

WORKFORCE SERVICES

Public Interest Disclosure Procedure

Procedure W.S.E.PR.1.2
Version No. 4.0

PURPOSE

The procedure aims to assist employees and other people to understand their obligations in reporting wrongdoing that concerns employees from Metro South Health including corrupt conduct, maladministration, misconduct, misuse of public funds and/or a substantial danger to public health, safety and environment.

This document also outlines the legislative provisions and procedures in place to protect people who make public interest disclosures under the *Public Interest Disclosure Act 2010*.

SCOPE

This procedure applies to all Metro South Health employees (permanent, temporary and casual), volunteers, contractors and consultants and any external person (member of the public) making a disclosure to Metro South Health in accordance with the *Public Interest Disclosure Act 2010*.

LEGISLATIVE OR OTHER AUTHORITY

Legislation

- *Crime and Corruption Act 2001*
- *Disability Services Act 2006*
- *Environmental Protection Act 1994*
- *Health Ombudsman Act 2013*
- *Hospital and Health Boards Act 2011*
- *Hospital and Health Boards Regulation 2012*
- *Public Interest Disclosure Act 2010*
- *Public Sector Ethics Act 1994*
- *Public Service Act 2008*
- *Public Service Regulation 2008*
- *Financial Accountability Act 2009*

Public Service Commission

- PSC Directive 02/17 – Managing Employee Complaints
- PSC Directive 03/17 – Appeals
- PSC Lobbyist Disclosure Policy

Queensland Ombudsman

- Public Interest Disclosure Standard No.1

Department of Health

- Employee Complaints HR Policy E12 (QH-POL-140)
- Suspension of Employees HR Policy E14 (QH-POL-400)

Metro South Health

- [PL 2014/0022 WS.I.P Separation of Employment Policy](#)
- [PL 2014/0038 Management of Conflict of Interest Policy](#)
- [PR 2016/0066 Management of Conflict of Interest – All Staff Procedure](#)
- [PL 2015/42 Fraud Control Policy](#)
- [PR 2015/52 Fraud Control Procedure](#)
- [PL 2013/06 Risk Management Policy](#)
- [PL2013-06 Risk Management Framework](#)

SUPPORTING DOCUMENTS

WorkForce Documents

- [WS.B.PR.1.6 Transfer Procedure](#)
- [WS.E.PR.1.1 Reporting Corrupt Conduct Procedure](#)
- [WS.E.PR.1.3 Employee Complaints Procedure](#)
- [WS.E.PR.1.8 Performance Improvement Procedure](#)
- [WS.E.PR.1.11 Notification to Health Ombudsman Procedure](#)
- [WS.E.PR.2.1 Workplace Equity and Harassment Officers Procedure](#)
- [WS.F.PR.1.3 Role of Support Person Procedure](#)
- [WS.G.PR.1.1 Corporate Mandatory Training and Performance Appraisal and Development Compliance Procedure](#)
- [WS.G.PR.3.0 Performance Appraisal and Development Procedure](#)
- [WS.H.PR.1.0 Discipline Action Procedure](#)
- [WS.H.PR.1.1 Suspension with or without Salary Procedure](#)
- [WS.E.PR.1.13 Investigation Procedure](#)
- [WS.I.PR.1.6 Redundancy or Retrenchment Procedure](#)
- [WS.O.PR.1.0 Rehabilitation and Return to Work Procedure](#)

Resources

- Australian Health Practitioner Regulation Agency: [National Board Guidelines for Registered Health Practitioners – Guidelines for Mandatory Notifications](#)
- Department of Health: [Employee Assistance Program \(OPTUM\)](#)
- Metro South Health: [Human Resource \(HR\) Sub-Delegations Manual: HRM Functions of Metro South Health](#)
- Metro South Health: [Staff Integrity and Investigations Unit Intranet Site](#)
- Metro South Health: [Audit and Risk Intranet Site](#)
- Metro South Health: [Financial Management Practice Manual \(FMPM\)](#)
- Metro South Health: [Risk Assessment Guide](#)
- Queensland Government: [Code of Conduct for the Queensland Public Service](#)
- Queensland Government: [Sentencing Fines and Penalties for Offences Website](#)
- Queensland Ombudsman: [PID Assessment Guide](#)
- Queensland Ombudsman: [PID Risk Assessment Guide](#)
- Queensland Industrial Relations Commission: [Appeals Guide – Submitting or Responding to a Public Service Appeal](#)
- Queensland Ombudsman: [Handling a Public Interest Disclosure - A Guide for Public Sector Managers and Supervisors](#)

Forms and Templates

- WorkForce Services: [Formal Employee Complaint Checklist](#)
- Office of the Health Ombudsman: [Notification Form](#)
- Queensland Government: [Right to Information and Information Privacy Access Application Form](#)
- WorkForce Services: [List of Workplace Equity and Harassment Officers](#)
- WorkForce Services: [Work Health and Safety Risk Assessment Form](#)
- WorkForce Services: [Risk Management Action Plan Form](#)

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KEY PRINCIPLES

The following key principles apply to public interest disclosures (PIDs) in Metro South Health:

