

Public Interest Disclosure Policy and Procedure



1 Purpose

To provide a structure that facilitates and manages disclosures as required under the *Public Interest Disclosure Act 2010* (Qld) whilst ensuring the protection of persons making, and involved in, disclosures.

2 Scope

This policy applies to all University employees whether continuing, fixed term or casual and to Council members. The policy also applies to consultants and contractors whilst working for the University and to University related entities.

3 Policy Statement

This Policy prescribes how the University complies with its legal requirements under the *Public Interest Disclosure Act 2010* (Qld) and the Public Interest Disclosure Standard No 1. It establishes a management program to encourage and facilitate public interest disclosures through a positive reporting environment. Within a culture of trust, integrity, ethical behaviour, accountability and transparency, the Policy ensures protection against reprisals is given to persons making a public interest disclosure and also provides for support to be given to persons affected by a public interest disclosure.

4 Principles

- The University recognises that effective management of illegal and unethical practices is largely dependent upon the reporting culture and practices within its organisation.
- Every University employee has an ethical responsibility to disclose public interest disclosures.
- University managers and supervisors recognise the value of a public interest disclosure to the University and are committed to the proper management of such disclosures.
- University managers and supervisors will ensure through a communication process that University employees are aware of their responsibilities in making disclosures.
- Principles of Natural Justice will apply to all public interest disclosure investigations that directly affect the rights and interests of any person. The University is committed to protecting rights and ensuring a fair process for both the discloser and persons who are

the subject of a public interest disclosure.

5 Procedures

5.1 What is a Public Interest Disclosure?

A public interest disclosure is a disclosure about conduct by a Public Officer which if proved would constitute:

- Corrupt Conduct (see metadata table [Definitions]);
- Maladministration (see metadata table [Definitions]); that adversely affects someone's interests in a substantial and specific way;
- Conduct that may constitute a substantial misuse of public resources;
- Conduct that may constitute a substantial and specific danger to public health or safety or the environment or to the health or safety of a person with a disability;
- Reprisal action against a person who has made a public interest disclosure

Disclosures may be either subjective or objective disclosures. A disclosure is subjective if the discloser honestly believes on reasonable grounds that the information tends to show the conduct or danger has occurred or is currently occurring. A disclosure is objective if the information tends to show the existence of the alleged conduct regardless of what the discloser honestly believes.

5.2 Who can make a Public Interest Disclosure?

Any person can make a public interest disclosure to the University. The *Public Interest Disclosure Act 2010* (Qld) however makes a distinction between those types of disclosures that can be by a Public Officer and those that can be made by other persons. A Public Officer is a University employee (either continuing, fixed term, or casual) or an officer of the University (including a Council member).

5.2.1 Disclosures by Public Officers

- Only a Public Officer may make a public interest disclosure concerning:
- Corrupt Conduct (see section 5 [Definitions]);
- Maladministration (see section 5 [Definitions]); that adversely affects someone's interests in a substantial and specific way;

- Conduct that may constitute a substantial misuse of public resources;
- Conduct that may constitute a substantial and specific danger to public health or safety;
- Conduct that may constitute a substantial and specific danger to the environment.

5.2.2 Disclosures by any person

Any person however (including a Public Officer) may make a public interest disclosure concerning:

- Conduct that may constitute a substantial and specific danger to the health or safety of a person with a disability;
- Conduct that may constitute a substantial and specific danger to the environment;
- Conduct that may constitute a reprisal taken against anybody as a result of a public interest disclosure.

5.2.3 False or Misleading Disclosures

Provided a public interest disclosure is made in good faith, a discloser will be protected from reprisals or victimisation regardless of whether allegations are substantiated.

Protection under this Policy is not extended to any person who intentionally makes a public interest disclosure knowing that the information supplied is false or misleading. It is an offence under the *Public Interest Disclosure Act 2010* (Qld) to give false or misleading information intending it to be acted upon as a public interest disclosure. Penalties under the *Public Interest Disclosure Act 2010* (Qld) for false or misleading information include fines or imprisonment. Such conduct will be reported to the Public Service Commission or other relevant Queensland authority and University employees may also be subject to disciplinary action under the provisions of the University's Code of Conduct and USQ's Enterprise Agreement, or the relevant senior employment contract.

