

## PURPOSE

This Mount Isa Water Board (**MIWB**) Public Interest Disclosure Policy (**PID Policy**) sets out MIWB's position in relation to the disclosure of information about suspected wrongdoing within MIWB.

This PID Policy has been developed to meet all the requirements of the PID Act, in particular section 28 of the PID Act.

The purpose of this PID Policy is to encourage the reporting of suspected wrongdoing (including PIDs) and to provide protection to those who do so from reprisal action following their making or intending to make a PID.

As required by the PID Act, MIWB has also developed and implemented reasonable procedures for the management of PIDs, in accordance with section 28(1) of the PID Act. MIWB's PID Procedure (**PID Procedure**) sets out these procedures. The PID Procedure sets out what constitutes a PID under the PID Act, how a PID can be made, how a PID will be assessed and investigated by MIWB (where appropriate) and the protections available under the PID Act.

As required by the PID Act, a public interest disclosure management program has been developed and is contained in the PID Procedure. All PIDs will be managed in accordance with the PID Procedure. As such, this PID Policy should be read in conjunction with the PID Procedure.

## SCOPE

This PID Policy applies to all Associates of MIWB.

A PID can be made by either an Associate or by another person (including a member of public).

However, the PID Act distinguishes between PID's made by an Employee of MIWB (ie, as a Public Officer) and PID's made by anyone else.

## DEFINITIONS

The following definitions apply to this PID Policy and the PID Procedure.

Term	Definition
<b>Administrative Action</b>	Means any action about a matter of administration, including, for example— (i) a decision and an act; and (ii) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and (iii) the formulation of a proposal or intention; and (iv) the making of a recommendation, including a recommendation made to a Minister; and (v) an action taken because of a recommendation made to a Minister; and

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Term	Definition
	However, it does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.
<b>Associate</b>	Includes all MIWB Employees as well as contractors, consultants, volunteers or anyone working at MIWB and includes all workers as defined in the Work Health and Safety Act 2011 (Qld). It includes the Board of Directors of MIWB.
<b>Chief Executive</b>	Chief Executive Officer.
<b>Corrupt Conduct</b>	<p>In accordance with s.15 of the Crime and Corruption Act 2001 means:</p> <p>Means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—</p> <p>(i) a unit of public administration; or</p> <p>(ii) a person holding an appointment; and</p> <p>(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—</p> <p>(i) is not honest or is not impartial; or</p> <p>(ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or</p> <p>(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</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(ii) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.</p> <p>Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) impairs, or could impair, public confidence in public administration; and</p> <p>(b) involves, or could involve, any of the following—</p> <p>(i) collusive tendering;</p>

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Term	Definition
	<p>(ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—</p> <p>(A) protecting health or safety of persons;</p> <p>(B) protecting the environment;</p> <p>(C) protecting or managing the use of the State’s natural, cultural, mining or energy resources;</p> <p>(iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;</p> <p>(iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;</p> <p>(v) fraudulently obtaining or retaining an appointment; and</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(ii) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.</p>
<b>Disability</b>	<p>From s.11 of the Disability Services Act 2006 includes:</p> <p>(1) A disability is a person’s condition that—</p> <p>(a) is attributable to—</p> <p>(i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p>(ii) a combination of impairments mentioned in subparagraph and</p> <p>(b) results in—</p> <p>(i) a substantial reduction of the person’s capacity for communication, social interaction, learning, mobility or self-care or management; and</p> <p>(ii) the person needing support.</p> <p>(2) For subsection (1), the impairment may result from an acquired brain injury.</p> <p>(3) The disability must be permanent or likely to be permanent.</p> <p>(4) The disability may be, but need not be, of a chronic episodic nature.</p>
<b>Discloser</b>	A person who makes a PID.

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Term	Definition
<b>Employee</b>	MIWB employees (as public sector officer under the PID Act).
<b>Maladministration</b>	<p>Maladministration is Administrative Action that—</p> <ul style="list-style-type: none"> <li>(a) was taken contrary to law; or</li> <li>(b) was unreasonable, unjust, oppressive, or improperly discriminatory; or</li> <li>(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</li> <li>(d) was taken— <ul style="list-style-type: none"> <li>(i) for an improper purpose; or</li> <li>(ii) on irrelevant grounds; or</li> <li>(iii) having regard to irrelevant considerations; or</li> </ul> </li> <li>(e) was an action for which reasons should have been given, but were not given; or</li> <li>(f) was based wholly or partly on a mistake of law or fact; or</li> <li>(g) was wrong.</li> </ul>
<b>MIWB Manager and Supervisor</b>	MIWB Employee with managerial or supervisory functions.
<b>Oversight Agency</b>	For the PID Act, the Office of the Ombudsman (Qld) is the oversight agency.
<b>PID</b>	Public interest disclosure as defined by the PID Act.
<b>PID Act</b>	Public Interest Disclosure Act 2010 (Qld).
<b>Proper Authority</b>	A Public Sector Entity or member of the Legislative Assembly as defined at section 5 of the PID Act.
<b>Public Officer</b>	<p>Under s7 of the PID Act is defined as:</p> <p>(1) A public officer, of a Public Sector Entity, is an employee, member or officer of the entity.</p>
<b>Public Sector Entity</b>	<p>The PID Act applies to all Queensland public sector entities. Relevant to MIWB, under the PID Act, a public sector entity includes:</p> <p>(j) an entity established under an Act or under State or local government authorisation for a public, State or local government purpose.</p> <p>MIWB is a Public Sector Entity.</p>

