



Public Interest Disclosure Policy and Procedure

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1 Statement of commitment

The Energy and Water Ombudsman Queensland (EWOQ) is committed to creating and maintaining a positive ethical climate that encourages and facilitates the disclosure of unlawful, corrupt, negligent or improper conduct or maladministration.

EWOQ aims to provide clear guidance to staff on how to handle and deal with the complex issues associated with an ethical dilemma and when faced with potential wrongdoing.

EWOQ Personal Interest Disclosure Policy and Procedures has been prepared to comply with s.28 of the [Public Interest Disclosure Act 2010](#) (PID Act) and Standard No. 1 issued by the Public Service Commission under s.60 of the PID Act.

When people come forward with information about wrongdoing, EWOQ commits to:

- Protecting the integrity, wellbeing, career interest and good name of all persons involved
- Protecting the discloser from any adverse action as a result of making the disclosure
- Treating any bullying, harassment, unfair treatment, victimization or discrimination that results from a disclosure being made as a breach of our 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
- Implementing employee awareness initiatives and appropriate internal control systems to continue to achieve high standards of professional and ethical conduct within EWOQ to prevent and/or minimise incidents of official misconduct
- Promoting the public interest by facilitating complaints of suspected official misconduct and public interest disclosures (PID) which relate to EWOQ
- Encouraging the internal reporting of alleged wrongdoing
- Ensuring that complaints of suspected official misconduct and PIDs, including those made anonymously, are properly assessed and appropriately dealt with
- Affording support and protection from reprisals to people making PIDs
- Appropriately dealing with employees who take reprisal action.

2 Principles

Every employee of the Queensland public service has an ethical responsibility to report suspected misconduct, 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.

The principle of natural justice (procedural fairness) will apply to all investigations of matters the subject of PIDs. EWOQ 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.

The rights of any person who is subject to, or is in some way associated with, a disclosure will be safeguarded.

Managers and supervisors are to ensure employees are aware of their responsibilities in making a PID and are able to advise other persons of the appropriate reporting process.

The [Public Sector Ethics Act 1994](#) and the [Public Interest Disclosure Act 2010](#) provide the ethical framework and spell out the protection principles. The [Crime and Misconduct Act 2001](#) provides an external reporting mechanism and an independent investigative and enforcement body.

3 What constitutes a public interest disclosure (PID)?

What constitutes a PID depends on who is making the disclosure, with the [Public Interest Disclosure Act 2010](#) distinguishing between disclosures made by a public officer and those made by anyone else.

PIDs made by public officers

- Official misconduct, as defined in the [Crime and Misconduct Act 2001](#)
- Maladministration that adversely affects anyone's interest in a substantial and specific way
- Negligent or improper management by a public officer, public sector entity or a government contractor resulting or likely to result in a substantial waste of public funds; or
- Conduct by another person causing a substantial and specific danger to public health or safety or to the environment.

PIDs made by any person

- A substantial and specific danger to the health or safety of a person with a 'disability' as defined in the [Disability Services Act 1992](#)
- A substantial and specific danger to the environment
- A reprisal taken against anybody as a result of a PID.

A person has information about the conduct of another person or another matter if the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter (subjective test) or the information tends to show the conduct or other matter regardless of whether the person honestly believes the information tends to show the conduct or other matter (objective test). The disclosure is still a PID and covered by the [Public Interest Disclosure Act 2010](#) even if it proves not to contain this type of information.

Some disclosures are not protected by the [Public Interest Disclosure Act 2010](#), including disclosures made to the media (except in special circumstances outlined in Part 4 section 20 of the [Public Interest Disclosure Act 2010](#)); those made frivolously or vexatiously; those which primarily question the relative merits of government or EWOQ policy; and those that are made substantially to avoid disciplinary action.

False or misleading information

It is an indictable (criminal) offence for a person to intentionally give false or misleading information intending it to be treated as a PID.

The disclosure cannot be based on a mere disagreement over policy that may properly be adopted about amounts, purposes and priorities of expenditure.

4 Who should I make the disclosure to?

If you wish to make a PID or anyone makes a PID to you, EWOQ's preferred approach is that you contact the Manager Corporate Service and/or General Manager Operations immediately. Alternately, you can make your disclosure to the Crime and Misconduct Commission if it concerns misconduct, the Queensland Ombudsman if it concerns maladministration or a waste of public funds or a member of Parliament.

You should disclose anything you think may be a PID. You do not need proof, as long as you have reasonable grounds to believe that it has occurred. If in any doubt, ask the Manager Corporate Services or General Manager Operations.

Where possible, be prepared to give information on:

- the name, job title and workplace address of the person the subject of your disclosure
- details of relevant events, dates and places
- the names of people who may be able to back up what you say
- any other evidence that supports your view.

5 How to make a disclosure?

Your disclosure can be made in writing or orally and anonymously if you desire.

Where an employee receives an oral PID they should request the discloser to put the details in writing. If they are unable or unwilling to do so the employee receiving the PID should document it and ask the discloser to confirm the contents before signing it. If circumstances (eg telephone caller who remains anonymous) prevent this occurring, the officer receiving the PID should record the date, time and circumstances of the PID. It should then be forwarded to the Manager Corporate Service and/or General Manager Operations.