- Metro South Health is committed to an ethical organisational culture and has zero tolerance for criminal and corrupt conduct, fraudulent activities and maladministration.
- All Metro South Health employees (permanent, temporary, casual or on a contract of employment) have an obligation to disclose corrupt conduct, including fraud, misconduct and maladministration as prescribed in the *Public Sector Ethics Act 1994* and the Code of Conduct for the Queensland Public Service (“Code of Conduct”).
- Metro South Health encourages any employee who considers that they have witnessed wrongdoing to come forward and make a disclosure.
- Metro South Health aspires to achieve an organisational climate where all employees feel confident and comfortable about making a disclosure of wrongdoing.
- Section 9 of the *Public Sector Ethics Act 1994*, places an obligation on all Metro South Health employees to disclose fraud, corruption and maladministration.
- The obligation to report wrongdoing is reflected in Principle 1 of the [Code of Conduct](#).
- Metro South Health believes employees who come forward with disclosures of wrongdoing are acting as exemplary organisational citizens by assisting us in promoting openness, accountability and good management.
- Education and training opportunities for all employees will be provided to enhance the identification of wrongdoing and how to make or manage PIDs.

Note: This procedure does not pertain to employee complaints. Please refer to [WS.E.PR.1.3 Employee Complaints Procedure](#) for further information on this process.

APPROPRIATE DISCLOSURE

A public interest disclosure (PID) is a category of complaint consisting of an appropriate disclosure of public interest information made to either the health service or other appropriate authority that results in the discloser receiving protection and support under the *Public Interest Disclosure Act 2010*. For a report of wrongdoing to fall under the *Public Interest Disclosure Act 2010*, there are two alternative tests:

- That the discloser must have an honest belief on reasonable grounds that their information tends to show the conduct or danger. In this case, even if the information provided turns out to be incorrect, or the allegation is unable to be substantiated, the person will still receive protections under the Act provided they thought the information was true.
- That the information tends to show the conduct or danger, regardless of whether the discloser believes the information shows the conduct or danger. This test enables the focus to be placed onto the substance of the disclosure, not necessarily the person's motivation.

Public interest information

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 any person.

PIDs from **any person (members of the public)** are provided for in section 12 of the *Public Interest Disclosure Act 2010*, whereby any person can make a disclosure 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
- the commission of an environmental offence
- the conduct of another person that could, if proven, be a reprisal.

PIDs from **public officers (employees of Metro South Health)** are provided for in section 13 of the *Public Interest Disclosure Act 2010*. In addition to the disclosures any person can make, a public officer can also make a disclosure about:

- suspected corrupt conduct, as defined in the *Crime and Corruption Act 2001* (refer to [WS.E.PR.1.1 Reporting Corrupt Conduct Procedure](#) for further information).
- maladministration that adversely affects 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.

Appropriate authority

Metro South Health is an appropriate authority under the *Public Interest Disclosure Act 2010* that can receive disclosures of wrongdoing that:

- relates to the conduct of Metro South Health or any of its employees
- anything Metro South Health has the power to investigate or remedy
- the conduct of another person that could if proved be, reprisal. The definition of reprisal is included in the definitions section of this procedure.

If a discloser is dissatisfied with how their matter has been assessed or managed they may request a review, either internally or externally (refer to *Public Interest Disclosure Act 2010* and the 'Right of Review' section (page 13) of this procedure for further information).

If there is any doubt as to whether a disclosure is in fact a PID, Metro South Health will deal with the matter as if it is a PID until otherwise confirmed.

LEGISLATIVE DELEGATE RESPONSIBILITIES

Chief Executive Metro South Health

- Creating an ethical workplace culture where employees report suspected wrongdoing when they become aware of it and are supported when they do so ([Code of Conduct](#)).
- Ensuring reasonable procedures are in place to deal with a PID and that those procedures are published to enable members of the public and employees to access them (*Public Interest Disclosure Act 2010*).
- Ensuring that PIDs are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any wrongdoing in a PID (*Public Interest Disclosure Act 2010*).
- Ensuring that employees making a PID receive support and protection from reprisal (*Public Interest Disclosure Act 2010*).
- Ensuring that all legislative obligations in relation to reporting an investigation are met (*Public Interest Disclosure Act 2010*).
- Ensuring that all matters involving suspected corrupt conduct are referred to the Crime and Corruption Commission (*Crime and Corruption Act 2001*).

Executive directors, senior directors, managers and employees holding supervisory roles within Metro South Health

- Ensuring employees in their area are aware of their obligations in relation to the requirements of this policy and procedure including:
 - employees reporting corrupt conduct and making PIDs within their business areas about any matters which may be disclosed (under sections 12 and 13 of the *Public Interest Disclosure Act 2010*)
 - members of the public making a PID to Metro South Health about:
 - a substantial and specific danger to the environment
 - a substantial and special danger to the health or safety of a person with a disability
 - a reprisal because of a belief that a person has made or intends to make a PID.
- Ensuring reports of wrongdoing and potential PIDs are referred in the first instance to the facility/service or manager/director WorkForce Services (of an employee's particular facility / service) and the Director Staff Integrity and Investigations (Metro South Health Public Interest Disclosure Coordinator) for assessment and action.
- Ensuring employees are aware of the protection offered to members of the public as a protected discloser when making a PID to Metro South Health under the *Public Interest Disclosure Act 2010*.
- Ensuring employees, supervisors and line managers are trained in ethical decision-making, the [Code of Conduct](#), misconduct prevention, and relevant Metro South Health policies and procedures. Refer to [WS.G.PR.1.1 Corporate Mandatory Training and Performance Appraisal and Development Compliance Procedure](#) for further information.
- Monitoring the workplace for any signs of reprisal or increased risk of reprisal against an employee making a PID and taking reasonable action to protect them, and ensuring an employee, who is the subject of a PID, receives fair treatment and has access to support and assistance.
- Ensuring that where allegations made in a PID are substantiated, recommendations from the investigation are implemented as soon as practicable, with effective systems and processes put in place to reduce the likelihood of recurrence.

