



1. **Title: Public Interest Disclosure Policy**

2. **Purpose:** To provide clear directions for the reporting and management of Public Interest Disclosures (PIDs) to strengthen the integrity and accountability of Community Enterprise Queensland (CEQ) to maintain public confidence with their operations

3. **Scope:** This policy applies to all Board members, employees and contractors of CEQ.

4. **Background:** Employees of public sector entities (CEQ) are considered public officers under the PID Act. As Public Officers, a disclosure can be made about the following types of public interest information:

- official misconduct
- maladministration
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- to the environment
- a substantial and specific danger to the health or safety of a person with a disability; or
- reprisal action

PIDs are an important tool for identifying wrongdoing. They provide the opportunity for the wrongdoing to be stopped, further wrongdoing prevented and persons responsible to be held accountable.

The Public Interest Disclosure Act 2010 (the Act) replaces the Whistle-blowers Protection Act 1994. A PID is a report of a suspected wrongdoing or danger. For the report to be considered as a PID, and attract the protections under the PID Act, it must be an Appropriate Disclosure, about Public Interest Information made to a Proper Authority.

The information a discloser has must either:

- show the wrongdoing or danger (objective); or
- a person honestly and reasonably believes the information they have shows the wrongdoing or danger (subjective)

There must be information that indicates or supports a view that the wrongdoing or danger did or will occur. A disclosure may still be a PID even if the information turns out to be incorrect or unable to be substantiated if you had a genuine and reasonable belief that it did. This allows for genuine misinterpretations of information to fall within the scope of a PID.

Public interest information is separated into two categories: information from a public officer; and information from any person (e.g. a member of the public).

For a public officer, public interest information means information about:

- the conduct of another person that could be official misconduct
- the conduct of another person that could be 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; and
- a substantial and specific danger to the environment

For any person, public interest information means information about:

- a substantial and specific danger to the health and safety of a person with a disability

- specific offences that are or could be a substantial and specific danger to the environment (Schedule 2 of the Act provides a list of offences, including Unlawful Harm to Aboriginal Cultural Heritage, offences under the Environmental Protection Act 1994)
- contraventions of conditions that are or could be a substantial and specific danger to the environment; and
- conduct amounting to reprisal

5. How to make a PID

A discloser can make a PID in any way, including anonymously, verbally or in writing. Disclosers are requested to:

- provide contact details
- 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
 - any evidence that supports the PID
- this information must be provided in writing.

6. Procedure for Managing a PID:

(a) The PID management procedure encompasses:

- 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
- regular review of the Public Interest Disclosure Procedure and evaluation of the effectiveness of the PID management program.

(b) A PID involving CEQ employees can be made to:

- the entity's Chief Executive Officer (CEO)
- the General Manager HR
- the Minister responsible for CEQ;
- a member of the CEQ Board
- a person's supervisor or manager; and
- an officer whose role is to receive the information being disclosed
- the Crime and Corruption Commission (QLD) (CCC) can receive a PID about any public officer if the disclosure relates to official misconduct
- any other agencies outlined in the PID Act

(c) If CEQ decides another authority is better able to deal with the PID, the PID may be referred to that agency as outlined in the PID Act

(d) When a person reports a wrongdoing, it is properly assessed to determine if it is a PID:

- decisions are made by the CEO and General Manager HR about how the PIDs are managed, including when investigations should occur
- action is taken in relation to any wrongdoing identified in a PID
- a management program for PID is developed and implemented; and
- people who make PIDs are provided with support and offered protection from reprisal

(e) Recording and Reporting:

- all recordings of PID's must be documented



- the General Manager HR is custodian of all PID information which is to be stored in a locked cabinet in the HR office; and
 - CEQ will provide information regarding the management of PIDs to the Oversight Agency. This information will be incorporated into the Oversight Agency's annual reporting to the Minister
- (f) The taking of reasonable management action in relation to a person who has made a public interest disclosure will not be reprisal action
- (g) No offence is committed nor any duty breached by disclosing confidential information as part of making a PID. If an employee discloses confidential information through a PID they are protected from liability that may otherwise apply to the disclosure of such information
- (h) An employee who receives confidential information through a PID is to maintain the confidentiality of that information. Confidential information includes:
- information about a discloser or the person who is the subject of a disclosure (including their identity, occupation, address or location)
 - information disclosed as part of the PID
 - information about an individual's personal affairs; and
 - information that, if disclosed, could cause detriment to a person

Confidential information does not include information publicly disclosed in a PID made under oath (e.g. in a court or tribunal) unless disclosure is prohibited by another law.