5.3 Process for making a disclosure

5.3.1 To whom is a Public Interest Disclosure made

Public interest disclosures can be made by any person including a Public Officer to any of the following;

Internally within the University to:

- A University employee's supervisor;
- Head of a University Faculty or Division;
- Director (Internal Audit and Risk);
- the Executive Director (Human Resources);
- the Vice-Chancellor;
- the Public Interest Disclosure Coordinator
- any member of the USQ Council;

Externally to:

- the Crime and Corruption Commission in the case of a public interest disclosure concerning alleged Corrupt Conduct;
- a member of the Legislative Assembly of the Queensland State Parliament
- the State Ombudsman if the public interest disclosure concerns Maladministration or waste of public resources.

5.3.2 What form should a Public Interest Disclosure take

The University will act upon all internally made disclosures which contain enough information to support further enquiry.

Public interest disclosures should be made in writing but in exceptional circumstance can be made in person or by telephone. If a disclosure is made orally then the person who receives the public interest disclosure should request the discloser to put the details in writing. If the person disclosing is unable or unwilling to do this then the person receiving the public interest disclosure should document the oral communication and ask the discloser to confirm the details. The person receiving the public interest disclosure should, within 3 days of receiving the communication, sign it stating the discloser has confirmed the contents. If the circumstances prevent this (e.g. an anonymous disclosure) the person receiving the disclosure should record the date, time and circumstances of the disclosure.

A public interest disclosure may be made anonymously. Disclosers should however consider that anonymity can make it difficult to investigate the issue, to seek clarification or more information and to receive feedback on progress.

Public interest disclosures where possible, should contain the following:

- The name, job title and workplace address of the discloser
- Details of relevant events, dates and places
- Names of people who may be prepared to verify the allegations or events
- Supporting evidence such as correspondence or other documents, diary of events and conversations or file notes.

5.4 Public Interest Disclosure Coordinator

5.4.1 Who is the Public Interest Discloser Coordinator?

The Vice-Chancellor determines the nominated officer to act as the Public Interest Disclosure Coordinator. The officer nominated to act as Public Interest Disclosure Coordinator is the Director (Integrity and Professional Conduct).

The Public Interest Disclosure Coordinator reports directly to the Vice-Chancellor and has delegated authority and sufficient administrative support to properly manage public interest disclosures. If a public interest disclosure concerns the Vice-Chancellor, the Public Interest Disclosure Coordinator reports directly to the Chancellor.

5.4.2 Responsibilities of Public Interest Disclosure Coordinator

The Public Interest Disclosure Coordinator is responsible for all issues relating to the timely management of public interest disclosures and will ensure that handling of a public interest disclosure is carried out in accordance with these Procedures.

The Public Interest Disclosure Coordinator is responsible for coordinating appropriate protection and support for disclosers.

The Public Interest Disclosure Coordinator will also ensure employees who are the subject of a public interest disclosure are afforded Natural Justice and that support in accordance with these Procedures is made available.

In accordance with the details in section 5.6 [Confidentiality, Record Keeping and Reporting], the Public Interest Disclosure Coordinator is responsible for maintaining confidentiality with respect to all public interest disclosures and for the reporting and monitoring responsibilities under the *Public Interest Disclosure Act 2010* (Qld).

The Public Interest Disclosure Coordinator may, whilst assuming overall responsibility, delegate persons with expertise in particular areas, e.g. Audit, Human Resources, to assist with the duties and responsibilities.

5.5 How a Public Interest Disclosure is dealt with

5.5.1 What happens when a Public Interest Disclosure is received

When a public interest disclosure is received internally within the University the recipient must refer the public interest disclosure immediately to the Public Interest Disclosure Coordinator. A disclosure concerning the Public Interest Disclosure Coordinator should be referred to the Vice-Chancellor who will appoint an alternative Public Interest Disclosure Coordinator for the purpose of managing that disclosure.