Director Staff Integrity and Investigations Metro South Health (Public Interest Disclosure Coordinator)

- The legislated obligations under the *Public Interest Disclosure Act 2010* have been delegated in the [Human Resource \(HR\) Sub-Delegations Manual: HRM Functions of Metro South Health](#) to the Director Staff Integrity and Investigations for overall co-ordination of the Metro South Health PID process.
- Upon receipt of information, ensure it is assessed according to the current procedure and the outcome of that assessment communicated to the discloser and relevant WorkForce Services.
- Undertake an initial risk assessment taking into consideration information received at the time of assessment and if necessary in consultation with appropriate positions. Refer to:
 - [PL 2013-06 Metro South Health Risk Management Policy](#)
 - [PL 2013-06 Metro South Health Integrated Risk Management Framework](#)
 - [Metro South Health Risk Assessment Guide](#)
 - [Queensland Ombudsman PID Assessment Guide](#)
 - [Queensland Ombudsman PID Risk Assessment Guide](#).
- Development, maintenance and communication of the Metro South Health Public Interest Disclosure Procedure in consultation with the relevant WorkForce Services.
- Providing advice in relation to the obligations under the *Public Interest Disclosure Act 2010*.
- In certain circumstances, arrange for the management of investigations of matters alleged through a PID to be undertaken.
- Advising relevant WorkForce Services and supervisors/line managers with regard to case management of employees making a PID and employees who are the subject of a PID to ensure they receive fair treatment, have access to support and assistance and protected disclosers are safeguarded from reprisal.
- Ensuring legislative reporting obligations on PID issues are met (including reporting to the Queensland Ombudsman as oversight agency).
- Providing information concerning PIDs to the Chief Executive Metro South Health, facility or service executive directors and the Metro South Hospital and Health Board, as required and authorised by the *Public Interest Disclosure Act 2010*.

WorkForce Services

- Ensuring any reports of wrongdoing that could amount to suspected corrupt conduct and/or PIDs are immediately referred to the Director Staff Integrity and Investigations for formal assessment.
- Managing and dealing with matters assessed as public interest disclosures through appropriate strategies including but not limited to investigation, discipline processes, system reviews or other relevant processes to deal with the PID.
- Undertaking the initial risk of reprisal assessment and then the ongoing risk management and mitigation of PID matters in consultation with relevant supervisors/line managers, the Director Staff Integrity and Investigations and disclosers.
- In the case of moderate-extreme risk of reprisal matters, undertaking detailed assessment and planning in consultation with the discloser, relevant executive and implementing risk mitigation strategies.
- Consulting with relevant parties including the discloser and supervisors/line managers regarding ongoing risk management of potential reprisal within the work unit and implementing appropriate mitigation strategies to address that risk.
- Advising supervisors/line managers with regard to the case management of employees making a PID and employees who are the subject of a PID to ensure they receive fair treatment, have access to support and assistance and protected disclosers are safeguarded from reprisal.
- Providing outcome advice to the discloser and a copy to the Director Staff Integrity and Investigations at the conclusion of the matter.

Patient liaison or patient complaints units

- Ensuring any complaints received from patients or their advocates that relates to a substantial and specific danger to the health or safety of a person with a disability; or a substantial and specific danger to the environment; or the conduct of another person that could, if proven, be a reprisal, is referred to the Director Staff Integrity and Investigations for formal assessment and the relevant WorkForce Services.
- Assisting WorkForce Services and the Staff Integrity and Investigations Unit in the management of disclosures assessed as PIDs, if considered appropriate pending confidentiality provisions.

Employees

- Being aware of and complying with all relevant Whole-of-Government and Metro South Health WorkForce Services policies and procedures, including; the [Code of Conduct](#), reporting corrupt conduct and PIDs.
- Attending corporate mandatory training within Metro South Health relating to:
 - code of conduct
 - ethics, fraud and conflicts of interest
 - corrupt conduct prevention education when offered.
- Being aware of the possibility that wrongdoing may exist in the workplace and reporting any concerns to their supervisor/line manager or an appropriate official.
- Being aware of what reprisal is and ensuring their actions towards a discloser or any person associated with a disclosure does not amount to a reprisal.

PROCESS

Step 1: Making a PID

Internal reporting options

In Metro South Health, disclosures can be made in any way, including:

- in person
- in writing (by letter, email or memo)
- by telephone.

All disclosures of wrongdoing will be recorded and directed to the appropriate area of Metro South Health to be dealt with. If a disclosure is received orally, it should be immediately recorded in writing, dated and signed by the person receiving the disclosure and forwarded to the facility/service or the Manager/Director WorkForce Services (of an employee's particular facility/service) and/or directly to Metro South Health Staff Integrity and Investigations. If a matter received is to be referred to another appropriate authority, it will be done so according to legislative and administrative requirements of the *Public Interest Disclosure Act 2010*.

The person making the complaint does not need proof, as long as they have reasonable grounds to believe that the wrongdoing has occurred. Where possible, employees should provide information including:

- the name and job title of the person who is the subject of the disclosure
- details of relevant events, dates and places
- the names of people who may be able to support the account of events
- any other information that may be able to support the account of events.

