



## Procedure

# Public Interest Disclosure

Endorsed: 14 June 2013

### Brief description

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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 misconduct and reprisal, legally referred to as *Public Interest Disclosure (PID)*.

This Procedure has been developed to encourage the reporting of public interest disclosures, provide transparent and accessible reporting processes, and protect employees who make a public interest disclosure.

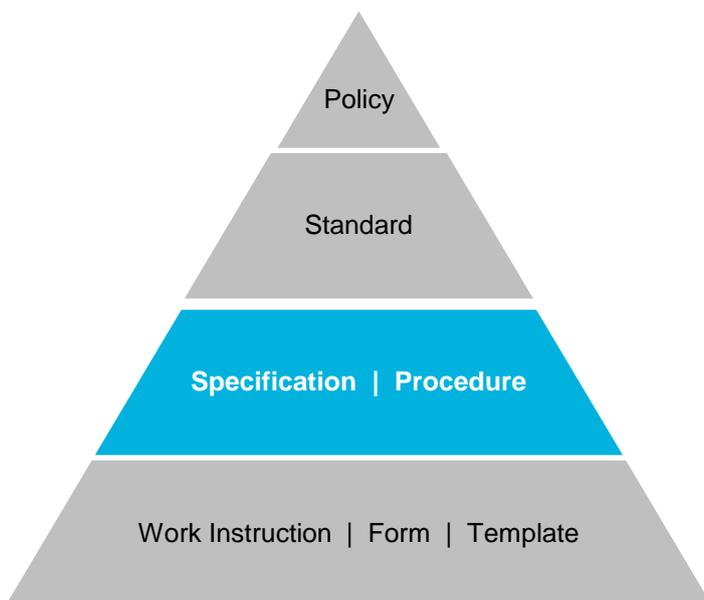
This document is a PROCEDURE.

A PROCEDURE sets out a way of performing or conducting business and activities. It contains a series of actions or operations to be completed in a particular order or manner.

A PROCEDURE is designed to comply with regulatory obligations and good business practices.

A PROCEDURE is approved by the relevant General Manager.

The document hierarchy provides a visual representation of Gladstone Ports Corporation's approved Governance Document Hierarchy Framework.



**Tier 1** – Documents in this tier will explain **WHY** we are going to do what we say we are going to do.

**Tier 2** – Documents in this tier will explain **WHAT** we are going to do.

**Tier 3** – Documents in this tier will explain **HOW** we are going to do what we say we are going to do.

**Tier 4** – Documents in this tier are the tools **WITH** which we ensure we do the things we say we are going to do.

This document contains confidential material relating to the business and financial interests of Gladstone Ports Corporation Limited. Gladstone Ports Corporation is to be contacted in accordance with Part 3, Division 3 Section 37 of the *Right to Information Act 2009* should any Government Agency receive a Right to Information application for this document. Contents of this document may either be in full or part exempt from disclosure pursuant to the *Right to Information Act 2009*.

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## 1. Procedure statement

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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 misconduct and reprisal.

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

Public interest disclosures 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 public interest disclosures are acting as exemplary organisational citizens by assisting the Corporation to ensure these minimum standards of behaviour are upheld.

GPC is committed to:

- Encouraging the reporting of public interest disclosures.
- Providing transparent and accessible reporting processes.
- Supporting and protecting employees who make a public interest disclosure.

When an employee comes forward with a public interest disclosure, GPC commits to:

- Protecting the dignity, wellbeing, professional interests and good name of persons involved.
- Protecting the discloser from any reprisal as a result of making the disclosure.
- 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.
- Responding to the disclosure thoroughly and impartially.
- Where some form of misconduct has been substantiated, taking appropriate management action.
- Keeping the discloser informed of the progress and outcome.
- Ensuring public interest disclosure outcomes inform improvements.

## 2. Procedure scope

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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 public interest disclosure 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 public interest disclosures (PIDs) within Gladstone Ports Corporation 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:

- Every member of the Board.
- The Chief Executive Officer.
- Every member of the Executive Team.
- Every GPC employee (whether permanent, temporary, casual).

