



## Procedure

# Public Interest Disclosure

Endorsed: 20 June 2017

### Brief description

Gladstone Ports Corporation (GPC) is committed to creating and maintaining a workplace where strong ethical standards are upheld and displayed through employee behaviour. This includes the reporting and management of corrupt conduct and reprisal, legally referred to as *Public Interest Disclosure (PID)*.

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### Document accountability

Role	Position
Owner	People and Community General Manager
Custodian	Employee Relations Manager
Facilitator	Company Secretary

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## Terms and definitions

The following key terms and definitions apply to this Procedure:

Term	Definition	Source <sup>1</sup>
Conduct	Includes any act or omission.	Crime and Corruption Act 2001 (CC Act 2001) Qld
Corrupt Conduct	Means conduct of a person, regardless of whether the person holds or held an appointment, that: a adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of – i a unit of public administration; or ii a person holding an appointment; and b results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a), in a way that – i is not honest or is not impartial; or ii involves a breach of the trust placed in a person holding an appointment either knowingly or recklessly; or iii involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and c is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and d would, if proved, be – i a criminal offence; or ii a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.	CC Act 2001 (Qld)



Term	Definition	Source <sup>1</sup>
Crime and Corruption Commission	Means the Crime and Corruption Commission established under the Crime and Corruption Act 2001 and which must be informed of any allegation of corrupt conduct made in relation to an employee.	
Custodian	Accountable for monitoring the application of the system and advising the owner of the monitoring outcomes.	
Detriment	Includes: <ul style="list-style-type: none"> <li>a personal injury or prejudice to safety;</li> <li>b property damage or loss;</li> <li>c intimidation or harassment;</li> <li>d adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;</li> <li>e financial loss; or</li> <li>f damage to reputation.</li> </ul>	PID Act 2010 (Qld)
Discloser	Means an employee who has made a public interest disclosure under the Public Interest Disclosure Act 2010.	
Facilitator	Accountable for proposing system design or redesign and facilitation of conformance	
Natural justice	Refers to the concept of fairness. It is achieved by: <ul style="list-style-type: none"> <li>a Specifying to the relevant parties the allegations that have been made.</li> <li>b Giving each party the opportunity to adequately state their case.</li> <li>c Ensuring that decisions are made in good faith, without bias.</li> </ul> Ensuring any decision/s made is supported by the facts or evidence in the matter.	
Owner	Accountable for approval and authorised discretion to implement or significantly change the system	
Public Interest Disclosure	Means the disclosure by an employee of reasonable suspicion about: <ul style="list-style-type: none"> <li>a The conduct of another employee that could, if proved, be corrupt conduct; or</li> <li>b The conduct of another employee that could, if proved, be a reprisal that relates to a previous disclosure made by the employee to GPC.</li> </ul>	PID Act 2010 (Qld)
Public Interest Disclosure Officer	Means the Company Secretary acting in the capacity of Public Interest Disclosure Officer.	
Reasonable Suspicion	For a suspicion to be 'reasonable', there needs to be more than bare or idle speculation. In essence, there must be some evidence sufficient for a reasonable person to suspect corrupt conduct. For example, the available facts, evidence or other information must suggest that the allegation, if proven, would amount to corrupt conduct. This 'reasonable suspicion' is the trigger point for how a suspected corrupt conduct matter is to be dealt with by GPC pursuant to section 38 of the CC Act 2001 (Qld).	Adapted from section 38 of the CC Act 2001 (Qld)
Reprisal	Means causing, attempting or conspiring to cause, detriment to another person because, or in the belief that: <ul style="list-style-type: none"> <li>a The other person or someone else has made, or intends to make, a public interest disclosure; or</li> <li>b 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.</li> </ul>	Adapted from the PID Act 2010 (Qld)
Subject officer/ respondent	Means the employee whose conduct is the subject of the public interest disclosure.	

<sup>1</sup> where left blank, Source is not applicable



# 1 Introduction

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Gladstone Ports Corporation (GPC) is committed to creating and maintaining a workplace where strong ethical standards are upheld and displayed through employee behaviour. This includes the reporting and management of corrupt conduct and reprisal.

Every employee of GPC has a legal and ethical responsibility to report corrupt conduct and reprisal action. The reporting of which are legally referred to as Public Interest Disclosure (PID).

## 1.1 Procedure purpose

This Procedure has been developed to encourage the reporting of PIDs, provide transparent and accessible reporting processes, and protect employees who make a PID.

PIDs are aligned to the principles of Integrity and Impartiality and Accountability and Transparency contained within GPC's Code of Conduct, which sets minimum standards of behaviour required of all employees.

Employees who come forward with PIDs are acting as exemplary organisational citizens by assisting the Corporation to ensure these minimum standards of behaviour are upheld.