Where do I make a disclosure?

If you wish to make a disclosure to EWOQ please use the following details:

By email: rti@ewoq.com.au

By letter: Manager Corporate Services
Energy and Water Ombudsman Queensland
PO Box 3640
South Brisbane BC Queensland 4101

By phone: 07 3006 2675

In person: Manager Corporate Services and/or General Manager Operations

If you wish to make a complaint in person, please phone first for an appointment.

If you wish to make a disclosure to the **CMC direct**, please use the following details:

By email: mailbox@cmc.qld.gov.au
By letter: Director Complaints Section
Crime and Misconduct Commission
GPO Box 3123
Brisbane Queensland 4001
By phone: 07 3360 6060
1800 061 611
In person: Level 2, North Tower Green Square
515 St Pauls Terrace
Fortitude Valley Brisbane

If you wish to make a complaint in person, please phone first for an appointment

6 What support and protection is available to me if I make a public interest disclosure?

EWOQ will treat all PIDs appropriately. The Manager Corporate Services and/or General Manager Operations will take your concerns seriously and ensure your privacy and confidentiality (as far as possible) throughout the appropriate process. You can also be confident of protection against reprisal and bullying and that you will be provided with assistance in contacting the [Davidson Trahaire Corpsych](#) (Employee Assistance Service) if you wish to do so.

The Crime and Misconduct Commission operates a support program for people who are considering making, or have made a PID about official misconduct or for people experiencing difficulties as a result of making a PID about official misconduct. The services include provision of confidential counselling, advice and referral information. Consultative advice and education seminars on making a PID are also offered upon request. For more information on how to make a public interest disclosure read [Thinking About Blowing the Whistle](#): a guide for individuals working in the public sector. Which is available on the Queensland Ombudsman and Public Service Commission websites.

For those making a PID, Section 36 of the [Public Interest Disclosure Act 2010](#) states that a person is not liable civilly, criminally or under an administrative process for making a PID. Under Section 73 (2)(f) of the [Industrial Relations Act 1999](#), it constitutes an unfair dismissal if an employee is dismissed on the basis of making a PID or because of a belief that an employee has made or may make a PID in accordance with the [Public Interest Disclosure Act 2010](#).

If you make a disclosure, you are reminded that the matters surrounding the investigation will be confidential and you are requested to maintain the integrity of the process by not discussing it with your work colleagues or others unconnected with this matter. All statements and correspondence in regard to the matter should be regarded as strictly confidential. Please note that the confidentiality provision will not preclude you from sharing this information with your Union representative/support person.

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

7 What support and protection is available to me if someone makes a public interest disclosure against me?

EWOQ is determined to treat disclosures appropriately. The rights of any person who is the subject of, or is in some way associated with a disclosure are important, and as a person against whom a PID is made, you are entitled to confidentiality and the presumption of innocence.

Employees who are the subject of an allegation may seek assistance from their legal representative or union and may utilise the services of [Davidson Trahaire Corpsych](#) for advice and counselling (phone 07 3011 3700 or toll free 1300 360 364). This service provides confidential counselling and support to staff through stressful times.

Protection exists for those against whom an intentionally false PID is made. It is an offence under Section 66 of the [Public Interest Disclosure Act 2010](#), punishable by up to two years imprisonment, to intentionally make a false or misleading statement intending it to be acted upon as a PID.

However, you are also reminded of your responsibilities under the [Code of Conduct for the Queensland Public Service](#), 'we will support employees who report genuine concerns of wrongdoing and manage any reports of suspected wrongdoing in a fair, transparent and consistent manner.' You are requested to remember that staff will have performed their duty by participating in the investigation. They should not be treated adversely because of their involvement in this process and any substantiated allegations of adverse treatment on these grounds may result in disciplinary action being taken against you.

8 The assessment and investigation process

1. The PID is made to the Manager Corporate Services and/or General Manager Operations who will make an assessment as to whether it is to be referred to the CMC or another agency for review or investigation or whether EWOQ is able to investigate the matter or deal with it in some other manner.
2. If the matter is required to be investigated by EWOQ, the Manager Corporate Services and/or General Manager Operations will be responsible for the investigation which will usually be completed by an independent investigator.
3. Once the investigation is completed and relevant agencies consulted, corrective or disciplinary action will be taken by EWOQ where necessary.
4. The person making the PID will be informed by the Manager Corporate Services and/or General Manager Operations of:
 - Likely timeframes
 - Their involvement in the investigation process
 - The importance of maintaining confidentiality
 - The protections under the Act that will apply
 - That EWOQ will keep the information disclosed, including the discloser's identity confidential, except as allowed under the Act

- How they will be advised of progress and outcomes
- Who to contact if they want further information or are concerned about reprisals

Further follow up with the discloser will be arranged by agreement to advise on the progress of resolving the PID (where this is desired by the discloser, and it is safe to do so).