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Term	Definition
<b>Reprisal</b>	<p>Reprisal and grounds for reprisal is defined at section 40 of the PID Act. That is, reprisal means causing, attempting or conspiring to cause, detriment to another person because, or in the belief that:</p> <p>(a) the other person or someone else has made, or intends to make, a PID; or</p> <p>(b) the other person or someone else is, has been, or intends to be, involved in a proceeding under the PID Act against any person.</p> <p>Attempting to cause detriment includes an attempt to induce a person to cause detriment.</p>
<b>Subject Officer</b>	A person about whom a PID is made about.

## KEY PRINCIPLES

MIWB is committed to the objectives of the PID Act and appreciates the value and importance of contributions by Associates and other persons in enhancing administrative and management practices and strongly supports the disclosure of information about suspected wrongdoing so that it can be properly assessed and, if necessary appropriately investigated. MIWB considers PID's are an important component of ensuring our Associates uphold the highest standard of integrity and accountability.

This PID Policy demonstrates this commitment, and ensures that practical and effective procedures are implemented which comply with the requirements of the PID Act as set out in the PID Procedures.

The making of a PID also supports MIWB's ethical culture, in particular acting with integrity. When a PID is reported, MIWB commits to:

- properly assessing and where appropriate, properly investigating the PID;
- where required, taking appropriate action on any wrongdoing in relation to the PID;
- ensuring appropriate consideration is given to the interests of the Subject Officer; and
- ensuring protection from Reprisal is afforded to Discloser; and
- keeping the Discloser informed of the progress and outcome of the investigation (if required and to the extent possible).

## ROLES AND RESPONSIBILITIES

The Chief Executive has overall responsibility for ensuring that MIWB develops, implements and maintains a PID management program (i.e, MIWB's PID Procedures) in accordance with the PID Act. However, further role and responsibilities are set out below.

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**Chief Executive**

The Chief Executive is responsible for:

- complying with this PID Policy and PID Procedures;
- communicating the expectation that all Associates are required to conduct their duties to high professional and ethical standards and always act in accordance with the MIWB Code of Conduct;
- ensuring that MIWB develops and maintains PID management processes and procedures which ensure the requirements of the PID Act are implemented, including that
  - o PID's are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any proven wrongdoing;
  - o Associates and other persons making a PID receive support and protection from Reprisal;
  - o Associates are aware of the appropriate support and protection provided to Disclosers and Subject Officers;
  - o all legislative obligations in relation to reporting and investigation are met;
  - o proper records of PID's or purported PID's are retained by MIWB;
- conducting or appointing either internal or external investigators to conduct investigations into PID's (where appropriate or required), and where a decision is made not to investigate or deal with a PID, provide a written response back to the Discloser;
- keeping records of all interactions and decisions taken in respect of each PID; and
- determining the appropriate action to be taken based on the outcome of any investigation.

**Board Secretary (as the PID Coordinator)**

The MIWB Board Secretary (as the PID Coordinator) is the principal contact for PID issues within MIWB and is responsible for:

- complying with this PID Policy and PID Procedures;
- documenting PID management processes and procedures including reviewing and updating the PID procedure at least annually;
- implementing the PID management processes and procedures in accordance with the PID Act and established procedures, including
  - o acting as a principle point of contact with the Oversight Agency;
  - o maintaining internal records of PIDs received
  - o reporting data on PIDs to Queensland Ombudsman
  - o assessing disclosures received
  - o providing acknowledgment of receipt of PID to discloser
  - o undertaking, in consultation with disclosers and other relevant officers as appropriate, an assessment of the risks of reprisal
  - o liaising with other agencies about referral of PIDs where another agency is involved

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- receiving PIDs and liaising with the Chief Executive to determine the appropriate action to be taken (unless the PID is about the PID Coordinator, in which case the Chief Executive will maintain full oversight of the PID);
- receiving PIDs and liaising with the Chair of the Finance, Audit and Compliance Committee in relation to PIDs that may be about the Chief Executive to determine the appropriate action to be taken;
- providing advice and assistance to Associates (including managers / supervisors) on the application of this PID Policy;
- overseeing the conduct of any investigation undertaken in relation to a PID or conducting such an investigation as may be assigned by the Chief Executive (unless the PID is about the Chief Executive, in which case the Chair of the Finance and Audit Committee will assign the investigation);
- ensuring that appropriate steps are taken to best ensure the protection to Disclosers in accordance with the PID Act;
- keeping records of all interactions and decisions taken in respect of each PID; and
- ensuring that documentation relating to a PID are collected and kept securely in accordance with record keeping obligations;

**PID Support Officer**

The Commercial Manager is the PID Support Officer (unless the PID is about the Commercial Manager, in which case the Chief Executive will nominate an alternative PID Support Officer) and is responsible for facilitating the process and providing support to the Discloser, Subject Officer or witness who is involved in management of the PID including by:

- complying with this PID Policy and PID Procedures;
- providing advice and information to discloser on MIWB’s PID procedure;
- providing personal support and referral to other sources of advice or support as required;
- facilitating updates on progress of investigation;
- proactively contacting the discloser throughout the period the PID is being processed; and
- keeping records of all interactions and decisions taken in respect of each PID.