Disclosures may be made to:

If you are an employee	If you are a member of the public
Your supervisor/line manager	Director Staff Integrity and Investigations Metro South Health PO Box 4043 Eight Mile Plains Qld 4113 Phone: (07) 3156 4953 Email: complaints_resolution_metro_south@health.qld.gov.au
An appropriate delegate within your facility/service	A patient or consumer liaison unit
The Manager/Director WorkForce Services (of your facility/service)	Chief Executive Metro South Health PO Box 4043 Eight Mile Plains Qld 4113
Director Staff Integrity and Investigations Metro South Health PO Box 4043 Eight Mile Plains Qld 4113 Ph: (07) 3156 4953 Email: complaints_resolution_metro_south@health.qld.gov.au	
Chief Executive Metro South Health PO Box 4043 Eight Mile Plains Qld 4113	

External reporting options

A person may make a disclosure to an external entity. This may be done as a first step, or where the person is not satisfied with Metro South Health's response to the disclosure. While Metro South Health urges disclosures to be made to someone in Metro South Health, Metro South Health will respect and support an employee or member of the public if they disclose to an appropriate external entity.

Disclosures may be made to the following external entities:

- the Crime and Corruption Commission - if it concerns corrupt conduct
- the Queensland Ombudsman - if it concerns maladministration
- the Office of the Health Ombudsman – if it concerns a complaint of notifiable conduct regarding a health practitioner (registered or unregistered) (refer to [WS.E.PR.1.11 Notification to Health Ombudsman Procedure](#) for further information)
- Queensland Audit Office - if it concerns misuse of public funds
- a member of Parliament.

Note: Special circumstances exist for journalists refer to section 20 of the [Public Interest Disclosure Act 2010](#) for further information.

Disclosers should be aware that when they disclose to an external entity, it is very likely that the entity will discuss the case with Metro South Health. Metro South Health will make every effort to assist and cooperate with any entity dealing with a PID about Metro South Health to work towards a satisfactory outcome.

The discloser will not receive protections under the *Public Interest Disclosure Act 2010* where a disclosure is made to organisation that cannot investigate and deal with the matter (e.g. a complaint about a Police Officer to a Queensland Health representative). For further information please see the *Public Interest Disclosure Act 2010* and the 'Additional Information for Disclosers' section (page 14) of this procedure.

Step 2: Assessment of matters

The Director Staff Integrity and Investigations must respond to PIDs (including fraud) by:

- ensuring all matters are assessed to determine whether they may amount to a PID
- recommending an appropriate course of action to deal with the matter.

Refer to [WS.E.PR.1.1 Reporting Corrupt Conduct Procedure](#) for more information regarding the assessment of matters as suspected corrupt conduct or maladministration.

The Director Staff Integrity and Investigations will assess if the matter may constitute a PID under the *Public Interest Disclosure Act 2010* and report the matter to the Queensland Ombudsman Office.

In making this assessment, the Director Staff Integrity and Investigations may obtain independent expert advice, additional information from Metro South Health, the facility/service, department/division or consult with other internal units; ensuring confidentiality is maintained as required.

Once it is determined that a PID has been made, the discloser will be considered an 'internal witness'. The contact details of the relevant WorkForce Services or nominated contact officer will be provided to the internal witness as the local first point of contact.

The relevant delegate or Manager/Director WorkForce Services or nominated contact is to initiate discussion with the internal witness to facilitate assistance, support or protection that the internal witness may require at the local level, timeframes for resolution of the disclosure of information and how the internal witness will be advised of progress and outcomes.

It is the role of the relevant WorkForce Services to undertake risk assessments with the discloser regarding the potential for reprisal.

False or misleading information

It is an offence under the *Public Interest Disclosure Act 2010* to intentionally make a false or misleading statement intending it be acted upon as a PID. It is an indictable offence which carries a maximum penalty of two (2) years imprisonment or a fine to the maximum value of 167 penalty units. Refer to the [Sentencing Fines and Penalties for Offences Website](#) for further information.

Any employee who makes a false or misleading statement will be subject to disciplinary action.

Step 3: Management

A decision on how to best deal with a disclosure received will be made in consultation with the appropriate unit including Metro South Health Staff Integrity and Investigations, the relevant WorkForce Services and/or Clinical Governance. It may be that preliminary inquiries are undertaken and as a result a decision not to take the matter any further is made.

The manner in which a disclosure is dealt with is governed by [WS.E.PR.1.3 Employee Complaints Procedure](#) and [WS.E.PR.1.1 Reporting Corrupt Conduct Procedure](#). It may be determined that an investigation, disciplinary process or system review is the most appropriate way to deal with the disclosure.

It may also be decided that another agency is more capable of dealing with the disclosure; therefore the matter will be referred to that agency, under the provisions of the *Public Interest Disclosure Act 2010*. Where an employee disclosure is referred to another area of Metro South Health for investigation or other action or to an external entity such as the Crime and Corruption Commission, the discloser will be advised of this.

Metro South Health will provide the discloser, in writing (letter or email) advice and assistance on the process including information on the action taken or proposed to be taken as a result of the disclosure, the estimated timeframes, confidentiality, protections under the *Public Interest Disclosure Act 2010* and details of a contact person if applicable. At the conclusion of the process, the discloser will be provided with outcome advice explaining what action was taken to address the disclosure.

