



Procedure 2.06 - Whistle-blower and Public Interest Disclosure Management

1. Application

This Procedure applies to all NQBP Personnel, where relevant.

2. Procedure

2.1 Relevant Principles

This Procedure sets out how Disclosures made by NQBP Personnel regarding Wrongdoing will be managed. It also deals with other matters such as oversight, awareness and training on whistle-blower protection requirements.

The Procedure applies to all Disclosures, regardless of whether the disclosure is:

- (a) A Public Interest Disclosure under the *Public Interest Disclosure Act 2010* (**PID Act**);
- (b) A Qualified Disclosure under the *Corporations Act 2001* (Cth) (**Corporations Act**); or
- (c) An Alternative Disclosure.

2.2 Structure of the Procedure

This Procedure provides an overview on how NQBP manages its obligations under the various whistle-blower protection regimes, including specific whistle-blower protection regimes established under the PID Act and the Corporations Act.

3. Organisational Commitment

3.1 Commitment by the Board and the CEO

The CEO and the NQBP Board encourage any NQBP Personnel who consider that they have witnessed Wrongdoing within NQBP to come forward and make a Disclosure. NQBP seeks to encourage and maintain an organisational climate where all NQBP Personnel feel confident and comfortable making such Disclosures.

NQBP believes that it has a responsibility to deal with Disclosures about Wrongdoing within NQBP. The disclosure of Wrongdoing is in accordance with NQBP's goals and, in particular, to act with integrity.

NQBP Personnel are encouraged to come forward to report Wrongdoing. The CEO, the NQBP Board and senior management endorse the value to NQBP of such Disclosures, as they assist NQBP to promote openness, accountability and are part of the overall good management of the corporation.

NQBP is committed to protecting NQBP Personnel who disclose Wrongdoing and to maintaining confidentiality relating to any such Disclosures as required by law. This issue is further discussed in Parts 9 and 10 of this Procedure.

The CEO and the NQBP Board are committed to ensuring that NQBP properly manage such Disclosures.

The CEO is also responsible for ensuring that there is regular evaluation and monitoring of the effectiveness of the NQBP Whistle-blower Protection Policy, Whistle-blower Protection Procedure and this Procedure.

The NQBP Board is committed to ensuring that sufficient resources are allocated within NQBP to manage Disclosures of Wrongdoing. The officer responsible for the appropriate management of the

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Disclosure of Wrongdoing, including Public Interest Disclosures, has the full support of NQBP in discharging this function.

3.2 Awareness and Training

All NQBP Personnel will be made aware of:

- The PID Act with particular regard being paid to Public Interest Disclosures which may arise in the conduct of NQBP's business;
- The whistle-blower regime established under Chapter 9, Part 9.4AAA of the Corporations Act; and
- Alternative Disclosures that can be made.

NQBP Personnel will also be made aware of these issues via a communications and awareness strategy which will include a training program which will deal with these issues, to be done both at induction and on an annual basis.

This training will cover the following topics:

- Identification of Wrongdoing;
- How to make a Disclosure under the Whistle-blower Protection Procedure (including a Public Interest Disclosure, a Qualified Disclosure under the Corporations Act or an Alternative Disclosure);
- The support and protection afforded to disclosers; and
- How Disclosures will be managed.

Senior managers and other staff who directly deal with Disclosures of Wrongdoing will also be given specialist training about such Disclosures and the workplace issues relating to the management of such Disclosures.

All NQBP Personnel will be made aware of this document and other related NQBP policy documents.

These documents are also available to the public via the NQBP website.

4. Oversight

4.1 Responsible Officers

The CEO and Company Secretary are responsible for ensuring that there is appropriate management of Disclosures (even where Disclosure is made to NQBP via the independent external consultant under the Whistle-blower Protection Procedure), except where the Disclosure relates to the CEO or the Company Secretary. In that case, the Chairman of the NQBP Board or the Chairman of the Audit and Financial Risk Management Committee will be responsible for ensuring that there is appropriate management of the Disclosure.