**MIWB Managers and Supervisors**

MIWB Managers and Supervisor have a responsibility for establishing and maintaining an ethical environment where MIWB Associates are encouraged to report wrongdoing and Disclosers are protected in line with the principles of outlined in the PID Policy, PID Procedures and the PID Act. More specifically, MIWB Managers and Supervisors are responsible for:

- complying with this PID Policy and PID Procedures;
- maintaining an ethical culture and leading by example;
- ensuring that Associates in your business area are aware of their obligations in relation to the requirements of this PID Policy and PID Procedures;
- ensuring that appropriate steps are taken to best ensure the protection to Disclosers in accordance with the PID Act;

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- discouraging and not engaging in any Reprisal action against those involved in a PID;
- monitoring the workplace for signs of Reprisal against those involved in the PID, and reporting those concerns to the PID Coordinator;
- ensuring that any investigation recommendations which are adopted by the Chief Executive are implemented as directed and in a timely manner.

**All Associates**

All MIWB Associates are responsible for:

- complying with this PID Policy and PID Procedures;
- conducting their duties to a high ethical and professional standard, including by not engaging in any wrongdoing, and reporting wrongdoing in accordance with this PID Policy;
- participating in ethical decision-making and participating in workplace training, including in relation to the PIDs;
- seeking help from a MIWB manager or supervisor if you have an ethical dilemma;
- except in respect of necessary dealings with the PID Coordinator, PID Support Officer and PID Investigator, complying with strict confidentiality as required by the PID Act;
- referring potential PID's to the PID Coordinator;
- cooperating with investigations into PIDs;
- discouraging and not engaging in any Reprisal action against those involved in a PID; and
- reporting any Reprisal concerns to the PID Coordinator.

**REVIEW**

This PID Policy is a governing policy under the Policy and Procedures Framework and will be reviewed regularly (generally at least once every five years) but a review may be triggered at any time through changes in legislation, policy, organisation or any other change which requires an update to the policy.

**REFERENCE MATERIAL**

**Legislation, Standards and Guides**

- *Public Interest Disclosure Act 2010* (Qld);
- *Crime and Corruption Act 2001* (Qld)
- Public Interest Disclosure Standard No. 1/2019 – Public Interest Disclosure Management Program;
- Public Interest Disclosure Standard No. 2/2019 – Assessing, Investigating and Dealing with Public Interest Disclosures;
- Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting;

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- Public Interest Disclosure Guides by the Queensland Ombudsman:
  - Managing a PID Program – A Guide for public sector organisations;
  - Handling a PID – A Guide for public sector managers and supervisors; and
  - Making a public interest disclosure: A guide for individuals working in the public sector.

**Related MIWB Documents**

MIWB also has a number of other policies and procedures which may also be relevant and may apply depending the nature of the concern raised, see for example:

- PID Procedures - which should be read in conjunction with this PID Policy;
- Code of Conduct
- Corrupt Conduct and Fraud Policy – CCC001
- Chief Executive Corrupt Conduct Policy – CCC002
- Chair and Directors Corrupt Conduct Policy – CCC003
- Fraud and Misappropriation Policy

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## PURPOSE

This Mount Isa Water Board (MIWB) Public Interest Disclosure Procedure (PID Procedure) sets out MIWB's procedures in relation to the disclosure of information about suspected wrongdoing (ie, PIDs) within MIWB. All PIDs will be managed in accordance with this PID Procedure.

This PID Procedure has been developed in support of the MIWB Public Interest Disclosure Policy (PID Policy) (CCC004). The PID Policy also sets out information in relation to MIWB's position in relation to the disclosure of information about suspected wrongdoing (ie, PIDs) within MIWB. As such, this PID Procedure should be read in conjunction with that PID Policy. Additionally, the definitions outlined in the PID Policy apply to both the PID Policy and this PID Procedure.

This PID Procedure aligns with the PID Act and in particular reflects the requirements under s28 of the PID Act which requires that the Chief Executive of MIWB implement reasonable procedures to deal with PIDs.

### Step 1 - assessment (as a “Discloser”) and Choice of Disclosure

#### Understanding what constitutes a PID under the PID Act

Under the PID Act, **any person** can make a PID about the following public interest matters:

- a substantial and specific danger to the health or safety of a person with a Disability; or
- the commission of an offence against a provision listed in Schedule 2 of the PID Act that would be a substantial and specific danger to the environment (see Annexure A of this PID Procedure); or
- a contravention of a condition imposed under a provision listed in Schedule 2 of the PID Act, that would be a substantial and specific danger to the environment (see Annexure A of this PID Procedure); or
- the conduct of another person that could, if proved, be a Reprisal.

In addition under the PID Act, a **Public Sector Officer (eg, Employee)** can make a PID about the following public interest matters:

- the conduct of another person that could (if proved) be:
  - Corrupt Conduct; or
  - Maladministration that adversely affects a person’s interests in a substantial and specific way; or
- a substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure); or
- a substantial and specific danger to public health or safety; or
- a substantial and specific danger to the environment.