The unit managing the disclosure (WorkForce Services, Patient Liaison etc.) are responsible for on-going contact with the discloser and providing updates and undertaking risk assessments regarding reprisal, as the matter progresses. The unit managing the matter must also provide updates to the Director Staff Integrity and Investigations.

Step 4: Finalisation of PID matters

Once a decision is made regarding the action to be taken to deal with the PID, the relevant WorkForce Services will maintain contact with employees (the discloser) and provide regular updates as they become available. The Director Staff Integrity and Investigations may also provide updates to the discloser. Once the matter is concluded, outcome advice will be provided to the discloser by the Director Staff Integrity and Investigations or the relevant WorkForce Services identifying the following:

- what action was taken
- if the matter was substantiated or not
- if disciplinary action or managerial action is taken against a subject officer
- any systemic issues identified and proposed action to be taken to rectify.

The discloser will not be provided with the penalty imposed against a subject officer due to privacy considerations. If requested the Director Staff Integrity and Investigations and/or the relevant WorkForce Services can meet with the discloser and explain the outcome further.

Metro South Health is committed to treating disclosures fairly. The rights of any person who is the subject of, or is associated with a disclosure, are important. If a PID is made against employees, employees are entitled to confidentiality and the presumption of innocence.

Employees who are the subject of a PID may seek assistance from their legal representative or union and may also wish to contact the [Employee Assistance Program \(OPTUM\)](#) for advice and support.

All employees who participate in any investigation should remember their responsibilities under the [Code of Conduct](#) and are to perform their duties as required under the Code of Conduct. They should not be treated adversely because of their involvement and any employees found to have engaged in reprisals will be the subject of disciplinary action.

Right of review

Under the *Public Interest Disclosure Act 2010*, a discloser can apply for review to the Chief Executive Metro South Health where the disclosure has been formally assessed as a PID but Metro South Health decides to take no action. Under section 30 of the *Public Interest Disclosure Act 2010*, a person who receives written reasons may apply to the Chief Executive within **28 days** for a review of that decision.

In the case where a discloser provides information and after formal assessment, the Director Staff Integrity and Investigations determines the information does not meet the threshold of the *Public Interest Disclosure Act 2010* and therefore is assessed as **not** being a PID, the discloser may make a complaint about the decision to the Queensland Ombudsman.

Depending on the nature of the PID, rights of review may also be available via the [WS.E.PR.1.3 Employee Complaints Procedure](#) .

Advice and assistance

Employees seeking information about making a PID can contact the following areas for confidential advice:

<p>Director Staff Integrity and Investigations Ph: (07) 3156 4953 Email: complaints_resolution_metro_south@health.qld.gov.au</p>
<p>The Crime and Corruption Commission's Complaints Service <i>(in relation to suspected corrupt conduct)</i> Ph: (07) 3360 6060 Email: mailbox@ccc.qld.gov.au</p>
<p>The Queensland Ombudsman <i>(in relation to maladministration)</i> Ph:1800 068 908</p>

ADDITIONAL INFORMATION FOR DISCLOSERS

Reprisal

The purpose of the *Public Interest Disclosure Act 2010* is to promote the public interest by protecting those persons who make disclosures. This protection continues following the disclosure of information being dealt with or at the completion of any review or investigation.

Any allegation of reprisal against an internal witness will be taken seriously by Metro South Health. Pursuant to section 40 of the *Public Interest Disclosure Act 2010*, a person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, the other person or someone else has made, or intends to make, a public interest disclosure, or the other person or someone else is, has been, or intends to be, involved in a proceeding under the *Public Interest Disclosure Act 2010* against any person.

In addition, section 12(1)(d) of the *Public Interest Disclosure Act 2010* provides for any person who has information about the conduct of another person that could, if proved, be a reprisal, can be in itself a disclosure of information in the public interest.

Any person who commits an act of reprisal commits an indictable offence with a punishment of up to two years' imprisonment. If the discloser is an employee, the person who commits an act of reprisal may also face disciplinary action.

Assessment of risk of reprisal

As soon as becoming aware that a PID has been made (or will be made) and a (potential) internal witness is known to exist, the level of protection and support appropriate for the internal witness will need to be determined. An initial assessment will need to be undertaken by the relevant WorkForce Services or the patient liaison officer at the time of becoming aware of the potential PID, and prior to formal assessment by the Director Staff Integrity and Investigations.

This can be achieved by conducting a risk assessment of reprisal (utilising the [Queensland Ombudsman PID Assessment Guide](#) and [Queensland Ombudsman PID Risk Assessment Guide](#)), including consideration of the likelihood of a reprisal occurring and its consequences. The information obtained during the initial assessment is to be provided to the Director Staff Integrity and Investigations for use during the formal assessment of the PID.

Pursuant to Section 6.6 of the [Public Interest Disclosure Standard No.1](#), implementing protective measures need only be proportionate to the risk of reprisal. If the risk is assessed as being sufficiently 'High' by Metro South Health, a record of a protection plan is to be developed. Where feasible, this should be developed in consultation with the discloser and other relevant stakeholders, (e.g. work health and safety).

Risk assessments are to be conducted on a regular basis to ensure the risk of reprisal is being managed appropriately. There are a number of occasions when the risk of reprisal may change, including, but not limited to:

- commencement of investigation
- change in personal circumstances of parties involved
- investigation findings being delivered to parties
- discipline process undertaken
- penalty delivered to subject officer.

