Public Interest Disclosure Policy

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<th>Approving authority</th>
<th>Vice Chancellor</th>
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<td>Approval date</td>
<td>1 January 2014</td>
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<td>Description</td>
<td>This policy outlines the process, protections available and actions to be taken as a result of a public interest disclosure being made. The policy has been prepared to comply with section 28 of the Public Interest Disclosure Act 2010 (‘the Act’) and the Standard No. 1 issued by the Queensland Ombudsman under section 60 of the Act. Section 28 of the Act stipulates the “chief executive officer of a public sector entity” must establish reasonable procedures to deal with various aspects of public interest disclosures.</td>
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Related documents

- Code of Conduct
- Fraud Control Policy
- Health and Safety Policy
- Individual Grievance Resolution Procedure
- Workplace Harassment Bullying and Discrimination Policy
- Resolution of Complaints of Workplace Harassment Bullying and Discrimination Procedures

External Links

- Crime and Corruption Act 2001
- Griffith University Act
- Public Interest Disclosure Act 2010
- Public Sector Ethics Act 1994
- Queensland Ombudsman – Public Interest Disclosure Guides for Individuals Working in the Public Sector; Public Sector Managers and Supervisors; and Public Sector Organisations

1. INTRODUCTION

The Public Interest Disclosure Act 2010 (Qld) provides for the protection of staff of the University and, where applicable, other people making public interest disclosures (PIDs) about unlawful, negligent or improper conduct in public sector organisations, or about danger to public health or safety or the environment.

As a public sector entity established by an Act of the Queensland Parliament, Griffith University is covered by the Public Interest Disclosure Act and all University staff are public officers for the purposes of the legislation.

The University is committed to ensuring all public interest disclosures are properly managed and that those who report wrongdoing in the workplace, or are the subject of such disclosures, are protected from reprisals.
The Vice President (Corporate Services) has been appointed the responsible officer for receiving disclosures and acting on them.

In addition, staff should refer to the Code of Conduct which sets out the standards of behaviour expected of all staff.

2. **SCOPE**

All University staff, whether they are continuing, fixed-term, temporary or casual appointments, are considered public officers for the purpose of this legislation.

3. **A PUBLIC INTEREST DISCLOSURE**

The Act distinguishes between public interest disclosures (PIDs) made by public officers and those made by others.

A public officer (including University staff) may make a PID about:

- Corrupt conduct, as defined by the [Crime and Corruption Act 2001](#)
- Maladministration that adversely affects anyone's interests in a substantial or specific way
- Negligent or improper management by a public officer, public sector entity or a government contractor resulting, or likely to result in, substantial misuse of public resources, or
- Conduct by another person causing a substantial and specific danger to public health or safety or to the environment.

Any person (including public officers) may make a PID about:

- a substantial and specific danger to the health or safety of a person with a disability
- a substantial and specific danger to the environment, or
- a reprisal taken against anybody as a result of a PID.

A person makes a PID if they honestly believe on reasonable grounds that they have information that tends to show conduct or danger that falls within one of the above categories (subjective test); or the information tends to show conduct or danger that falls within one of the above categories regardless of whether or not the discloser honestly believes it (objective test). The disclosure is still a PID and covered by the Act even if it proves not to contain this type of information.

The Act only protects PIDs that are made to a 'proper authority'. The University is a proper authority for conduct concerning the University, a University employee or behaviour that the University has the power to investigate or remedy. Such PIDs may also be made to an external public sector agency having investigative powers in relation to particular matters (for example, the Crime and Corruption Commission in the case of corrupt conduct) or to a member of the Legislative Assembly who may refer it to an appropriate public sector agency.

Some disclosures are not protected by the Public Interest Disclosure Act 2010, including disclosures made to the media (except in special circumstances as outlined in Chapter 2, Part 4, Section 20 of the Act); those made frivolously or vexatiously; those which primarily question the relative merits of university policy; and those that are made substantially to avoid disciplinary action.

Disclosures that are wilfully false constitute an offence under the Act.

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

The Office of the Vice President (Corporate Services) can provide information and advice about making PIDs and the protection available to those who do so.

University staff are encouraged to report wrongdoing and to seek assistance when doing so.
4. MAKING A DISCLOSURE

If a staff member wishes to make a PID or receives a PID, the University's preferred approach is that the disclosure is made in writing, so that it can be recognised as such and appropriately investigated. PIDs can be made to:

- the staff member's supervisor or other University officer
- the Vice President (Corporate Services),
- the Manager, Internal Audit
- the Vice Chancellor, in the case of a disclosure about the Vice President (Corporate Services), or
- the Chancellor, in the case of a disclosure about the Vice Chancellor.

However, the Act provides that a PID may also be made to:

- the Vice Chancellor
- a member of University Council
- the State Ombudsman if it concerns maladministration or waste of public resources
- the Crime and Corruption Commission if it concerns corrupt conduct, or
- a member of the Legislative Assembly who may refer it to a relevant public sector entity.

Where possible, the person making the PID should give information on:

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

Where a supervisor or University officer receives a PID verbally they should request the discloser to put the details in writing. If the discloser is unable or unwilling to do so, the supervisor or other University officer should document it and ask the discloser to confirm the contents before signing it and referring it to the Vice President (Corporate Services) [or to the Vice Chancellor if the disclosure is about the Vice President (Corporate Services)].