The term “**substantial**” is not defined in the PID Act, however from a MIWB perspective substantial means it needs to be more than trivial or minimal and have weight or importance to MIWB. An

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example of something that meets the definition of substantial will be an Employee receiving an undisclosed financial benefit from a supplier for the referral of MIWB work to that supplier, even if the amounts involved are small.

The term "**Specific**" refers to conduct or detriment that is particular and able to be identified, as opposed to broad or general concerns or criticism.

A person (the Discloser) has information about the conduct of another person or another matter if either:

- the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter; or
- the information tends to show the conduct or other matter, regardless of whether the person honestly believes the information tends to show the conduct or other matter.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- Discloser reports the information as part of their duties - such as an Employee reporting a fraud or an occupational health and safety officer reporting a safety breach;
- complaint is made anonymously - the Discloser is not required to give their name or any identifying information;
- Discloser has not identified the material as a PID - it is up to MIWB to assess information received and decide if it is a PID; or
- disclosure or complaint is unsubstantiated following investigation - the Discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

A PID must also be made to the Proper Authority who can receive disclosures (PIDs) of the type being made (ie, MIWB). Further details regarding the options for making PID is outlined below.

A PID is different from a general complaint about dissatisfaction with a service, policy or a decision by MIWB and is different from an employee related complaint that can be resolved by agreement between two parties eg, the Employees or Associates.

**Options for making a PID**

**Internally**

MIWB encourages all persons in the first instance to raise any concerns they have internally with MIWB, e.g. with their supervisor or member of the management team.

A PID can be made by a Discloser to MIWB, including anonymously and either **verbally** or in **writing**, in the following ways to:

- MIWB's Board Secretary as PID Co-ordinator  
31 Carbonate St, Miles End Qld 4825, Ph: 07 4740 1000;
- MIWB's Board (including a Director of MIWB or the Chair of the Board)  
chair@mountisawater.qld.gov.au;

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- if the Discloser is an Employee, another person who, directly or indirectly, supervises or manages the Discloser; or
- officer of MIWB who has the function of receiving or taking action on the type of information being disclosed.

To further support anyone who wishes to make a PID, MIWB has an external independent organisation, KPMG, to provide a PID reporting service (**KPMG FairCall**). All persons can utilise **KPMG FairCall** to make a PID if they consider necessary.

In making a report using the **KPMG FairCall** service, persons have the option of making a report of wrongdoing (i.e, suspected PID) via the following avenues:

- **Web disclosure** to **KPMG FairCall**- <https://www.kpmgfaircall.kpmg.com.au/mountisawater>;
- **Post disclosure** to - The *FairCall* Manager, KPMG Forensic, PO Box H67, Australia Square, Sydney, NSW 1213;
- **Dialling** 1800 500 965 any day and anytime of the day and you will talk to one of **KPMG FairCall**s empathetic and compassionate call centre agents; or

In making the report of wrongdoing (ie, suspected PID, persons have a choice to make the report on either:

- a ‘Strictly Confidential’ basis (i.e. your identity will not be known to MIWB or **KPMG FairCall**);
- a ‘Confidential from MIWB’ basis (i.e. Only **KPMG FairCall** will know your identity and will contact you if requested and your identity will not be shared with MIWB); or
- a ‘Provide your Contact Information’ basis (i.e. your identity will be known to both **KPMG FairCall** and MIWB).

Whichever path the person chooses in making the report of wrongdoing, and irrespective of the anonymity basis chosen, the person will be allocated a Case ID (e.g. Case ID: 2020-01) (and in the case of web disclosures a Password (e.g. kMRSdR12s)) which allows the person to correspond with MIWB in a completely anonymous and confidential basis (if this is the level of anonymity selected by the person).

All internally reports of wrongdoing are assessed by MIWB in accordance with this PID Procedure.

The sooner a Discloser raises their concern, the easier it will be for MIWB to act (as appropriate). Even if the Discloser’s concern turns out to be incorrect or unable to be substantiated, their PID is still protected by the PID Act if they:

- honestly believe on reasonable grounds that their information tends to show the conduct or danger concerned; or
- the information tends to show the conduct or danger, regardless of whether the person honestly believes the information tends to show the conduct or other matter.

However, to best assist in the assessment, and any subsequent investigation of a PID, Disclosers are requested to:

- provide contact details (or use the **KPMG Faircall** service outline above);
- provide as much information as possible about the suspected wrongdoing, including:

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- who was involved;
  - what happened;
  - when it happened;
  - where it happened;
  - whether there were any witnesses, and if so who they are;
  - any evidence that supports the PID (e.g. JPEG photo's, e-mail, excel or word documents etc, a diary of events and conversations, or file notes), or information where such evidence is located;
  - any further information that could help investigate the PID; and
- provide this information in writing.