Public interest disclosures made to external bodies will be dealt with in accordance with the *Public Interest Disclosure Act 2010* (Qld).

5.5.2 Initial Assessment of Public Interest Disclosures

On receiving a public interest disclosure, the Public Interest Disclosure Coordinator will, in consultation with appropriate University officers who are not involved in the disclosure, make an assessment as to whether the disclosure constitutes a public interest disclosure. In making such assessment the Public Interest Disclosure Coordinator will determine if:

- the disclosure concerns a matter about which a public interest disclosure can be made;
- the discloser can receive the protection of the *Public Interest Disclosure Act 2010* (Qld);
- the disclosure meets either the subjective or objective test set out in this Policy;
- the disclosure has been made to an individual or entity who may receive a disclosure;
- the disclosure has been made in accordance with University's procedures under this Policy or to a person listed in the *Public Interest Disclosure Act 2010* (Qld).

The assessment will be conducted expeditiously and would normally be expected to be completed in 5 working days. However this time frame may be extended depending on the particular circumstances and complexity of the disclosure.

If there is doubt about whether a disclosure is a public interest disclosure, the Public Interest Disclosure Coordinator will assume the disclosure is protected and manage it as if it is a public interest disclosure. If the matter is not classified as a public interest disclosure, the Public Interest Disclosure Coordinator may refer the matter to a relevant internal or external agency for appropriate handling.

5.5.3 External Referral of a Public Interest Disclosure

Where a disclosure is assessed to be a public interest disclosure, the Public Interest Disclosure Coordinator will then make a further assessment as to whether it is to be referred to an external public sector agency, such as the Crime and Corruption Commission or if the matter can be dealt with internally. This determination will be made by considering the nature of the disclosure and the powers of the relevant entity to investigate and deal with the matter. If the matter is

referred to an external agency it must be done in accordance with legislative and administrative requirements.

The Vice-Chancellor (or Chancellor, if the disclosure involves the Vice-Chancellor) will be informed once a disclosure has been formally assessed as a public interest disclosure together with details as to whether it will be dealt with internally or referred to an external agency.

Where the public interest disclosure is to be referred to the Crime and Corruption Commission, the Public Interest Disclosure Coordinator will on behalf of the Vice-Chancellor (or Chancellor) also inform the CCC Liaison Officer and the Executive Director Human Resources of any referral made to that Commission and if the Vice-Chancellor (or Chancellor) directs, such other appropriate senior officers.

5.5.4 Support and Protection for a Discloser

After a matter is assessed as a public interest disclosure, the Public Interest Disclosure Coordinator will, in consultation with the discloser consider whether a contact person should be appointed to assist a discloser. The contact person will be someone separate from the investigation function and if the discloser is a University Public Officer, that contact person must have sufficient authority within the University to ensure the discloser has appropriate support and protection from reprisals. The contact person will be appointed by the Public Interest Disclosure Coordinator after consultation with the Vice-Chancellor (or the Chancellor if the disclosure concerns the Vice-Chancellor).

The contact person will liaise with the Public Interest Disclosure Coordinator and will, if required, continue to assist the discloser until the conclusion of the investigation and any subsequent proceedings.

The Public Interest Disclosure Coordinator may if necessary also develop a protection plan in consultation with the discloser and will ensure a risk assessment concerning possible reprisal actions is completed. Such a plan will normally be concluded within 5 working days of completion of assessment of a disclosure. A protection plan and risk assessment will be developed irrespective as to whether the matter is dealt with internally or referred to an external agency.

A discloser who is a University employee is entitled to assistance from the USQ Employee Assistance Program (EAP).

Ongoing 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 and how progress and outcomes will be advised.