A disclosure can be made anonymously, however this is not preferred as it can make the disclosure more difficult to investigate and the University will not be able to inform the discloser of the results of any investigation. If circumstances (for example, a telephone caller who remains anonymous) prevent this occurring, the University staff member receiving the PID should record the date, time and circumstances of the PID. It should then be forwarded to the Vice President (Corporate Services).

5. ASSESSMENT AND INVESTIGATION OF A DISCLOSURE

The Office of the Vice President (Corporate Services) is the University's central contact point for the receipt and assessment of all PIDs.

In assessing a disclosure, the Vice President (Corporate Services) will determine if:

- the disclosure concerns a matter about which a PID can be made
- the person making the disclosure is able to receive the protection of the Act
- the disclosure meets either the subjective or objective test set out in the Act and this policy
- the disclosure has been made by an individual or entity who may receive a PID, or
- the disclosure has been made in accordance with the University's procedure or to a person listed in the Act.

If there is doubt about whether a disclosure is a PID, the Vice President (Corporate Services) will assume the disclosure is protected and manage it as if it is a PID.
Upon receiving the PID, the Vice President (Corporate Services) will make an assessment as to whether it is to be referred to an external public sector agency, such as the Crime and Corruption Commission, for review or investigation or whether the University is able to investigate the matter or deal with it in some other way. If the matter is to be referred to an agency, the referral will be made in accordance with legislative and other requirements.

Having determined a matter is a PID, and to ensure the information is investigated and the discloser is protected, the Vice President (Corporate Services) may develop an investigation and protection plan with the discloser. The assessment of risk to the discloser and others associated with the discloser and the protective measures will be proportionate to the risk and potential consequences of any reprisal. The Vice President (Corporate Services) will also consider the University's obligations to any officers who are the subject of the PID.

If the matter is required to be investigated by the University, the Vice President (Corporate Services) will be responsible for the investigation which may be completed by an internal or external investigator, as appropriate. If choosing to appoint an external investigator, the Vice President (Corporate Services) will not do so without first consulting the discloser, unless required by other relevant legislation. In commencing an investigation, the Vice President (Corporate Services) will consider the discloser's need for employee assistance or other support.

Reasonable information will be provided to the discloser regarding the likely timeframe of any investigation, their involvement in the process, the importance of maintaining confidentiality, the protections that will apply, how progress and outcomes will be advised, and a point of contact in relation to further information or concerns about reprisals. The contact person should be someone separate from the investigation function and have sufficient authority to ensure the discloser has appropriate support and protection from reprisals.

Once the investigation has been completed, a report of the investigation will be provided to the Vice President (Corporate Services). The report may contain recommendations for further action. The Vice President (Corporate Services) will decide what further action (if any) will be taken on the disclosure.

The discloser will be informed of progress and of the outcome by the Vice President (Corporate Services). Where reasonable, the report (or an edited extract of the report) will be provided.

6. CONFIDENTIALITY

The University will, to the greatest extent possible, keep the disclosure and the identity of the discloser confidential.

Obligations of natural justice and procedural fairness may require the information tending to reveal the identity of the discloser be made available to other people (e.g. a person accused of serious misconduct). Such a disclosure will only be made where it is unlikely that a reprisal will be taken against the person making the disclosure.

7. SUPPORT AND PROTECTIONS AVAILABLE

The University will treat all PIDs appropriately and seriously, ensuring privacy and confidentiality (as far as possible) throughout the process. Assistance is available as part of the University's Staff Counselling Program to staff involved in a PID process.

For those making a PID in good faith, the University reassures staff that they will be protected from possible reprisals or victimisation. Section 36 of the Act states that a person is not liable civilly, criminally or under an administrative process for making a PID. If a disclosure is made, the matters surrounding the investigation will be confidential and the discloser will be requested to maintain the integrity of the process by not discussing it with work colleagues or others unconnected with the matter. All statements and correspondence in relation to the matter are to be regarded as strictly confidential. The confidentiality provision does not preclude the discloser from sharing this information with a staff representative or support person.

Those who are the subject of or in some way associated with a PID are entitled to confidentiality and the presumption of innocence. As the subject of an allegation, staff may seek assistance from a staff
or legal representative or support person. However, those involved in the process should not be treated adversely as a result of their involvement and any substantiated allegations of adverse treatment on these grounds may result in disciplinary action being taken against the staff member.

Protection exists for those against whom an intentionally false PID is made. Section 66 of the Act makes it an offence to intentionally make a false or misleading statement intending it to be acted upon as a PID.

8. RECORD KEEPING AND REPORTING

All PIDs are required to be kept confidential; however, the University must comply with the reporting and record keeping obligations imposed on it.

The Office of the Vice President (Corporate Services) will keep a secure record of all PIDs or purported PIDs received by the University. These records will be kept in the central records system as limited access files and will be strictly confidential.

The Vice President (Corporate Services) is responsible for fulfilling the University’s reporting obligations under the Act, which includes the requirement to provide to the Queensland Ombudsman a range of specified information about PIDs in an electronic form, as required. The Queensland Ombudsman reports statistical information in the Office’s annual report to the Parliament.

9. REPRISALS

The Act provides that a person must not cause, or attempt to cause, detriment to another person because, or in the belief that, anybody has made, or may make, a PID. Such conduct is called a reprisal and is not condoned or tolerated by the University.

Furthermore, taking a reprisal action may also constitute corrupt conduct and be reported to the Crime and Corruption Commission.

Any information about reprisals, or suspected reprisals, at the University should be referred immediately to the Vice President (Corporate Services). Any such information is considered a PID and will be treated accordingly.