GPC is committed to:

- 1 Encouraging the reporting of PIDs.
- 2 Providing transparent and accessible reporting processes.
- 3 Supporting and protecting employees who make a PID.

When an employee comes forward with a PID, GPC commits to:

- a Protecting the dignity, wellbeing, professional interests and good name of persons involved.
- b Protecting the discloser from any reprisal as a result of making the disclosure.
- c Treating any bullying, harassment, unfair treatment, victimisation or discrimination that results from a disclosure being made as a breach of GPC's Code of Conduct and applicable laws in certain circumstances.
- d Responding to the disclosure thoroughly and impartially.
- e Where some form of corrupt conduct has been substantiated, taking appropriate management action.
- f Keeping the discloser informed of the progress and outcome.
- g Ensuring PID outcomes inform improvements.

## 1.2 Procedure scope

GPC is committed to ensuring that minimum standards of behaviour, in accordance with the Code of Conduct, are upheld within the Corporation. Employee conduct which warrants PID, amounts to a serious breach of these minimum standards of behaviour.

This procedure has been formulated to facilitate the effective notification, assessment and management of PIDs within GPC in accordance with the Public Interest Disclosure Act 2010 (Qld). This procedure applies to the making of a PID by an employee.

This procedure does not apply to workplace disputes.

This procedure applies to:

- 1 Every member of the Board.
- 2 The Chief Executive Officer (CEO).
- 3 Every member of the General Management Team.
- 4 Every GPC employee (whether permanent, temporary, casual).



## 1.3 Procedure objectives

PID is a serious matter which warrants diligent attention and management.

The objectives of this procedure are to ensure that:

- 1 Employees who make PIDs are given appropriate support.
- 2 PIDs made are properly assessed and, when appropriate, properly investigated and dealt with.
- 3 Appropriate action is taken in relation to any corrupt conduct that is the subject of a PID.
- 4 A management program for PIDs is developed and implemented.
- 5 Employees are offered protection from reprisals related to a PID.

## 2 GPC Public Interest Disclosure procedure

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### 2.1 Roles and responsibilities

#### 2.1.1 Public Interest Disclosure (PID) Officer is responsible for the management of GPCs PID program which includes:

- 1 Reporting to the Board and CEO as required.
- 2 Reporting to the Qld Ombudsman as required.
- 3 Providing direction and advice to the Employee Relations Manager on the handling of PIDs.

#### 2.1.2 Employee Relations Manager is responsible for:

- 1 Receiving and assessing PIDs.
- 2 Liaison with the PID Officer in relation to the reporting to the Crime and Corruption Commission of possible corrupt conduct allegations.
- 3 Assessment of the risk of reprisal.
- 4 Support of disclosers.
- 5 Investigation of PIDs where appropriate.
- 6 Communication with disclosers.
- 7 Reporting to the PID Officer as required.

#### 2.1.3 All Leaders are responsible for:

- 1 Communicating the expectation that all employees are required to undertake their duties to the high ethical standards and always act in the public interest.
- 2 Creating and supporting a workplace culture that promotes ethical decision making, impartiality and integrity, and accountability and transparency.
- 3 Demonstrating positive ethical standards and values to employees through their own conduct and communications at work.
- 4 Creating a supportive reporting environment and providing appropriate support to employees who report suspected or observed corrupt conduct.
- 5 Ensuring employees are aware of their responsibilities in making a PID and advising of the appropriate reporting process.

#### 2.1.4 All Employees are responsible for:

- 1 Not engaging in corrupt conduct.
- 2 Conducting their duties to a high professional and ethical standard.
- 3 Seeking appropriate management guidance if they face an ethical dilemma.
- 4 Immediately reporting suspected or observed corrupt conduct.
- 5 Refraining from reprisal action.



## 2.2 Public interest disclosure process

The PID process consists of five (5) elements, as illustrated below:



### 2.2.1 Determine the requirement to disclose

An employee is required to make a PID about:

- 1 **corrupt conduct**; or
- 2 a **reprisal** that relates to a previous disclosure made.

A PID shall be made if:

- a the employee honestly believes on reasonable grounds that the available information tends to show the conduct (suspected conduct) or reprisal; or
- b the information tends to show the conduct, regardless of whether the employee honestly believes the information tends to show the conduct (actual conduct) or reprisal.

The discloser is protected if they honestly and reasonably believe that what they are disclosing has occurred or if it is evident from the information disclosed that what they are disclosing has occurred.

#### 2.2.1.1 Corrupt Conduct

If an employee has information about the conduct of another employee that amounts to corrupt conduct, they have a duty to report it. The employee must have observed the corrupt conduct, or have reasonable suspicion based upon reasonable grounds that the corrupt conduct has occurred, to make a disclosure.