A review of any reprisal protection plan should occur if the risk of reprisal changes. Reprisals may occur if a disclosure of information is not managed appropriately. Metro South Health as the employer must demonstrate that they have taken reasonable steps to prevent reprisal occurring.

Appropriate records must be maintained where the risk of reprisal was considered, assessed and managed.

Pursuant to Part 7 of the [Public Interest Disclosure Standard No. 1](#) and Metro South Health's reporting obligations to the Queensland Ombudsman Office, the Director Staff Integrity and Investigations will report the actions that have been taken to assess and manage the risk of reprisal for an internal witness. Facility/service Manager/Director WorkForce Services is to consider the following risk mitigation strategies and is to advise the Director Staff Integrity and Investigations, as part of the above reporting requirements, which strategies are in place or have been considered at the local level:

- additional security
- discloser declined support/protection
- existing strategies considered sufficient
- monitoring/management of staff who may engage in reprisal
- protection of identity or existence of discloser
- provision of tailored support for the discloser
- suspension of staff who may engage in reprisal
- transfer of discloser
- transfer of staff who may engage in reprisal.

Responding to reprisals

Once Metro South Health becomes aware of alleged reprisal action against a discloser, immediate steps will be taken to investigate or deal with the allegation of reprisal. The discloser will be kept informed of the progress of the investigation or process and any relevant outcome.

Where it is established that reprisal action is occurring immediate steps will be taken to stop that activity and protect those concerned. The nature of the action that Metro South Health will take is dependent upon the circumstances and seriousness of the reprisals likely to be suffered.

Any employees found to have engaged in reprisals will be the subject of disciplinary action.

Be aware that making a PID does not protect employees from any management, disciplinary or criminal action if employees have been involved in improper conduct or their performance is unsatisfactory.

Disclosure to a journalist

In limited situations, a discloser may receive protections under the *Public Interest Disclosure Act 2010* if they chose to make a disclosure to a journalist.

Protections apply if a person **has previously made a disclosure** (PID) of substantially the same information and the organisation to which the disclosure was referred:

- decided not to investigate or deal with the matter
- investigated the disclosure but decided not to recommend the taking of any action in relation to the matter
- did not notify the person within six months after the date of the disclosure was made, whether the matter would be investigated or not.

Anonymous disclosures

The likelihood of a successful outcome is increased greatly if, when making a disclosure, the discloser makes their identity known. Nonetheless, people are able to make a disclosure anonymously either in writing or by telephone. If they decide to disclose anonymously, they will need to provide sufficient information for the matter to be assessed and if accepted, dealt with, as it will not be possible for Metro South Health to contact the discloser for clarification or more information. Also, it will not be possible for Metro South Health to provide the discloser with updates regarding the progress of the disclosure or outcome advice at the conclusion of the matter.

In order to remain anonymous, but allow Metro South Health ongoing communication, the discloser may wish to create an anonymous email account that would allow Metro South Health to obtain further details and provide progress reports and outcome advice at the conclusion of the matter.

If an employee has reported anonymously and provided enough information for Metro South Health to act, Metro South Health is committed to act upon an employee request.

Support and feedback to disclosers

Metro South Health will initiate and coordinate action to support those that make a disclosure, particularly if the person is suffering detriment as a result. Actions may include:

- advising about the resources available in our organisation to handle any concerns employees may have as a result of making a disclosure
- appointing a mentor, confidante or other support officer to assist the discloser throughout the process
- referring to the [Employee Assistance Program \(OPTUM\)](#) or arranging for other professional counselling
- generating support in a work unit (if appropriate)
- ensuring that any suspicions of reprisal, victimisation or harassment are dealt with
- maintaining contact with the discloser
- negotiating a formal end to any support program when it is agreed that it is no longer needed.

If it is felt that support is needed as a result of making a disclosure, the discloser is urged to speak with their supervisor/line manager (if applicable) or to contact the Director Staff Integrity and Investigations or appointed contact person within the relevant WorkForce Services. All employees in supervisory roles in Metro South Health are under an obligation to notify the relevant WorkForce Services and Director Staff Integrity and Investigations if they believe any employee is suffering detriment as a result of reporting a wrongdoing.

Confidentiality

Maintaining confidentiality is very important in the handling of a disclosure. Confidentiality not only protects employees, the discloser against reprisals, but any other people affected by an employee disclosure. When referring to confidentiality, the meaning is:

- the fact a disclosure has been made
- any information that may identify employees 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 a discloser's confidentiality, Metro South Health will ensure that the details of the disclosure, the investigation and related decisions will be kept secure.

Be aware that, while every attempt to ensure confidentiality will be made, there will be occasions when the identity of a discloser may be revealed to a subject officer. These include:

- providing natural justice to the subject officer and only if the risk of reprisal is unlikely
- responding to a court order or legal directive (e.g. subpoena, notice to produce, direction by a parliamentary committee)
- in court proceedings.

Metro South Health will advise the discloser if their identity needs to be revealed for any reason listed above and seek their consent, if possible. Metro South Health will attempt as far as possible to avoid a situation where a discloser's identity will need to be revealed, even though a discloser has not given consent.

While Metro South Health is prepared to take all steps necessary to protect the confidentiality of the information that a discloser has provided, disclosers also have some obligations. The fewer people who know about the disclosure (both before and after they make it) the more likely it is that Metro South Health will be able to keep their identity confidential and protect them from any detrimental action in reprisal. Metro South Health encourages disclosers not to talk about the matter to another employee, work colleagues or any other unauthorised person.