### 3. Procedure objectives

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Public Interest Disclosure is a serious matter which warrants diligent attention and management.

The objectives of this procedure are to ensure that:

- Employees who make public interest disclosures are given appropriate support.
- Public interest disclosures made are properly assessed and, when appropriate, properly investigated and dealt with.
- Appropriate action is taken in relation to any misconduct that is the subject of a public interest disclosure.
- A management program for public interest disclosures is developed and implemented.
- Employees are offered protection from reprisals related to a public interest disclosure.

### 4. GPC procedure

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#### 4.1 Roles and responsibilities

**Public Interest Disclosure Officer** is responsible for the management of Gladstone Ports Corporation's PID program which includes:

- Reporting to the Board and Chief Executive Officer as required.
- Reporting to the Qld Ombudsman as required.
- Providing direction and advice to the People Practices Manager on the handling of PIDs.

**People Practices Manager** is responsible for:

- Receiving and assessing PIDs.
- Liaison with the Public Interest Disclosure Officer in relation to the reporting to the Crime and Misconduct Commission of possible official misconduct allegations.
- Assessment of the risk of reprisal.
- Support of disclosers.
- Investigation of PIDs where appropriate.
- Communication with disclosers.
- Reporting to the Public Interest Disclosure Officer as required.



**All Leaders** are responsible for:

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

**All Employees** are responsible for:

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

## 4.2 Public interest disclosure process

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



### 4.2.1 Determine the requirement to disclose

An employee is required to make a public interest disclosure about:

- **official misconduct**; or
- a **reprisal** that relates to a previous disclosure made.

A public interest disclosure shall be made if:

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



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.

### **a) Official misconduct**

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

*Official misconduct* is deemed to be conduct that could, if proved, be:

- A criminal offence; or
- A disciplinary breach providing reasonable grounds to justify termination of services.

In accordance with the Crime and Misconduct Act 2001, such conduct involves the exercise of an employee's duties in a way that:

- is not honest or is not impartial; or
- is a breach of the trust placed in the person as a GPC employee; or
- involves a misuse of official information or material for the person's benefit or the benefit of someone else.

In accordance with the Fair Work Act 2009, such conduct is serious and may include:

- a) Wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment.
- b) Conduct that causes imminent harm and serious risk to:
  - (i) the health or safety of a person; or
  - (ii) the reputation, viability, or profitability of the employer business.
- c) Theft.
- d) Fraud.
- e) Assault.
- f) The employee being intoxicated at work.
- g) The employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.

If an employee is uncertain as to whether the conduct in question amounts to official misconduct, they should seek advice from an Employee Relations (ER) Specialist, the People Practices Manager, or the Public Interest Disclosure Officer.

### **b) 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:



- 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.

Detriment includes:

- a) Personal injury or prejudice to safety;
- b) Property damage or loss;
- c) Intimidation or harassment;
- d) Adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
- e) Financial loss; or
- f) Damage to reputation.

Reprisal taken against a person who has made a public interest disclosure 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 public interest disclosure.

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

#### **4.2.2 Make public interest disclosure**

A PID may be made either internally or externally.

##### **a) Internal reporting**

A public interest disclosure may be made to Gladstone Ports Corporation (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:

- Employee's Leader (who must inform the ER Specialist aligned to the business function of the disclosure)
- ER Specialist
- People Practices Manager
- Public Interest Disclosure Officer (Company Secretary)
- GPC's confidential reporting hotline on 1800 063 408

##### **b) External reporting**

In addition, an employee can make a complaint to:

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



### 4.2.3 Record public interest disclosure

The Public Interest Disclosure (PID) Officer must maintain a proper record of disclosures made, in an official PID database; including:

- a) the name of the person making the disclosure, if known;
- b) the information disclosed;
- c) the name of the public sector entity that referred the disclosure, if applicable;
- d) any action taken on the disclosure;
- e) other relevant information related to the disclosure, including assessments and any review by the Chief Executive Officer and its outcome.