**PIDs Reported to an External Entity**

PIDs can also be made to an agency that has a responsibility for investigating the information disclosed, for example:

- the Crime and Corruption Commission (CCC) for disclosures about Corrupt Conduct;
- the Queensland Ombudsman for disclosures about maladministration;
- the Queensland Audit Office for disclosures about a substantial misuse of resources;
- the Department of Environment and Science disclosures about danger to the environment; and
- a Member of the Legislative Assembly (MP) for any wrongdoing or danger.

A PID can also be made to a journalist, only if the following conditions have been met:

- a valid PID was initially made to a Proper Authority, and
- the Proper Authority:
  - decided not to investigate or deal with the PID; or
  - investigated the PID but did not recommend taking any action; or
  - failed to notify the Discloser within six months of making the PID whether or not the PID was to be investigated or otherwise dealt with.

A person who makes a disclosure to a journalist in these circumstances is protected under the PID Act. However, Disclosers should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

**What happens if you provide false or misleading information in relation to a PID (or alleged PID)?**

A person who gives information to MIWB, knowing that it is false or misleading, and intending that it be acted upon as a PID commits a criminal offence with a maximum penalty of two years' imprisonment or 167 penalty units under the PID Act. The Associate may also face disciplinary action (or other action) under the MIWB Code of Conduct and related policies and procedures if false or misleading information is provided in breach of the PID Act.

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While any assessment of whether information provided in relation to a PID is false or misleading will take into account the relevant circumstances, indicators of a false or misleading information may include:

- the Discloser has a history of making false or unsubstantiated complaints;
- there is no information to support the allegation of wrongdoing in any way;
- the allegation is not serious or sensible, and is of such a nature that a reasonable person could not treat it as being genuine; and
- the allegation is on face value, without foundation and appears to be designed to harass, annoy or embarrass the Subject Officer(s).

**STEP 2 - MIWB Assessment on Receipt of a PID**

On receipt of the PID, the PID Coordinator will in conjunction with the Chief Executive (or the Chair FAC), make a decision in accordance with the PID Act, PID Policy and this PID Procedure as to the treatment of the disclosure as a PID under the PID Act and therefore if the Discloser is able to receive the protection under the PID Act (see further below).

If there is any doubt as to whether a matter is a PID, further information may be obtained to inform the decision.

**Where not assessed as a PID**

Where a person states they are making a PID, but it is assessed that the matter is not a PID under the PID Act, MIWB will advise the person (if possible):

- that their information has been received but was not assessed as a PID;
- the reasons for the decision;
- the review rights available if they are dissatisfied with the decision and how to request review;
- any action MIWB proposes to take regardless in relation to the matter; and
- any other options the person has in relation to the matter.

If the complaint has been made anonymously and the person has not provided any contact details, MIWB may not be able to communicate with the person to advise them of this assessment.

**Step 3 - PID Procedures and validation of a PID matter**

Once MIWB has assessed the disclosure as a PID under the PID Act, the following support should be (where appropriate) offered to the Discloser which may include providing written confirmation:

- that their information has been received and assessed as a PID;
- regarding the action taken or proposed to be taken by MIWB in relation to the PID (which could include referring the matter to an external agency, or investigating, see further below);
- the likely timeframes involved in relation to any proposed action;

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- the Discloser’s obligations regarding confidentiality;
- regarding MIWB's commitments to keep appropriate records and maintain confidentiality, subject to the requirements of the PID Act;
- regarding how updates in relation to intended actions and outcomes will be provided to the Discloser;
- contact details for MIWB's Employee Assistance Program (if appropriate);
- acknowledging that making the PID was the right thing to do and is valued;
- making a clear statement that MIWB will support the Discloser including the protections the Discloser has under the PID Act;
- appointing an appropriate person (separate from the investigation activity) with sufficient authority to ensure the Discloser has appropriate support and protection from Reprisal action (for example this may include the PID Support Officer);
- that MIWB will regularly check on the Discloser’s well-being (where this is warranted) and where the health of the Discloser becomes a concern taking appropriate action to support the Discloser.

However, if the PID has been made anonymously, and the Discloser has not provided any contact details or used the KPMG *FairCall* service outlined above, MIWB may not be able to communicate with the Discloser to acknowledge the PID or provide any updates.

MIWB will endeavour as much as possible to keep the Discloser informed of progress and actions taken. However, certain information may not be provided to the Discloser if the giving of that information would be likely to adversely affect:

- anybody’s safety; or
- the investigation of an offence or possible offence; or
- necessary confidentiality about an informant’s existence or identity.

**The Assessment and Investigation Process into a Disclosure**

- On receipt of a Disclosure the Chief Executive and Chair FAC will first assess whether the Disclosure warrants referral to the CCC or whether it’s a matter to be dealt with by MIWB. In relation to matters requiring referral to the CCC this will be done in accordance with MIWB's Corrupt Conduct policies referenced at the end of this PID Procedure. It may be that the above steps (regarding communicating with the Discloser) cannot be taken until the matter is referred to the CCC in accordance with MIWB's reporting obligations.
- MIWB will consider the appropriate action that may be taken relation to the PID. MIWB will respond to a PID, but resolution of the matter may not necessarily require a formal investigation. Possible action could include for example:
  - deciding not to take action on the PID (see further below);
  - referring a PID to another authority (see further below);
  - providing an explanation to the Discloser (e.g. if the Discloser was not aware of all the circumstances surrounding an action which appeared to be improper);

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- increasing supervision or performance management strategies, guidance or counselling, or specific training;
  - mediating or reviewing the operations of a particular unit;
  - conducting an internal audit; and/or
  - implementing or changing policies, procedures or practices.
- If the Disclosure is to be investigated by MIWB, or has been referred back from the CCC for MIWB to deal with, the PID Co-ordinator will be responsible for the overseeing any required action, including any internal or external investigation.
  - The Chief Executive will consider appropriate action to be taken in relation to proven wrongdoing which is the subject of a PID. The recommendations will give consideration to the seriousness of the wrongdoing and may include appropriate disciplinary actions including termination of employment and/ or referral to the Queensland Police Service for further investigation.