Financial loss; or If an employee is uncertain as to whether the conduct in question amounts to corrupt conduct, they should seek advice from their leader in the first instance, or alternatively an Employee Relations (ER) Specialist, the Employee Relations Manager, or the PID Officer.

#### 2.2.1.2 Reprisal

Employees also have a duty to report the conduct of another person that amounts to reprisal related to a previous disclosure made.

Reprisal means causing, attempting or conspiring to cause, detriment to another person because, or in the belief that:

- 1 The other person or someone else has made, or intends to make, a PID; or
- 2 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.

Detriment includes:

- 1 Personal injury or prejudice to safety;
- 2 Property damage or loss;
- 3 Intimidation or harassment;
- 4 Adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
- 5 Financial loss; or
- 6 Damage to reputation.

Reprisal taken against a person who has made a PID is an offence under the Public Interest Disclosure Act 2010 subject to penalty and will not be tolerated. GPC will take all reasonable steps to protect its employees from reprisals that are, or may be, taken against them for making a PID.



Employees who take reprisal actions may be subject to disciplinary action, up to and including termination of employment.

### **2.2.2 Make Public Interest Disclosure (PID)**

A PID may be made either internally or externally by a non GPC employee.

The PID Act 2010 (Qld), section 19 states that an employee may make a disclosure in any way, including anonymously, however for a disclosure to a GOC who has a reasonable procedure for making a PID, the employee must use the PID procedure, further information can be obtained from the Crime and Corruption Commission on [www.ccc.qld.gov.au](http://www.ccc.qld.gov.au) or 1800 061 611.

#### **1 Internal reporting**

A PID may be made to GPC in writing, in person or via telephone. A PID may be made anonymously, however this may limit the ability of GPC to effectively investigate the PID and to protect the discloser from reprisal.

A PID may be made to any of the contacts listed below:

- a Employee's Leader (who must inform the Employee Relations Specialist aligned to the business function of the disclosure);
- b Employment Relations Specialist;
- c Employee Relations Manager;
- d PID Officer (Company Secretary); or
- e GPC's confidential reporting hotline on 1800 063 408.

#### **2 External reporting**

A non GPC employee complaint can be made to:

- a The Crime and Corruption Commission on [www.ccc.qld.gov.au](http://www.ccc.qld.gov.au) or 1800 061 611.

### **2.2.3 Record public interest disclosure**

The PID Officer must maintain a proper record of disclosures made, in an official PID database; including:

- 1 the name of the person making the disclosure, if known;
- 2 the information disclosed;
- 3 the name of the public sector entity that referred the disclosure, if applicable;
- 4 any action taken on the disclosure;
- 5 other relevant information related to the disclosure, including assessments and any review by the CEO and its outcome.

The CEO shall provide to the Qld Ombudsman all or any of the public disclosure information recorded, as required.

The PID Officer must maintain and provide confidential PID reports to the:

- 1 CEO (upon each instance of disclosure).
- 2 GPC Board (monthly).
- 3 Audit and Compliance Committee (quarterly).
- 4 Shareholding Ministers (quarterly).
- 5 Crime and Corruption Commission (upon each instance of a verified PID).

### **2.2.4 Assess public interest disclosure**

GPC commits to fully assessing all internal reports made under this procedure.

All disclosures made will be assessed by the Employee Relations Manager in association with the PID Officer, to determine if they are a PID.



If it is determined that a disclosure is a PID:

- 1 appropriate action shall be taken, which may include investigation or referral to another entity; and
- 2 the PID Officer must ensure the PID is reported to the Crime and Corruption Commission, pursuant to the Crime and Corruption Commission Act 2001.

If a PID is not verified:

- 1 it will retain its status as a PID;
- 2 the discloser will continue to be offered support in accordance with this procedure;
- 3 the matter will be dealt with as the People and Community General Manager considers appropriate (for example, by investigating the matter as a workplace dispute).

The Employee Relations Manager will conduct a risk assessment of the PID to determine the risk related to preservation of confidentiality and reprisal. If required, a plan will be established to monitor and address any problems that may arise.

### **2.2.5 Manage public interest disclosure**

The rights of any person who is subject to, or is in some way associated with, a disclosure will be safeguarded. GPC is committed to applying natural justice (procedural fairness) to all PID matters and ensuring fair and reasonable treatment for both the discloser and the person who is subject to the disclosure (subject officer/respondent).

The PID Officer must give the person who made the disclosure reasonable information about the disclosure, which includes at least the following:

- 1 confirmation that the disclosure was received by GPC;
- 2 a description of the action proposed to be taken, or taken, by GPC in relation to the disclosure;
- 3 if action has been taken by GPC in relation to the disclosure – a description of the results of the action.

The information must be given to the discloser in writing.