Where appropriate, the officer responsible for the appropriate management of the relevant Disclosure (e.g. the CEO) may seek assistance to discharge their responsibilities in relation to a Disclosure from the Company Secretary, the Manager HR/IR and/or other NQBP Personnel, provided that none of those NQBP Personnel are the subject of the Disclosure. Where necessary, an appropriate NQBP Personnel member will be appointed as a case manager in relation to the Disclosure.

4.2 Management of the Disclosure

The Company Secretary, the Manager HR/IR and/or other NQBP Personnel assisting with the management of the Disclosure must:

- Liaise closely with the CEO, particularly in relation to Public Interest Disclosures or Qualified Disclosures (except where a Public Interest Disclosure involves the CEO);
- Manage the Disclosure in accordance with the Whistle-blower Protection Policy, Whistle-blower Protection Procedure, the Public Interest Disclosure Standard made by the Public Service Commission and this Procedure (where relevant);

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- Where relevant, have regard to the guidance documents published from time to time by the Queensland Ombudsman, Crime and Misconduct Commission, ASIC or the Public Service Commission regarding reporting of Wrongdoing; and
- Manage the Disclosure to assist improvements to service delivery, business processes and internal controls within NQBP.

Under the oversight of the CEO, the Company Secretary and/or the Manager HR/IR will be responsible for:

- Applying consistent and appropriate assessment procedures to determine whether complaints:
 - a) Meet the requirements of the PID Act for treatment as a Public Interest Disclosure;
 - b) Meet the requirements of a Qualified Disclosure under the Corporations Act; or
 - c) Fall into the category of Alternative Complaint;
- Monitoring the investigation and resolution of Disclosures;
- Managing and overseeing the support and protection offered to disclosers;
- Collecting, reporting and reviewing data about Disclosures that NQBP receives; and
- Providing clear guidance to staff about how to make a Disclosure of Wrongdoing relating to NQBP.

5. Receiving Disclosures

NQBP Personnel may make a Disclosure about the Wrongdoing of NQBP Personnel by following the Whistle-blower Protection Procedure.

If an NQBP Personnel purports to make a Disclosure in a different manner, they should be referred to the correct procedure as set out in the Whistle-blower Protection Procedure.

6. Assessing Disclosures

Where a Disclosure is received under the Whistle-blower Protection Procedure, it must be referred to the Company Secretary and/or the Manager HR/IR for assessment. However, where the Disclosure is not made anonymously, the referral can only occur where the written consent of the discloser is obtained. The Company Secretary and/or the Manager HR/IR are responsible for assessing such Disclosures and identifying whether a Disclosure is a Public Interest Disclosure under the PID Act, a Qualified Disclosure under the Corporations Act or an Alternative Disclosure.

In making an assessment, the Company Secretary and/or the Manager HR/IR will have regard to the matters set out in the Whistle-blower Protection Procedure.

NQBP will take a cautious view when deciding whether a Disclosure is a Public Interest Disclosure or an Alternative Disclosure.

As noted in Procedure 2.05 - Whistle-blower Protection, a NQBP Employee can report a Wrongdoing by making a Public Interest Disclosure under the PID Act where the NQBP Employee honestly believes, on reasonable grounds, that they have information which tends to show, or actually shows, that an NQBP Employee has engaged in conduct that could, if proved, be "Corrupt Conduct" under the Crime and Corruption Act. When making a Public Interest Disclosure, it should be noted that a belief cannot be based on a mere allegation or conclusion which is unsupported by any facts or circumstances. For example, it is not sufficient for a person to base a Public Interest Disclosure on the statement: *'I know X is accepting bribes to grant planning permits to Y developer'*. This is a mere allegation unsupported by any further facts or circumstances.

Each separate allegation will be treated as a separate Disclosure, unless the matters are clearly linked and it would be reasonable to view them all as a single Disclosure.