*In keeping the Discloser informed of progress and outcomes, please note that the Privacy Act 1988 and Procedural fairness requirements apply in respect of the type and extent of information provided to the Discloser about the investigation and outcomes.*

**Deciding not to take action on the PID**

MIWB may also decide not to investigate or deal with a PID if MIWB considers that:

- the substance of the disclosure has already been investigated or dealt with by another appropriate process; or
- MIWB reasonably considers that the disclosure should be dealt with by another appropriate process; or
- the age of the information relating to the disclosure makes it impracticable to investigate; or
- MIWB reasonably considers that the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert MIWB resources; or
- another entity or body that has jurisdiction to investigate the disclosure has notified MIWB that investigation of the disclosure is not warranted.

If MIWB decides not to investigate or deal with a PID, MIWB will (if possible) give written notice to the Discloser setting out the reasons for its decision. A Discloser may apply to the Chief Executive for a review of the decision within 28 business days after receiving the written reason/s.

**Referring a PID**

If MIWB decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency;
- that agency has the power to investigate or remedy the matter.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the CCC where there is a reasonable suspicion that the matter involves or may involve Corrupt Conduct (as required by section 38 of the CC Act).

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Before referring the PID to another agency, MIWB will conduct a risk assessment, and may not proceed with the referral if there is an unacceptable risk of Reprisal except referrals required by law.

The confidentiality obligations of the PID Act permit appropriate officers of MIWB to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contacts with any other agency. The Discloser will be advised of the action taken by MIWB in referring a PID.

**Review**

If the Discloser or Subject Officer is dissatisfied with the decision made in relation to the management of the PID or a decision by MIWB not to investigate or deal with a PID they can request a review by writing to the Chief Executive Officer within 28 days of receiving the written reasons for decision under section 30 of the PID Act.

If the Discloser or Subject Officer remains dissatisfied, they may also wish to consider seeking an external review of a decision.

**Step 4 - PID Act Protections**

MIWB is committed to treating all PID's appropriately. The Chief Executive or Chair FAC will take concerns of wrongdoing (including PIDs) seriously and ensure (to the extent possible) that privacy and confidentiality is maintained throughout the process to protect those involved in a PID process. Further details regarding the PID Act protections are set out below.

**Anonymity**

Anonymity is where the Discloser does not identify themselves at any stage to anyone. For MIWB, an investigation into wrongdoing is more efficient and successful if when making a disclosure the Discloser identifies themselves. However, the Discloser does have the option of making a PID anonymously (see further above above). If the Discloser does decide to disclose anonymously, they will need to provide sufficient information for the matter to be investigated, as it may not be possible for MIWB to refer back to the Discloser for clarification or more information.

**Confidentiality protections**

Maintaining confidentiality is very important in the handling of a PID. Confidentiality not only protects the Discloser against Reprisals, but any other people affected by the PID. In protecting the confidentiality of the PID (including where possible the identity of the Discloser's identity), MIWB will ensure that the details of the PID, the investigation and related decisions in relation to it will be kept secure. However, while every attempt to protect confidentiality will be made, there will be occasions when disclosure of the Discloser's identity may be necessary, and these include:

- providing natural justice to the Subject Officer/s; and/or
- responding to a court order or legal directive in court proceedings (e.g. subpoena, notice to produce, direction by a parliamentary committee).

MIWB will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the Discloser wherever possible.

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A person who has made a PID in accordance with this PID Act must maintain the confidentiality of that PID to ensure that the process is not compromised.

Under section 65 of PID Act it is an offence for any person who receives confidential information because of the person's involvement in a PID to make a record of the confidential or disclose the confidential information to anyone else except in limited circumstances. A person may make a record of confidential information or disclose it to someone else:

- for the purpose of the PID Act; or
- to discharge a function under another Act including, for example, to investigate something disclosed by a PID; or
- for a proceeding in a court or tribunal; or
- if the person to whom the confidential information relates consents in writing to the making of the record or disclosure of the information; or
- if:
  - the person cannot reasonably obtain the consent of the person to whom the confidential information relates; and
  - making the record or disclosing the information is unlikely to harm the interests of the person to whom the confidential information relates and is reasonable in all the circumstances; or
- if the person reasonably believes that making the record or disclosing the information is necessary to provide for the safety or welfare of a person; or
- if authorised under a regulation or another Act.