GPC will not give information to the discloser if giving the information would be likely to adversely affect:

- 1 anybody's safety; or
- 2 the investigation or an offence or possible offence; or
- 3 necessary confidentiality about an informant's existence or identity.

Where a matter is classified as a PID and warrants investigation, GPC's practice is to engage a qualified, experienced external investigator.

GPC may decide not to investigate or deal with a PID if:

- 1 the substance of the disclosure has already been investigated or dealt with by another process; or
- 2 it is reasonably considered that the disclosure should be dealt with by another appropriate process; or
- 3 the age of the information the subject of the disclosure makes it impracticable to investigate; or
- 4 it is reasonably considered that the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert resources from their use in the performance of GPC's functions; or
- 5 another entity that has jurisdiction to investigate the disclosure has notified GPC that investigation of the disclosure is not warranted.

The decision to investigate or deal with a PID rests with the People and Community General Manager, upon assessment and recommendation from the Employee Relations Manager and PID Officer.





If GPC decide to proceed with an investigation of a PID, the Employee Relations Manager shall engage a qualified, appropriate investigator. Any investigation is to be undertaken in accordance with the principle of natural justice.

If GPC decline to investigate or deal with a PID, the PID Officer must give written reasons for the decision to the person making the disclosure.

The discloser may ask the CEO to review that decision within 28 days of receiving the advice.

Any identified discloser and subject officer/respondent shall be offered access to GPC's confidential Employee Assistance Service (EAS) Program for support. The EAS Program is a voluntary counselling service for employees and their immediate family.

### **2.3 False or misleading information**

An employee making a PID must honestly believe on reasonable grounds that the information tends to show the conduct.

An employee must not intentionally provide false or misleading information in making a PID or in connection with the assessment or investigation of a PID.

The intentional provision of false or misleading information in those circumstances is an offence under the Public Interest Disclosure Act 2010 subject to penalty and will not be tolerated.

A discloser who is found to have intentionally provided false or misleading information will not have the protections normally afforded to a discloser and may be subject to disciplinary action, up to and including termination of employment.

### **2.4 Preservation of confidentiality**

Information identifying a discloser or subject officer/respondent and information disclosed by a PID are to be kept confidential except to the extent that disclosure is required or permitted by law (including under the principles of natural justice).

GPC may divulge information about a PID:

- 1 If required to do so for proceedings in a court or tribunal or it authorised to do so by legislation or regulation.
- 2 In order to discharge an applicable function under the PID Act, for example to investigate the allegations made in a PID or refer the matter to another agency.

For the purposes of the PID Act.

- 1 If the discloser gives consent in writing.
- 2 If the discloser's consent cannot be reasonably obtained and divulging the information is unlikely to harm their interests and would be reasonable in the circumstances.
- 3 If it is reasonably believed that doing so is necessary to provide for the safety and welfare of a person.
- 4 If it is necessary under the principles of natural justice and it is unlikely that reprisal action will be taken.

Employees who are found to have breached confidentiality in relation to a PID may be subject to disciplinary action, up to and including termination of employment.

### **2.5 Reasonable management action**

The making of a PID will not affect the ability of GPC to take reasonable management action in relation to a discloser.

The taking of reasonable management action by GPC in relation to a discloser does not constitute reprisal.



### 3 More information

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This Procedure will be available to all GPC employees, contractors and consultants.

This document is uncontrolled when printed. The current version of this Procedure is located on GPC's Intranet.

If you require any further information, please contact the Facilitator, on the cover page.

### 4 Appendices

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#### 4.1 Appendix 1 – Related Documents

##### 4.1.1 Legislation and regulation

Key relevant legislation and regulation, as amended from time to time, includes but is not limited to:

Type	What
Federal Acts	Corporations Act 2001(Cth) Financial Accountability Act 2009 (Cth)
State Acts	Government Owned Corporations Act 1993 (Qld) Crime and Corruption Act 2001 (Qld) Public Interest Disclosures Act 2010 (Qld)
Other	AS8000-2003 Corporate Governance - Good governance principles AS8001-2008 Corporate Governance - Fraud and corruption control AS8002-2003 Corporate Governance - Organisational codes of conduct AS8003-2003 Corporate Governance - Corporate social responsibility AS8004-2003 Corporate Governance - Whistleblower protection programs for entities Public Interest Disclosures Standards issued by the Public Service Commissioner

##### 4.1.2 Gladstone Ports Corporation documents

The following documents relate to this Procedure:

Type	Document number and title
Policy	<u>945622</u> People <u>174070</u> Reporting Conflicts of Interest
Standard	<u>928057</u> Code of Conduct <u>931386</u> People Performance
Specification/ Procedure	<u>123595</u> Reporting Gifts and Benefits <u>960456</u> Managing Discipline <u>87582</u> Equity, Diversity, Harassment & Discrimination