Metro South Health will ensure that all record keeping and reporting will be done in accordance with legislative and administrative requirements of the *Public Interest Disclosure Act 2010*.

Reasonable management action

The *Public Interest Disclosure Act 2010* recognises the need for supervisors/line managers to be able to manage their employees, including those employees who have made a disclosure under the Act. The taking of reasonable management action is not prevented by the *Public Interest Disclosure Act 2010* and ensures the relationship between the discloser (employee) and Metro South Health will continue.

For the action to be regarded as reasonable management action, the reason for taking the action cannot include the fact that a PID was made. Existing WorkForce Services policies and procedures must be considered when taking reasonable management action. Supervisors/line managers must consult with the relevant delegate, Manager/Director WorkForce Services or the Director Staff Integrity and Investigations before the proposed action is to be undertaken.

The *Public Interest Disclosure Act 2010* outlines a number of examples of reasonable management action:

- appraisal of the employee's work performance and development, e.g. performance and development (PAD) process, or however so named (refer to [WS.G.PR.3.0 Performance Appraisal and Development Procedure](#) for further information)
- a requirement of the employee to undertake/participate in a performance improvement process (PIP), or however so named (refer to [WS.E.PR.1.8 Performance Improvement Procedure](#) for further information)
- an action that requires the employee to respond to matters raised in relation to or against them, e.g. complaints or grievance matters, or when the discloser becomes the subject of a disclosure made by another person (refer to [WS.E.PR.1.3 Employee Complaints Procedure](#) for further information)
- an action or decision made about task allocation, workloads or access to training
- an action or decision made about matters of operational requirement or need
- a requirement that the employee undertake counselling
- a requirement that an employee participates in a rehabilitation/return to work process (refer to [WS.O.PR.1.0 Rehabilitation and Return to Work Procedure](#) for further information)
- suspension of the employee from the workplace (refer to [WS.H.PR.1.1 Suspension with or without Salary Procedure](#) for further information)
- disciplinary action (refer to [WS.H.PR.1.0 Discipline Action Procedure](#) for further information)
- an action to transfer or deploy the employee (refer to [WS.B.PR.1.6 Transfer Procedure](#) for further information)

- action to end the employees employment by way of redundancy or retrenchment (refer to [WS.I.PR.1.6 Redundancy or Retrenchment Procedure](#) for further information)
- 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.

Rights of the subject officer

Once the information is assessed and determined to amount to a PID, the subject officer will receive notification that allegations have been received that could amount to a PID and will be provided advice regarding the process and their rights and obligations.

Subject officers may seek assistance from their union, or engage their own legal representative at their own expense, during the process of the disclosure being dealt with or when allegations are raised.

A subject officer may, in certain circumstances, be provided with information that will identify a discloser. These circumstances include the provision of natural justice to the subject officer and it is unlikely that reprisal action would be taken, see section 65(4) of the *Public Interest Disclosure Act 2010*.

Subject officers are to remain cognisant of their own behaviour and obligations under the [Code of Conduct](#). A person who has made a disclosure of information, or participated in the process of dealing with a disclosure, are doing so to meet their own obligations and duty, and therefore are not to be treated adversely because of their involvement in any process.

A subject officer is not to act in any manner, towards a person who is a discloser or a person who has participated in the process of dealing with a disclosure, in which that manner could be misconduct, unacceptable, disgraceful or improper conduct or workplace behaviour (refer to the 'Reprisal' section (page 14) of this procedure for further information).

Maintaining appropriate records and fulfilling reporting requirements to the oversight agency

The [Public Interest Disclosure Standard No.1](#) places an obligation on Metro South Health to ensure there is a secure and confidential reporting system to receive and manage a disclosure of information is in place. In this regard, the Director Staff Integrity and Investigations will record particular details of PIDs in accordance with Section 7.2 of the [Public Interest Disclosure Standard No.1](#) and may request certain information in relation to a disclosure of information from relevant parties involved in the PID.

Metro South Health Director Staff Integrity and Investigations will provide relevant information to the oversight agency, the Queensland Ombudsman Office through completion of the PID database which is managed by the oversight agency.