7. Taking Action on a Disclosure

Where a Disclosure of Wrongdoing has been validly made under the PID Act, Corporations Act or otherwise, the next step then in relation to assessing the Disclosure, will be to determine whether the matter should be referred to another entity (e.g. the Crime and Corruption Commission). NQBP

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may also refer a Disclosure to another entity where required under law. A Qualified Disclosure may only be referred to a person (other than ASIC or a member of the Australian Federal Police) with the discloser's written consent.

NQBP will determine whether any action is required. This will include NQBP considering the specific action to be undertaken as regards the Disclosure, such as whether it is necessary to investigate the Disclosure. Other action may also be required, including under other legislation such as the Competition and Consumer Act or the Crime and Corruption Act. This step may be undertaken by the CEO, Company Secretary and/or the Manager HR/IR depending on the applicable legislation.

If the Disclosure is a Public Interest Disclosure, then action must be taken unless:

- The substance of the Disclosure has already been investigated or dealt with by another appropriate process;
- NQBP reasonably considers that the Disclosure should be dealt with by another appropriate process;
- The age of the information the subject of the Disclosure makes it impracticable to investigate;
- NQBP reasonably considers that the Disclosure is too trivial to warrant investigation and that dealing with the Disclosure would substantially and unreasonably divert NQBP's resources from their use by NQBP in the performance of its functions; or
- Another entity that has jurisdiction to investigate the Disclosure has notified NQBP that investigation of the Disclosure is not warranted.

If it is decided that no action is required due to any of the above reasons, in the case of a Public Interest Disclosure, NQBP must give written reasons for its decision to the person who made the Disclosure. The discloser may then apply to the CEO for a review of the decision within 28 days after receiving these written reasons.

If action on a Public Interest Disclosure is required, the options for action include:

- Providing an explanation to the discloser (e.g. if the discloser was not aware of the whole circumstances surrounding an action which appeared to them to be improper);
- Resolving the Disclosure managerially;
- Conducting a desk top audit of relevant documentation;
- Conducting an internal audit, or a review of an issue or the operations of a particular business unit;
- Implementing or changing policies, procedures or practices;
- Formally investigating the allegations; or
- Providing training or counselling to staff.

In some cases, a preliminary investigation may be necessary to help determine what course of action should be taken. Whatever action is taken, NQBP will, subject to any legal requirements, protect and support the discloser and will maintain confidentiality.

Anonymous Disclosures will be received and managed in the same way as identified Disclosures, and will not be rejected merely because they are anonymous. However, in some cases, anonymous disclosers may not provide enough information for the complaint to be investigated, or may not meet the requirements of a Qualified Disclosure under the Corporations Act.

Disclosures of most types of Wrongdoings can be made anonymously to NQBP via NQBP's independent external whistle-blower consultant, BDO Kendalls, in accordance with the Whistle-blower Protection Procedure.

In assessing (and where necessary, investigating and taking action on) a Disclosure, NQBP will also be aware of its obligations. Any investigation will be undertaken in accordance with principles of equity, integrity and without bias.

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8. Informing the Discloser

The Company Secretary and/or the Manager HR/IR will provide the discloser (or the entity that referred the Disclosure) with reasonable information about the Disclosure, which includes at least confirmation that the Disclosure has been received.

NQBP will work towards advising the discloser of:

- a) The likely timeframes involved in the matter;
- b) Their involvement in the investigation process;
- c) The importance of maintaining confidentiality;
- d) The relevant protections that will apply (under the PID Act, the Corporations Act or under NQBP's policies);
- e) That NQBP, subject to relevant legal requirements, will keep the information disclosed and the discloser's identity, confidential (except as authorised, for example under the PID Act or the Corporations Act);
- f) How the discloser will be advised of progress and outcomes; and
- g) Who the discloser should contact if they would like further information or fear Reprisals, Victimisation or other adverse consequences.

Where the Disclosure is a Public Interest Disclosure, providing the above information to the discloser is mandatory. However, NQBP encourages, wherever it is possible, that similar information be provided in respect of all Disclosures of Wrongdoing. However, there may be circumstances where NQBP is unable to provide such information to the discloser (for example, privacy or other legal requirements).