Confidential information may be recorded or disclosed if the record or disclosure is made in specified circumstances, including:

- to fulfil a purpose under the PID Act or another Act (e.g. the investigation of a PID)
- for a court or tribunal proceeding
- if consent is provided by the person to whom the confidential information relates, or if consent is unable to be obtained, the disclosure of the information is unlikely to harm the person to whom the confidential information relates and is reasonable in the circumstances
- to protect a person's safety or welfare
- is authorised by law

Additionally, confidential information may also be disclosed if required as part of providing natural justice to a person (e.g. the subject of the PID). If natural justice can be provided without disclosure of certain confidential information, then such information (identity of the discloser) should not be disclosed

Failure to preserve confidentiality is an offence that can attract a monetary penalty

Confidentiality regarding injunction proceedings in the Industrial Commission or Supreme Court is to be maintained

- (i) A PID can be made verbally or in writing
- (j) Anonymous PIDs will be acted on, however, where an anonymous disclosure is made:
- the entity will not be able to obtain further information from the person which may assist in managing the PID; and
 - the person making the PID will not be provided with information about the management and outcome of the PID

- (k) Evidence does not need to be provided when a PID is made. There is a requirement, however, that there is more than just a suspicion that a wrongdoing has occurred or will occur
- (l) It is an offence, however, for a person to knowingly provide false and misleading information, with the intention that it be treated as a public interest disclosure. Such behaviour can result in a significant fine or up to two years imprisonment
- (m) A PID generally cannot be made to anyone other than a proper authority. If a disclosure is made to another person, it will not attract the protections under the PID Act. The only exception is a disclosure to a journalist. A disclosure to a journalist cannot be the first course of action and cannot occur where an organisation is already taking action in relation to the PID. This means that organisations must be given the opportunity to deal with the PID and reinforces the expectation that they do this appropriately and effectively
- (n) CEQ is not required to provide the discloser with information if it is likely to adversely affect:
 - anyone's safety;
 - the investigation of an offence or possible offence
 - the confidentiality about an informant's existence or identity
- (o) There is no limit on time on making a PID
- (p) CEQ has a responsibility to manage it in accordance with the PID Act
- (q) If CEQ decides not to take action in respect of a PID, it must provide written reasons for this decision to the discloser
- (r) After the PID is made the discloser is responsible for:
 - maintaining confidentiality about the making of the PID, the information contained in the PID and the identity of anyone referred to in the PID
 - assisting in an investigation of the PID matter, by supplying an investigator with information if requested
 - advising their manager or a nominated PID contact person if they believe reprisal action is being taken against them
- (s) The person the PID concerns (the subject officer) will become aware that a disclosure has been made if a decision that the PID must be investigated or otherwise dealt with is made. The subject officer will be provided with sufficient information about the matter that was disclosed (or identified during an investigation) to enable them to respond to the issues or allegations
- (t) Information Provided to Disclosers:
 - following receipt of a PID or to which a PID has been referred under the Act, CEQ must provide reasonable information about the disclosure to the person who made the disclosure. The following information, must be provided in writing:
 - confirmation of the receipt of the PID
 - description of the action taken or proposed to be taken in respect of the PID
 - if the entity believes no action is required to be taken, reasons for this decision
 - if action has been taken in relation to the PID, the results of such action
- (u) CEQ must report on the outcome of the PID to the Public Service Commission
- (v) The PID Act does not provide for an appeal against the outcome of the PID

(w) Disclosers will be protected from reprisal action. Disclosures should not suffer any form of detriment as a result of making a PID. Following receipt of a PID CEQ will:

- conduct a risk assessment to assess the likelihood of reprisal action
- implement a risk management plan
- arrange any reasonably necessary support or protection for the discloser, witnesses or affected third parties

7. Declining to act on a PID

Under the PID Act, CEQ 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 CEQ from the performance of its functions
- another agency with jurisdiction to investigate the information has informed CEQ that an investigation is not warranted.

If a decision is made not to investigate a PID CEQ will give the discloser written reasons for that decision.

8. Rights of subject officers

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

- assuring them that the PID will be dealt with impartially, fairly and reasonably
- 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.

9. Record-keeping

In accordance with its obligations under the PID Act and the [Public Records Act 2002](#), CEQ 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.

10. Associated documents:

www.ethics.qld.gov.au; <http://www.ethics.qld.gov.au/PublicInterestDisclosures.aspx>;

CEQ Code of Conduct

11. Verification/ Authorisation/ Approved by:



Chief Executive Officer

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