5. A decision can be made not investigate or deal with a PID if:
- a) the PID does not raise a reasonable suspicion of wrongdoing
 - b) the substance of the PID has already been investigated or dealt with by another appropriate process
 - c) EWOQ reasonably considers that the PID should be dealt with by another appropriate process
 - d) the age of the information the subject of the PID makes it impracticable to investigate
 - e) EWOQ reasonably considers that the PID is too trivial to warrant investigation and that dealing with the PID would substantially and unreasonably divert EWOQ resources
 - f) another entity that has jurisdiction to investigate the PID has notified EWOQ that investigation of the PID is not warranted.

EWOQ will provide a discloser with reasons, in writing, for its decision not to investigate or deal with a PID. The discloser may apply to the Energy and Water Ombudsman for a review of this decision with 28 days of receiving such reasons.

Anonymous disclosures will be received and managed in the same way as identified disclosures, and should not be rejected because they are anonymous.

Example 1: EWOQ receives a single anonymous statement which simply says: *“The manager is corrupt”*. In the absence of any further information, or contact details for the discloser, EWOQ may decide to record the disclosure but not take any further action.

Example 2: EWOQ receives an anonymous statement which says: *“Contracts have been awarded by the corporate services branch without any proper tendering process”*. In this case, EWOQ may respond by conducting a small sample audit of recent contracts awarded to determine whether there is any substance to the disclosure.

9 Staff and management responsibilities

All staff, especially managers and supervisors should make themselves familiar with this policy and their obligations under the Code of Conduct. They must provide clear guidance to staff on how to handle the complex issues and how to deal with an ethical dilemma when faced with potential wrongdoing.

Managers must ensure staff are provided with information about making a disclosure and are familiar with the process of making a public interest disclosure. All staff should also be able to identify potential situations where behaviour may be unethical or fraudulent and know how to report it.

Agencies must resolve the apparently conflicting demands of disclosure and confidentiality through management and supervisors being forthright in stating that they want people to denounce unethical and fraudulent behaviour.

10 Confidentiality

Section 65 of the [Public Interest Disclosure Act 2010](#) makes it an offence for a person to make a record of, or intentionally or recklessly disclose confidential information received in the administration of the Act to anyone, except where authorised to do so by the Act.

Strict confidentiality is to be maintained at all times in relation to reporting and investigation of PIDs. All EWOQ records of PIDs will be held and securely filed by the Manager Corporate Services.

11 Reprisal

If a person making a PID has concerns about reprisal being taken against them because of the disclosure, under the *Public Interest Disclosure Act 2010*, the person can be given special protection to prevent this occurring.

If you feel as though you have been disadvantaged or subjected to a reprisal for making a disclosure, you should raise the issue with the Manager Corporate Services and/or General Manager Operations.

Section 40 of the [Public Interest Disclosure Act 2010](#) makes it an offence for an employee to take a reprisal because of a belief that another person has made, or intends to make a Public Interest Disclosure.

12 Reporting

The record of the PID will include:

- name of the person making the PID (if known)
- the information disclosed
- any action taken on the PID
- any other information needed to comply with the reporting requirements of the *Public Service Commission* (PSC).

EWOQ will use the database supplied by the PSC to record the receipt and management of PIDs as required by the Act.

EWOQ is required to provide the following statistical information about PIDs to the Public Service Commission (the oversight agency) in electronic form as per the [Public Interest Disclosure Standard](#):

- the date the disclosure was received, and from where it was received

- the status of the discloser (e.g. EWOQ staff, staff from another entity, member of the public, anonymous)
- the gender and status of the subject officer (staff member, non-staff member)
- the relationship between the discloser and the subject officer
- the location of the subject officer (geographical region)
- a summary of the allegation/information received
- the involvement of any external agency/party
- the action taken to minimize any risk of reprisal
- the date inquiry/investigation commenced and was completed
- the outcome of the assessment, inquiry/investigation
- the date the PID was resolved or closed
- when the outcome was advised to the discloser
- if no action was taken, the reason for the decision
- other legal processes associated with the disclosure.

13 Use of information arising from PIDs

EWOQ will identify what issues arising from PIDs may be used to inform improvements to service delivery, business processes, internal controls, policies, and procedures.

14 Further Information

Should you require further assistance on any matter contained in the Energy and Water Ombudsman Queensland Public Interest Disclosure Policy, please contact the Manager, Corporate Services on 300 62675 or the General Manager, Operations on 323 54163.

Related legislative, policy, directives and information sources

- [Public Interest Disclosure Act 2010](#)
- [Public Interest Disclosure Standard](#)
- [Public Sector Ethics Act 1994](#)
- [Crime and Misconduct Act 2001](#)
- [Industrial Relations Act 1999](#)
- [Code of Conduct for the Queensland Public Service](#)
- [Queensland Ombudsman "Does your organisation effectively manage the reporting of wrongdoing?"](#)
- [Queensland Ombudsman "Think about blowing the whistle?"](#)
- [Queensland Ombudsman "Has one of your staff blown the whistle?"](#)
- [Davidson Trahaire Corpsych](#)

EWOQ policies:

[Human Resource Delegations Manual](#)

APPROVED

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