In addition, wherever it is possible, appropriate and desired by the discloser, NQBP will arrange a regular follow up with the discloser to advise on the progress of resolving the Disclosure.

9. Discloser support and protection

9.1 Confidentiality

NQBP is committed to keeping the identity of disclosers and the information disclosed confidential to the extent required by law.

As a guide, the following information is "confidential information" for the purposes of a PID or Qualified Disclosure:

- Information about the identity, occupation, residential or work address or whereabouts of a person who makes a Public Interest Disclosure or against whom a Public Interest Disclosure has been made;
- Information disclosed by a Public Interest Disclosure;
- Information about an individual's personal affairs; and
- Information that, if disclosed, may cause detriment to a person (note that information of this nature may not be confidential information for the purposes of a Qualified Disclosure).

Generally, the requirements of the PID Act (PIDs) and the Corporations Act (Qualified Disclosures) provide that confidential information obtained under these frameworks may only be disclosed in limited circumstances, including for the investigation of the Disclosure.

NQBP Personnel who receive confidential information under the PID Act, must not make a record of the information disclosed, or intentionally or recklessly disclose the information to anyone, other than:

- For the purposes of the PID Act (e.g. to record the information as set out in Section 11 of this Procedure);
- To discharge a function under another Act including, for example, to investigate something disclosed by a Public Interest Disclosure;
- For a proceeding in a Court or tribunal;

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- If the person to whom the confidential information relates consents in writing to the making of the record or disclosure of the information;
- If -
 - i. They cannot reasonably obtain the consent of the person to whom the confidential information relates; and
 - ii. 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;
- If they reasonably believe 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.

Regardless of whether the disclosure of Wrongdoing is a Public Interest Disclosure under the PID Act, a Qualified Disclosure under the Corporations Act or an Alternative Disclosure, NQBP will, subject to legal requirements, seek to keep the identity of the person making the Disclosure and the information contained in the Disclosure confidential.

The principles of natural justice may require the disclosure of confidential information, including the identity of the discloser, in some circumstances. Where this issue arises, it may be necessary for the confidential information to be summarised or provided in a form with certain details redacted. The Company Secretary and/or Manager HR/IR can provide further details in relation to this issue.

Any breach of confidentiality requirements attaching to a Disclosure by NQBP Personnel will be considered to be a serious disciplinary matter (such a disclosure may also be in an offence under the PID Act or the Corporations Act).

While NQBP is prepared to take all steps necessary to protect the confidentiality of the information received, disclosers also bear confidentiality obligations. The fewer people who know about the Disclosure, the more likely NQBP will be able to keep the discloser's identity confidential and effectively protect the discloser against reprisals or other adverse consequences.

9.2 Support

In addition to maintaining a discloser's confidentiality, in order to give disclosers appropriate support and protection, as soon as possible after receiving the Disclosure, the Manager HR/IR will arrange for a risk assessment to determine the risk of a Reprisal (in the case of a Public Interest Disclosure), Victimization (in the case of a Qualified Disclosure) or other adverse outcome to the discloser or others associated with the discloser. This risk management assessment will also take into account the consequences of a Reprisal (in the case of a Public Interest Disclosure), Victimization (in the case of a Qualified Disclosure) or other adverse outcome. As part of assessing this risk, the Manager HR/IR will also assess the discloser's need for support.

If the assessment shows a risk of Reprisal, Victimization or other adverse consequences, NQBP will ensure that protective measures are put in place which is proportionate to the risks and potential consequences. If the risks or consequences are assessed as sufficiently high, the Manager HR/IR will prepare a protection plan to protect disclosers. Where feasible, the protection plan will be developed in consultation with the discloser and other relevant stakeholders.