DEFINITIONS

Corrupt conduct	<p>Section 15 of the <i>Crime and Corruption Act 2001</i> defines corrupt conduct as conduct of a person, regardless of whether the person holds or held an appointment, that–</p> <ul style="list-style-type: none">• adversely affects, or could adversely affect, directly or indirectly, the performance of functions (official duties) or exercise of power of a unit of public administration or person holding an appointment; and• the conduct must be of a kind that could result, directly or indirectly, in the improper performance of those duties in a way that is not honest or impractical, or a knowing or reckless breach of trust, or involves a misuse of information; and• must be engaged in for the purpose of providing a benefit, or causing a detriment, to a person; and• must be such that it would, if proved, be a criminal offence or a disciplinary breach providing reasonable grounds for dismissal. <p>Examples include, but are not limited to:</p> <ul style="list-style-type: none">• discrimination• harassment (sexual and/or workplace bullying)• impairment whilst on duty (alcohol or medication)• criminal offences• failing to report suspected corrupt conduct• theft of Metro South Health property, including medication and medical supplies• fraudulently obtaining a financial gain through the misuse of government funds or assets• unauthorised release or disclosure of confidential information• timesheet fraud, claiming for duties not performed• misuse of Metro South Health assets and equipment e.g. vehicles, mobile telephones, computers etc.• maladministration and misappropriation including misuse of fuel cards and corporate credit cards• utilising Metro South Health resources and/or conducting a private business during working hours• not declaring conflicts of interest• assault in the workplace of employees, patients or other persons• utilising the Queensland Health computer network for accessing or transmitting pornographic images or images which may depict child exploitation• causing, attempting to cause or conspiring to cause, detriment to another person because (or in the belief that) another person has made a public interest disclosure pursuant to the <i>Public Interest Disclosure Act 2010</i>• wilful neglect which may be defined as malicious or reckless conduct• involves an allegation of ‘professional misconduct’ (see definition in WS.E.PR.1.1 Reporting Corrupt Conduct Procedure).
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Administrative action	<p>Defined in Schedule 4 of the <i>Public Interest Disclosure Act 2010</i> and means any action about a matter of administration, including, for example:</p> <ul style="list-style-type: none"> • a decision and an act; and • a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and • the formulation of a proposal or intention; and • the making of a recommendation, including a recommendation made to a Minister; and • an action taken because of a recommendation made to a Minister; and <p>It does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.</p>
Detriment	<p>Schedule 4 of the <i>Public Interest Disclosure Act 2010</i> defines detriment as including-</p> <ul style="list-style-type: none"> (a) personal injury or prejudice to safety; and (b) property damage or loss; and (c) intimidation or harassment; and (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and (e) financial loss; and (f) damage to reputation, including, for example, personal, professional or business reputation.
Disability	As defined in the <i>Disability Services Act 2006</i> .
Discloser	A person who makes a public interest disclosure.
Employee (including contractors and consultants)	Includes permanent, temporary and casual employees, visiting medical officers and other partners, contractors, consultants, students, volunteers and others who exercise power or control resources for and on behalf of Metro South Health.
Environment	As defined in the <i>Environmental Protection Act 1994</i> .
Journalist	Pursuant to Section 20(4) of the <i>Public Interest Disclosure Act</i> – a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.

Maladministration	Schedule 4 of the <i>Public Interest Disclosure Act 2010</i> defines maladministration as an administrative action that: <ul style="list-style-type: none"> (a) was taken contrary to law; or (b) was unreasonable, unjust, oppressive; or improperly discriminatory; or (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 (d) was taken: <ul style="list-style-type: none"> (i) for an improper purpose; or (ii) on irrelevant grounds; or (iii) having regard to irrelevant considerations; or (e) was an action for which reasons should have been given, but were not given; or (f) was based wholly or partly on a mistake of law or fact; or (g) was wrong.
Office of the Health Ombudsman (OHO)	Established under the <i>Health Ombudsman Act 2013</i> , the Office of the Health Ombudsman deals with mandatory or voluntary complaints or concerns about the health, conduct or performance of a health practitioner (including registered or unregistered health practitioners).
Office of the Health Ombudsman (OHO) – notifiable conduct	As defined in Section 140 of the <i>Health Practitioner Regulation National Law Act 2009</i> notifiable conduct, in relation to a registered health practitioner, means the practitioner has- <ul style="list-style-type: none"> (a) practised the practitioner’s profession while intoxicated by alcohol or drugs; or (b) engaged in sexual misconduct in connection with the practice of the practitioner’s profession; or (c) placed the public at risk of substantial harm in the practitioner’s practice of the profession because the practitioner has an impairment; or (d) placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.
Protected discloser	A person who makes a PID in accordance with provisions contained within the <i>Public Interest Disclosure Act 2010</i> and who is granted protected status (previously known as ‘whistle-blower protection status’).
Public funds	Funds available to, or under the control of, a public sector entity including, for example, public moneys within the meaning of the <i>Financial Accountability Act 2009</i> .
Public health or safety	Schedule 4 of the <i>Public Interest Disclosure Act 2010</i> defines public health or safety as including the health or safety of persons- <ul style="list-style-type: none"> (a) under lawful care or control; or (b) using community facilities or services provided by the public or private sector; or (c) in employment workplaces.

Public interest disclosure (PID)	A disclosure of information specified in the <i>Public Interest Disclosure Act 2010</i> (sections 12 and 13) and made to an appropriate public sector entity that has the responsibility or power to take appropriate action about the information disclosed or to provide an appropriate remedy.
Reprisal	As defined in Section 40 of the <i>Public Interest Disclosure Act 2010</i> - Causing, or attempting or conspiring to cause, detriment to another person because, or in the belief that- <ul style="list-style-type: none"> (a) the other person or someone else has made, or intends to make, a public interest disclosure; or (b) the other person or someone else is, has been, or intends to be, involved in a proceeding under the <i>Public Interest Disclosure Act 2010</i> against any person. An attempt to cause detriment includes an attempt to induce a person to cause detriment.
Subject officer	A Metro South Health employee, including a person who was a Metro South Health employee, who is the subject of a complaint or allegation.
Substantial and specific	Substantial means 'of a significant or considerable degree (or great)'. It must be more than trivial or minimal and have some weight or importance (e.g. conduct that is moderately or somewhat serious). Specific means 'precise or particular'. This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.
Queensland Ombudsman	The Queensland Ombudsman investigates complaints about the actions and decisions of state government departments and agencies (including state schools and TAFE), local councils and public universities.

PUBLIC INTEREST DISCLOSURE FLOWCHART