Other possible support available to a discloser may include:

- An acknowledgement that making the public interest disclosure was the right thing to do;
- Upon conclusion of the matter, making a statement of support in favour of the discloser;

- Establishing a process for making regular checks on a discloser's well-being and health;
- Ensuring USQ Safe is made aware of related issues where there discloser is a University employee (discloser) and the health of the discloser is a concern.

5.5.5 Support for Public Officers who are the subject of a Disclosure

Persons whose rights and interests are affected by a public interest disclosure are entitled to confidentiality and the presumption of innocence. A University employee will be referred to the USQ Employee Assistance Program (EAP), and informed that they may seek support from another University employee, a union representative, legal representative or other support person.

Principles of Natural Justice will apply to all persons whose rights and interests may be affected by an investigation. Once it is appropriate to advise a subject officer of the allegations, the officers will be informed of their rights to Natural Justice.

5.5.6 How is an Investigation conducted

If the matter is to be investigated by the University, the Public Interest Disclosure Coordinator will be responsible for coordinating the investigation. If a disclosure is referred to an external agency such as the Crime and Corruption Commission, an investigation will take place according to directions given to the University by the external agency.

All investigations will be conducted and concluded in a timely manner having regard to the issues and the complexity of the disclosure.

The Public Interest Disclosure Coordinator will consult with relevant University officers concerning the selection and appointment of investigators who may be external or internal to the University. The investigators must be independent and not have an actual or potential conflict of interest in the matter. Appointed investigators shall wherever possible have expertise in the area under investigation. Unless otherwise required by legislation, the discloser will be informed of the selection of an investigator.

5.5.7 Investigation report

The investigator/s, once appointed, will conduct an investigation and provide a report to the Public Interest Disclosure Coordinator. A report will normally be required to be completed within 30 days of appointment of investigators, however the complexity of, and particular circumstances surrounding a disclosure, may mean this timeframe will be extended. The report should contain an assessment as to whether the allegations can be substantiated and may contain recommendations for further action. Where the report recommends a further detailed investigation or that further action be taken by the University, the Public Interest Disclosure Coordinator will forward the report to the Vice-Chancellor (or Chancellor, if the Vice-Chancellor is precluded).

5.5.8 Finalising a Public Interest Disclosure

The Vice-Chancellor (or the Chancellor if the Vice-Chancellor is the subject officer) will review the report and recommendations and where appropriate, refer the matter to University's Human Resources or other section of University for further action.

If the report recommends action be referred to an external agency, the matter will be referred to that agency by the Public Interest Disclosure Coordinator after consulting with the Vice-Chancellor (or Chancellor where the circumstances warrant).

A discloser and persons the subject of a public interest disclosure whose rights and interests are directly affected by a disclosure, will, within 10 working days of the closing of an investigation where practicable, be separately informed by the Public Interest Disclosure Coordinator of the result of the investigation and steps taken as a result.

The Public Interest Disclosure Coordinator is responsible for coordinating a de-brief of other employees who may be involved either individually or in groups to clarify any decisions or outcomes. Such debriefs will be made under confidentiality requirements and will also include what has been learned from the process and also seek suggestions for improvement.

A discloser who is dissatisfied with the University's response to the information supplied shall be referred to the State Ombudsman.

5.6 Confidentiality, Record Keeping and Reporting

5.6.1 Confidentiality

The University will maintain strict confidentiality at all times in the reporting and investigation of public interest disclosures. All records of public interest disclosures are to be kept confidential and securely filed.

The identity of persons who make disclosures and of the subject officers shall to the greatest extent possible be kept confidential.

Such persons are entitled to have the matters surrounding the investigation treated in confidence and they will be requested to maintain the integrity of the process by not discussing it with work colleagues or others unconnected with the process. This does not preclude a discloser from sharing information with a support person or a discloser or subject officers with persons connected with the investigation.

Where, because of obligations of Natural Justice, the identity of a discloser may be required to be revealed, this will only be done where it is considered unlikely that a reprisal will be taken against the discloser.

Subject to the foregoing any request for access to documents will be considered under the University administrative access procedures or the [Right to Information process](#).