If it is determined that the discloser requires support, NQBP will provide the appropriate level of support. The action taken to support the discloser will be determined on a case-by-case basis. Depending on the situation, the following action may be appropriate:

- Acknowledging that making the Disclosure was the right thing to do and is valued by NQBP;
- Making a statement that NQBP will support the discloser;
- Appointing an appropriate person (separate from the investigation function) with sufficient authority as case manager with operational responsibility for ensuring that the discloser has appropriate support and protection from Reprisals (in the case of a Public Interest Disclosure), Victimization (in the case of a Qualified Disclosure) or other adverse outcomes;

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- The case manager conducting regular checks on the discloser's well-being, where this is warranted;
- Advising the discloser of the Employee Assistance Program and relevant policies; and
- Where the health of the discloser becomes a concern, liaising with occupational workplace health and safety officers.

NQBP Personnel who make Disclosures may be given immunity from internal disciplinary proceedings and disadvantage within NQBP which arise as a result of the Disclosure. However, these protections may not apply where the discloser has engaged in improper, inappropriate or unsatisfactory conduct. These matters will be assessed on a case by case basis.

9.3 Protection

The relevant protections available to NQBP Personnel who make Disclosures are outlined in the Compliance Policy and Whistle-blower Protection Procedure. The legislative protections available will depend on whether the Disclosure is a Public Interest Disclosure under the PID Act, a Qualified Disclosure under the Corporations Act or is an Alternative Disclosure.

10. Managing Reprisals

Making a Reprisal against another person because the other person (or someone else) has made or intends to make a Public Interest Disclosure is an offence under the PID Act. Similarly, victimising a person because that person (or another person) has made a Qualified Disclosure under the Corporations Act is an offence.

Regardless of whether the Disclosure is covered by the PID Act or the Corporations Act, NQBP is committed to ensuring that NQBP personnel who make Disclosures do not suffer Reprisals, Victimisation or other adverse consequences.

To this end, the Manager HR/IR will monitor the workplace for any signs of Reprisals, Victimisation or other adverse consequences against a discloser.

In the event that a Reprisal, Victimisation or other adverse consequences are alleged or suspected, NQBP will act in the interests of the discloser by, for example:

- Attending to the safety of the discloser(s) or affected third parties as a matter of priority;
- Reviewing the risk assessment and any protective measures needed; and
- Where appropriate, managing any allegation of a Reprisal as a Public Interest Disclosure in its own right.

11. Reporting

The CEO will keep the following information about all Disclosures of Wrongdoing:

- a) The name of the person making the Disclosure, if known;
- b) The information disclosed;
- c) Any action taken on the Disclosure;
- d) If the Disclosure has been referred from another entity (under the PID Act), the name of the entity that referred the Disclosure;
- e) The date the Disclosure was received, and where it was received from;
- f) The status of the discloser;
- g) The gender and status of the subject officer (staff member, non-staff member);
- h) The relationship between the discloser and the subject officer;
- i) The location of the subject officer (geographical region);
- j) A summary of the allegation/information received;
- k) The involvement of an external agency/party;
- l) The action taken to minimise any risk of reprisal;

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- m) Date inquiry/investigation commenced and completed;
- n) The outcome of the assessment, inquiry/investigation;
- o) The date the Disclosure was resolved or closed;
- p) When the outcome was advised to the discloser;
- q) If no action was taken, the reason for the decision; and
- r) Other legal processes associated with the Disclosure.

This recording is mandatory if the Disclosure is a Public Interest Disclosure (or purported Public Interest Disclosure) under the PID Act. However, as a matter of policy, NQBP will record all Disclosures of Wrongdoing in this way.

Each separate allegation should be recorded as a separate Disclosure unless the matters are clearly linked and it would be reasonable to view them as a single Disclosure.

NQBP keeps the records of Disclosures secure and confidential by:

- Establishing separate, standalone hardcopy files for Disclosures;
- Limiting access to both electronic and hardcopy files dealing with Disclosures to certain NQBP Personnel only.

The above matters must be reported to the Board and the Audit and Financial Risk Management Committee on a quarterly basis (or earlier if the nature of the matter warrants more timely Disclosure). This reporting should be made on an anonymous basis to protect the discloser from Reprisals, Victimisation or other adverse consequences.