The Chief Executive Officer 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:-

- Chief Executive Officer (upon each instance of disclosure).
- GPC Board (monthly).
- Audit and Compliance Committee (quarterly).
- Shareholding Ministers (quarterly).
- Crime and Misconduct Commission (upon each instance of a verified PID).

### 4.2.4 Assess public interest disclosure

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

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

If it is determined that a disclosure is a PID:-

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

If a PID is not verified:-

- it will retain its status as a PID;
- the discloser will continue to be offered support in accordance with this procedure;
- the matter will be dealt with as the Corporate & Employee Relations General Manager considers appropriate (for example, by investigating the matter as a workplace dispute).

The People Practices 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.



#### 4.2.5 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:-

- a) confirmation that the disclosure was received by GPC;
- b) a description of the action proposed to be taken, or taken, by GPC in relation to the disclosure;
- c) 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:-

- a) anybody's safety; or
- b) the investigation or an offence or possible offence; or
- c) 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 public interest disclosure if:-

- a) the substance of the disclosure has already been investigated or dealt with by another process; or
- b) it is reasonably considered that the disclosure should be dealt with by another appropriate process; or
- c) the age of the information the subject of the disclosure makes it impracticable to investigate; or
- d) 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
- e) 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 Corporate & Employee Relations General Manager, upon assessment and recommendation from the People Practices Manager and PID Officer.

If GPC decide to proceed with an investigation of a public interest disclosure, the People Practices 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 public interest disclosure, the PID Officer must give written reasons for the decision to the person making the disclosure.

The discloser may ask the Chief Executive Officer (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.

### **4.3 False or misleading information**

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

### **4.4 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:

- If required to do so for proceedings in a court or tribunal or it authorised to do so by legislation or regulation.
- 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.

- If the discloser gives consent in writing.
- 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.
- If it is reasonably believed that doing so is necessary to provide for the safety and welfare of a person.
- 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 public interest disclosure may be subject to disciplinary action, up to and including termination of employment.



#### **4.5 Reasonable management action**

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

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

### **5. Procedure monitoring and review**

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This procedure will be reviewed within two (2) years or after a significant change to guiding principles, legislation or regulation, in order to ensure currently, relevance and accuracy.

### **6. More information**

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This Procedure will be available to the GPC Board and all employees.

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

If you require any further information, please contact the Facilitator, listed under Document Accountability, section 8.2.



## 7. Terms and definitions

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The following key terms and definitions apply to this Procedure:

Term	Definition	Source <sup>1</sup>
Conduct	Means conduct (or a conspiracy or attempt to engage in conduct) of or by a person who holds or held an appointment that is or involves- a) the performance of the person's functions or the exercise of the person's powers, as the holder of the appointment, in a way that is not honest or is not impartial; b) a breach of the trust placed in the person as the holder of the appointment; or c) a misuse of information or material acquired in or in connection with the performance of the person's functions as the holder of the appointment, whether the misuse is for the person's benefit or the benefit of someone else.	Crime and Misconduct Act 2001
Crime and Misconduct Commission	Means the Crime and Misconduct Commission established under the Crime and Misconduct Act 2001 and which must be informed of any allegation of official misconduct made in relation to an employee.	
Detriment	Includes: a) personal injury or prejudice to safety; b) property damage or loss; c) intimidation or harassment; d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; e) financial loss; or f) damage to reputation.	Public Interest Disclosure Act 2010
Discloser	Means an employee who has made a public interest disclosure under the Public Interest Disclosure Act 2010.	
Natural justice	Refers to the concept of fairness. It is achieved by: <ul style="list-style-type: none"><li>• Specifying to the relevant parties the allegations that have been made.</li><li>• Giving each party the opportunity to adequately state their case.</li><li>• 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.	
Official Misconduct	Means conduct that could, if proved, be: <ul style="list-style-type: none"><li>• A criminal offence; or</li><li>• A disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.</li></ul>	Crime and Misconduct Act 2001