Any breach of confidentiality will be treated as a serious matter and disciplinary action may be taken in accordance with the relevant provisions of the Code of Conduct, USQ Enterprise Agreement or the relevant senior employment contract.

5.6.2 Record Keeping

Where appropriate, records will be kept in the University's central records system as limited access files under strict confidence. When placed under limited access the basis for access will be reviewed by the Public Interest Disclosure Coordinator.

The Public Interest Disclosure Coordinator is responsible for putting in place a secure and confidential reporting system to record, receipt and manage public interest disclosures.

5.6.3 Reporting

The Public Interest Disclosure Coordinator must provide the Public Service Commission with that information required under the *Public Interest Disclosure Act 2010* (Qld). The University recognises this information will be reported on an annual basis to the Queensland Government.

The Public Interest Disclosure Coordinator will be responsible for coordinating an annual evaluation of the public interest disclosure process which will include an assessment of the effectiveness of this Policy and Procedures. Such process will include an examination of any public interest disclosure matters dealt with by the University during the previous year with a recommendation for any changes that may be adopted.

Reports on public interest disclosures will be provided on a de-identified basis to the Audit and Risk Committee of the USQ Council on at least a half yearly basis. Such reports are provided for the purpose of informing members of the Committee of the assessment of risk factors including the scope of the duties of Council members under relevant legislation. Reports are to be provided under confidentiality obligations.

6 References

Nil.

7 Schedules

This policy must be read in conjunction with its subordinate schedules as provided in the table below.

8 Policy Information

Subordinate Schedules	
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Accountable Officer	Vice-Chancellor
Responsible Officer	Director (Integrity and Professional Conduct)
Policy Type	Governance Policy
Approved Date	25/7/2019
Effective Date	25/7/2019
Review Date	
Relevant Legislation	Crime and Corruption Act 2001 Public Interest Disclosure Act 2010 (Qld) Public Sector Ethics Act 1994 Queensland Ombudsman - Public Interest Disclosure Standard No. 1 University of Southern Queensland Enterprise Agreement 2014-2017
Related Policies	Code of Conduct Policy Fraud Corruption and Control Management Policy and Procedure Right to Information Policy
Related Procedures	Disciplinary Action for Misconduct or Serious Misconduct Procedure Employee Conflict of Interest Procedure Research Code of Conduct: Management of Potential Breaches Procedure Right to Information Procedure
Related forms, publications and websites	http://www.ethics.qld.gov.au/Portals/0/Blowing-the-whistle-managers-guide-2011.pdf http://www.ethics.qld.gov.au/Portals/0/Blowing-the-whistle-in-queensland-fact-sheet-2011.pdf
Definitions	Terms defined in the Definitions Dictionary Corrupt Conduct <p>A matter satisfying the meaning stated in section 15 of the Crime and Corruption Act 2001.</p> Maladministration

	<p>Means administrative action that: was taken contrary to law; or was unreasonable, unjust, oppressive, or improperly discriminatory; was in accordance with a rule of law or a provision of an act of Parliament or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; or was taken: for an improper purpose; or on irrelevant grounds; or having regard to irrelevant considerations; or was an action for which reasons should have been given, but were not given; or was based wholly or partly on a mistake of law or fact; or was wrong.</p> <p>Public Officer</p> <p>An employee of USQ whether continuing, fixed term, or casual as well as USQ Council members.</p>
	<p>Definitions that relate to this policy only</p> <p>Natural Justice</p> <p>Means that persons who are the subject of allegations have the following rights:</p> <ul style="list-style-type: none"> • to be informed of the substance of allegations that would otherwise affect their rights and interests in as much detail as essential at the appropriate time; • to be given a reasonable opportunity to present their case to a decision maker or investigator in writing or at a hearing; and • to have a decision maker act fairly and without bias.
<p>Keywords</p>	<p>Disclosure, fraud, misconduct, confidential, investigator, whistleblowers, whistleblower, protection, witness, investigation, record/s</p>
<p>Record No</p>	<p>13/418PL</p>