There may be external reporting requirements which may require NQBP to provide certain details of Disclosures to third party bodies. For example, the CEO is required to provide certain information to the Public Service Commission regarding Public Interest Disclosures.

12. Internal and external review

A discloser or person who is affected by a decision made by NQBP regarding a Public Interest Disclosure may apply to NQBP for an internal review of the relevant decision.

Depending on the circumstances, external review under the Judicial Review Act 1991 (Qld) may also be available for decisions regarding Public Interest Disclosures.

13. Compliance Policy, Procedure, Standard and Legislative Framework

The following Policies, Standards, Procedures, Guidelines and Legislation combine to form the framework provided for by this Procedure:

- a. Procedure 2.05 - Whistle-blower Protection;
- b. Procedure 2.06 - Whistle-blower and Public Interest Disclosures Management Program;
- c. Standard 2.01 - Code of Conduct;
- d. Standard 2.02 - Integrity Framework – Corrupt Conduct and Public Interest Disclosures;
- e. Risk Management Manual;
- f. Procedure 3.08 - Grievance Resolution.
- g. *Public Interest Disclosure Act 2010 (Qld)*
- h. *Corporations Act 2001 (Cth)*
- i. *Crime and Corruption Act 2011 (Qld)*
- j. *Government Owned Corporations Act 1993 (Qld)*; and
- k. *Integrity Act 2010 (Qld)*;
- l. *Information Privacy Act 2009 (Qld)*;
- m. *Information Privacy Regulation 2009 (Qld)*;
- n. *Integrity Act 2010 (Qld)*;
- o. Australian Privacy Principles
- p. *Privacy Act 1988 (Cth)*

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- q. Public Interest Disclosure Act 2010 (Qld)
- r. Public Interest Disclosure Standard No. 1

14. Review Date

This Procedure should be reviewed by 31 October 2019.

15. Definitions

ASIC: means the Australian Securities and Investments Commission.

Auditor: means the Queensland Audit Office.

Audit Team: means a member of the Queensland Audit Office audit team.

Board: means the Board of NQBP.

CEO: means the Chief Executive Officer of NQBP.

Contractors: means contractors or consultants engaged by NQBP under a personal services consultancy agreement or other similar arrangements.

Corporations Act: means the *Corporations Act 2001* (Cth).

Competition and Consumer Act: means the *Competition and Consumer Act 2010* (Cth).

Company Secretary: means the Company Secretary of NQBP.

Disclosure: means a disclosure, where relevant, by NQBP Personnel that is:

- a. Public Interest Disclosure under the PID Act;
- b. a Qualified Disclosure under the Corporations Act; or
- c. an Alternative Disclosure.

NQBP: means North Queensland Bulk Ports Corporation Limited ACN 136 880 128.

NQBP Employee: means employees and Contractors of NQBP and does not include NQBP directors.

NQBP Personnel: means NQBP officers (for example, NQBP directors) and NQBP Employees.

Corrupt Conduct: has the same meaning as in the *Crime and Corruption Act 2011* (Qld).

Public Interest Disclosure: means a disclosure under s.19 of the PID Act by a NQBP Employee or a disclosure referred to NQBP under s.31 of the PID Act.

Qualified Disclosure: means the disclosure of information by a person in accordance with s.1317AA of the Corporations Act.

Reprisal: means causing, attempting to cause or conspiring to cause detriment to another person (including attempting to induce a person to cause a detriment) because (or in the belief that):

- a. the other person or someone else has made, or intends to make, a Public Interest Disclosure; or
- b. the other person or someone else is, has been or intends to be, involved in a proceeding under the PID Act against any person.

Victimisation: means an activity that contravenes section 1317AC of the Corporations Act.

Wrongdoing: means illegal or other inappropriate conduct and includes conduct relevant to a Public Interest Disclosure, Qualified Disclosure or an Alternative Disclosure.

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