**Confidential information** is defined for the purpose of the PID Act as including:

- information about the identity, occupation, residential or work address or whereabouts of a person:
  - who makes a PID; or
  - against whom a PID has been made; and
- information disclosed by a PID; and
- information about an individual's personal affairs; and
- information that, if disclosed, may cause detriment to a person.

Confidential information however for the purpose of section 65 of the PID Act does not include information publicly disclosed in a PID made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.

In compliance with the above principles, MIWB will advise the Discloser if their identity needs to be revealed for any reason listed above and seek their consent. MIWB will attempt as far as possible to avoid a situation where the Discloser's identity will need to be revealed. Section 65 does however not affect an obligation a person may have under the principles of natural justice to disclose information to a person (eg, to the Subject Officer) whose rights would otherwise be detrimentally affected.

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To best ensure ongoing protection of confidential information, all MIWB records of PID's will be maintained within the FairCall Case Management system which is administered by the Board Secretary and which has access restricted to the relevant individuals eg, PID Coordinator, Chief Executive, Chair FAC and the PID Support Officer as may be appropriate and subject to the specific requirements of each PID.

**Reprisal protections**

MIWB takes the protection of Disclosers (or witnesses or affected third parties) from Reprisals seriously. This includes, monitoring the workplace for signs of Reprisal action and taking necessary action to protect a Discloser (and others) if this is evident.

Section 40 of PID Act outlines what Reprisal action is and what the grounds are for Reprisal. In summary, the PID Act requires that a person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that:

- anybody has made or may make a PID; or
- anyone has been or intends to be involved in a proceeding under the PID Act against any person.

Under the PID Act, such action constitutes a Reprisal or the taking of Reprisal.

The PID Act defines 'detriment' as including:

- personal injury or prejudice to safety; and
- property damage or loss; and
- intimidation or harassment; and
- adverse discrimination, disadvantage or treatment about a person's career, profession or employment, trade or business; and
- financial loss; and
- damage to reputation, including, for example, personal, professional or business reputation.

In order to be considered a Reprisal, there must be a causal link between the detriment and a PID or an intention to make a PID. It is sufficient if the making of a PID is the substantial ground for causing detriment, even if there is another ground. Anyone who is proven to have taken a Reprisal or conspires to cause a Reprisal commits an indictable offence and is liable to two years imprisonment or a fine of 167 penalty units. They can also be liable in damages to anyone who suffers detriment as a result of a Reprisal.

In accordance with the PID Act, MIWB will take appropriate action protect Disclosers from Reprisals which may include:

- monitoring of the workplace for signs of Reprisal action,
- early intervention through an assessment of the culture within the work area and conducting awareness communication sessions and training in relation to the PID protections including this PID Procedure;
- to the extent that they are aware of the matter, holding supervisors and/ or managers responsible for supporting the Discloser and taking reasonable steps to best ensure that the Discloser does not suffer harassment, victimisation or any form of Reprisal;

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- changing work environments e.g. changing seating arrangements, granting a Discloser leave of absence until the matter is resolved etc.

MIWB will also consider relevant factors leading to a higher risk of Reprisal, for example:

- the investigation is unlikely to be substantiated; or the wrongdoing is serious and occurs frequently;
- the Subject Officer is more senior than the Discloser; or there is more than one Subject Officer; or
- the Discloser’s immediate work unit is small and/or the Discloser is required to work closely with the Subject Officer.

In addition to protecting the identity of the Discloser, under the PID Act MIWB must also act appropriately to protect the rights of the Subject Officer/s (to the extent reasonable).

The action taken to prevent, or in respond to a PID will depend on the level of risk of Reprisal, its seriousness and other circumstances. Every allegation of Reprisal is taken seriously, recorded and responded to.

A person against whom a Reprisal is made or proposed may also be entitled to seek an injunction to halt Reprisal action. A Discloser also has the right to request relocation within MIWB if they suffer from or risk a Reprisal from making a PID, however this may be impractical within the MIWB business.

An Employee who takes Reprisal against a Discloser may also be guilty of Corrupt Conduct and may be disciplined and in serious cases, dismissed.

*Note - Unrelated disciplinary or other work-related action against a Discloser may be considered as reasonable management action and therefore not “detriment” under the PID Act.*

**Step 5 - Protections for the Subject Officer**

MIWB will treat all PIDs appropriately and sensibly. The rights of any person who is the subject of or is in some way connected with a PID (ie, Subject Officers) are important and are to be respected.

A Subject Officer against whom a PID has been made is entitled to confidentiality and the presumption of innocence until the matter has been properly investigated.

Associates who are Subject Officers may wish to seek assistance from their legal representative or union or support person.

**Natural justice**

The Subject Officer(s) will be accorded natural justice. Also known as procedural fairness, natural justice will be managed by the PID Coordinator. What natural justice requires will depend on the circumstances, but it will generally involve:

- providing the Subject Officer with:
  - the substance of the allegations that have been made against them if an adverse decision may be made about their conduct; and

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- a reasonable opportunity to put their case forward (whether in writing, at a hearing or otherwise); and
- ensuring that a decision-maker acts fairly and without bias.