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



Term	Definition	Source <sup>1</sup>
Public Interest Disclosure	Means the disclosure by an employee of information about: <ul style="list-style-type: none"> <li>• The conduct of another employee that could, if proved, be official misconduct; or</li> <li>• The conduct of another employee that could, if proved, be a reprisal that relates to a previous disclosure made by the employee to GPC or the Crime and Misconduct Commission.</li> </ul>	Public Interest Disclosure Act 2010
Public Interest Disclosure Officer	Means the Company Secretary acting in the capacity of Public Interest Disclosure Officer.	
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>• The other person or someone else has made, or intends to make, a public interest disclosure; or</li> <li>• 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 Public Interest Disclosure Act 2010
Serious misconduct	Refers to: <ol style="list-style-type: none"> <li>a) Wilful, or deliberate, behaviour by an employee that is inconsistent with the continuation of the contract of employment.</li> <li>b) Conduct that causes imminent, and serious risk to –               <ul style="list-style-type: none"> <li>• The health or safety of a person; or</li> <li>• The reputation, viability or profitability of the employer business.</li> </ul> </li> <li>c) Theft.</li> <li>d) Fraud.</li> <li>e) Assault.</li> <li>f) The employee being intoxicated at work [an employee is taken to be intoxicated if the employee's faculties are, by reason of the employee being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), so impaired that the employee is unfit to be entrusted with the employee's duties or with any duty that the employee may be called upon to perform].</li> <li>g) The employee refusing to carry out a lawful and reasonable work instruction that is consistent with the employee's contract of employment.</li> </ol> Other misconduct prescribed under a legislative regulation.	Fair Work Act (Cth) 2009 Fair Work Regulations (Cth) 2009
Subject officer/respondent	Means the employee whose conduct is the subject of the public interest disclosure.	



## 8. Document history

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### 8.1 Document information

Current version	1.0
First released	3 July 2013
Last updated	14 June 2013
Effective by	3 July 2013
Review frequency	Within two (2) years
Review before	14 June 2015
Audience	Board, CEO and Executive, and all employees

### 8.2 Document accountability

Term	Definition	Position
Owner	Accountable for approval and authorised discretion to implement or significantly change the system	Corporate & Employee Relations General Manager (Level of Work IV)
Custodian	Accountable for monitoring the application of the system and advising the owner of the monitoring outcomes	People Practices Manager (Level of Work III)
Facilitator	Accountable for proposing system design or redesign and facilitation of conformance	Company Secretary (Level of Work II)

### 8.3 Document version control

Version	Date	Author	Change description
1.0	14.06.13	Mariette Lansdell	Whole of document revised in alignment with GPC Governance Document Hierarchy Framework. Consideration given to the prior document (Doc # 654198).



## 9. Appendices

### Appendix 1 – Related Documents

#### 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 (Cth) 2001 Financial Accountability Act 2009
State Acts	Government Owned Corporations Act (Qld) 1993 Crime and Misconduct Act (Qld) 2001 Public Interest Disclosures Act (Qld) 2010
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

#### Guiding principles

The following guiding principles relate to this Procedure:

Type	What
GOC Principles	<i>Government Owned Corporation Guidelines</i> <ul style="list-style-type: none"><li>• Foundations of management and oversight</li><li>• Promote ethical and responsible decision-making</li><li>• Safeguard integrity in financial reporting</li><li>• Make timely and balanced disclosures</li><li>• Recognise and manage risk</li></ul>
GPC Principles	<i>Gladstone Ports Corporation Values</i> <ul style="list-style-type: none"><li>• Sustainability</li><li>• Excellence</li><li>• Customer</li><li>• Respect</li><li>• Empowerment</li><li>• Teamwork</li></ul>

#### Gladstone Ports Corporation documents

The following documents relate to this Procedure:

Type	What
Policy	DOC # 945622      People
Standard	DOC # 928057      Code of Conduct
Specification/Procedure	DOC # 174070      Reporting Conflicts of Interest DOC # 123595      Reporting Gifts and Benefits DOC # 960456      Managing Discipline