this policy

13.3. Employees

Under this policy, Employees have a responsibility to:

- Be truthful in their dealings with QLS in respect of PIDs
- Participate in processes designed to investigate or deal with PIDs
- Maintain confidentiality of the PID, the process and any investigation at all times
- Not make false, misleading or frivolous PIDs
- Attend regular and compulsory refresher training on PIDs and this policy
- Comply with the procedures set out in this policy

13.4. Breach of policy

Breach of this policy by officers of the Society may result in disciplinary action being taken against the relevant Employee, up to and including dismissal.

Breach of this policy by Councillors may result in suspension or removal pursuant to the *Legal Profession (Society) Rules 2005* or referral to the Council for appropriate management in accordance with the Society's governance structure.

No disciplinary action will be taken against a discloser as a result of a genuine PID.

Where a PID is ultimately found to be disproven or unsubstantiated, disciplinary action will only be taken against a discloser in circumstances where the PID is found to be deliberately false, misleading or frivolous or vexatious.

Disciplinary action may also be taken (including dismissal or removal from office) if any person is guilty of taking reprisal action against the discloser or failing to preserve confidentiality. This may also be investigated under the *Crime and Corruption Act 2001*.

14. Endorsement

- 14.1. QLS is committed to this policy and its implementation. For further information, please contact People and Culture.

Document History			
Amended	Amended By	Division	Details
24/08/2017	A Ashton	People and Culture	First draft of PID Policy
29/08/2017	A Ashton	People and Culture	Revised draft PID Policy incorporating feedback from QLS Legal Team and Queensland Ombudsman
15/10/2019	L.McKern	People and Culture	Revised draft PID Policy incorporating feedback from QLS General Counsel
18/03/20	M Westbrook	Office of General Counsel	Amended to apply to Councillors

Attachment A

Checklist for making a public interest disclosure (PID)

1. Is this a public interest disclosure?

Points to consider	Comments
<p>Under the <i>Public Interest Disclosures Act 2010</i>, only some kinds of information are 'public interest disclosures'.</p> <p>Any person, including a public officer, can make a public interest disclosure about:</p> <ul style="list-style-type: none"> wrongdoing or danger in the public sector danger to the health or safety of a person with a disability danger to the environment reprisal after making a public interest disclosure. <p>A public sector officer can also make a public interest disclosure about:</p> <ul style="list-style-type: none"> corrupt conduct by another person maladministration that adversely affects someone'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. <p>Find out more about 'what is a public interest disclosure'.</p>	

2. Who can make a public interest disclosure?

Points to consider	Comments
<p>You can make a public interest disclosure to:</p> <ul style="list-style-type: none"> the public sector agency in which the wrongdoing occurred a public sector agency which has the power to investigate the wrongdoing the Crime and Corruption Commission if the public interest disclosure involves corruption the Office of the Queensland Ombudsman if the public interest disclosure involves maladministration 	

<p>If the public interest disclosure is about corrupt conduct or reprisal by a judicial officer, the matter can be reported to the Chief Judicial Officer of the court or tribunal, or the Crime and Corruption Commission.</p> <p>A public interest disclosure can also be made to any Member of Parliament.</p>	
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3. Information required for inclusion in the public interest disclosure

When making a public interest disclosure, provide as much information as possible, including:

- the name and job title of the person who is the subject of the disclosure
- information about relevant events, dates and places
- the names of people who may be able to provide additional information
- your name and contact details so you can be informed about the assessment of your public interest disclosure and the outcome.

A public interest disclosure can still be made even if you do not have all this information. For example, you may have information about an event, time and place but not know the names of the officer/s.

Note: When you make a public interest disclosure, you have a responsibility to:

- provide honest and accurate information
- provide all information currently in your possession
- make the disclosure to someone you reasonably believe is a proper authority to receive the disclosure.
- keep the information about the public interest disclosure confidential

Deliberately providing false or misleading information is an offence under the *Public Interest Disclosure Act 2010*.

For further information you can access the public interest disclosure checklist via the Queensland Ombudsman website on <https://www.ombudsman.qld.gov.au/how-to-complain/how-to-make-a-public-interest-disclosure/a-checklist-for-making-a-public-interest-disclosure>

Attachment B

PID Risk Assessment & Risk Management Guide

The Public Interest Disclosure Assessment Resources can be found [here](#).