However, affording natural justice does not mean that MIWB must advise the Subject Officer(s) of the allegation as soon as it is received. Furthermore, the Subject Officer(s) need not be told about the allegation if it is misleading or is of no substance, and thus MIWB does not intend to act on the allegation. MIWB will only provide the name of the Discloser if it is essential to do so to afford the Subject Officer(s) natural justice and it is unlikely that a Reprisal will be taken against the Discloser.

**Support**

Once it is appropriate to advise the Subject Officer(s), MIWB will reassure them that the PID will be assessed impartially, objectively and reasonably, and is only an allegation until evidence collected shows otherwise. MIWB will provide them with information about their rights, and the progress and outcomes of any investigations.

**Step 6 - Record keeping**

In accordance with its obligations under the PID Act and the Public Records Act 2002, MIWB will ensure that:

- accurate data is collected about the receipt and management of PIDs in the FairCall Case Management System;
- anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID. MIWB will provide anonymised reports to the Board of Directors as appropriate.

**REFERENCE MATERIAL**

**Legislation, Standards and Guides**

- *Public Interest Disclosure Act 2010* (Qld);
- *Crime and Corruption Act 2001* (Qld)
- Public Interest Disclosure Standard No. 1/2019 – Public Interest Disclosure Management Program;
- Public Interest Disclosure Standard No. 2/2019 – Assessing, Investigating and Dealing with Public Interest Disclosures;
- Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting;
- Public Interest Disclosure Guides by the Queensland Ombudsman:
  - Managing a PID Program – A Guide for public sector organisations;

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- Handling a PID – A Guide for public sector managers and supervisors; and
- Making a public interest disclosure: A guide for individuals working in the public sector.

**Related MIWB Documents**

MIWB also has a number of other policies and procedures which may also be relevant and may apply depending the nature of the concern raised, see for example:

- CCC004 PID Policy - which should be read in conjunction with this PID Procedure;
- HR001 Code of Conduct Policy
- CCC001 Corrupt Conduct and Fraud Policy
- CCC002 Chief Executive Corrupt Conduct Policy
- CCC003 Chair and Directors Corrupt Conduct Policy

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**APPENDIX A - Schedule 2 of the PID Act -  
Offences or contraventions endangering the environment**

**Aboriginal Cultural Heritage Act 2003**

- section 24(1) (Unlawful harm to Aboriginal cultural heritage)
- section 25(1) (Prohibited excavation, relocation and taking away)
- section 26(1) (Unlawful possession of Aboriginal cultural heritage)

**Biosecurity Act 2014**

- section 36 (Reporting presence of prohibited matter)
- section 37 (Dealing with prohibited matter)
- section 42 (Reporting presence of category 1 or 2 restricted matter)
- section 44 (Requirement to kill and dispose of category 7 restricted matter)
- section 45 (offences about other categories of restricted matter)

**Environmental Protection Act 1994**

- all provisions for which a contravention is an offence

**Fisheries Act 1994**

- section 90 (Non-indigenous fisheries resources not to be released)
- section 91 (Aquaculture fisheries resources not to be released)
- section 92 (Duty of person who unlawfully takes or possesses noxious or nonindigenous plants)
- section 122 (Protection of fisheries resources in declared fish habitat area)
- section 123 (Protection of marine plants)

**Forestry Act 1959**

- section 53(1)(b) (Interference with forest products on Crown holdings and particular entitlements)
- section 54 (Interfering with forest products on Crown lands etc.)

**Greenhouse Gas Storage Act 2009**

- all provisions for which a contravention is an offence

**Land Act 1994**

- section 404 (No trespassing)

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**Mineral Resources Act 1989**

- section 194 (Conditions of mineral development licence)
- section 209 (Contravention by holder of mineral development licence)
- section 276 (General conditions of mining lease)
- section 308 (Contravention by holder of mining lease)

**Nature Conservation Act 1992**

- section 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal)
- section 89(1) (Restriction on taking etc. particular protected plants)
- section 91 (Restriction on release etc. of international and prohibited wildlife)
- section 92 (Prohibition on breeding etc. hybrids of protected animals)
- section 93 (Aborigines' and Torres Strait Islanders' rights to take etc. protected wildlife)
- section 94 (Conservation officers prohibited in dealing with protected wildlife)
- section 97(2) (Restriction on taking etc. of native wildlife in areas of major interest and critical habitats)
- section 109 (Compliance with order)

**Petroleum Act 1923**

- all provisions for which a contravention is an offence

**Petroleum and Gas (Production and Safety) Act 2004**

- all provisions for which a contravention is an offence

**Queensland Heritage Act 1992**

- section 104 (Offence to destroy protected area)
- section 155 (Contravention of stop order)
- section 164B(4) (Restoration orders)

**Torres Strait Islander Cultural Heritage Act 2003**

- section 24(1) (Unlawful harm to Torres Strait Islander cultural heritage)
- section 25(1) (Prohibited excavation, relocation and taking away)
- section 26(1) (Unlawful possession of Torres Strait Islander cultural heritage)

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**Transport Operations (Marine Pollution) Act 1995**

- all provisions for which a contravention is an offence

**Water Act 2000**

- section 272(4) (Immediate suspension of permit in exceptional circumstances)
- section 273(3) (Notice to owner of land to remove vegetation etc.)
- section 814 (Destroying vegetation, excavating or placing fill without permit)

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