

## WHISTLE-BLOWER POLICY

### 1. PURPOSE

This SunWater Whistle-blower Policy and Guide has been developed to meet all the requirements of the Public Interest Disclosure Act 2010 (Qld) (**the PID Act**). The PID Act was enacted to provide protection to individuals (“employees”) and other persons (e.g. member of the public) who make a disclosure (i.e. someone that provides information or evidence that is in the public interest about corrupt conduct or wrongdoing within SunWater). For SunWater, a Public Interest Disclosure and a Whistle-blower report are synonymous terms.

The purpose of this policy and guide is to encourage the reporting of a Public Interest Disclosure and to provide protection to whistle-blowers from reprisal action following their making or intending to make a Public Interest Disclosure. SunWater encourages any individual or person who has witnessed corrupt conduct or wrongdoing to come forward and make a disclosure and will ensure that he or she will not face any reprisal action from having made that disclosure.

This policy and guide is designed to complement normal communication channels between managers/ supervisors and SunWater individuals. SunWater individuals are encouraged to continue to raise appropriate matters at any time with their managers/ supervisors, but as an alternative they have the option of making a Public Interest Disclosure in accordance with this policy and guide. A Public Interest Disclosure can be made by an individual or by any person (refer section 4 for definition/s of individual and a person).

SunWater has a Whistle-blower Hotline in place which is independently managed and individuals and other persons have the opportunity to confidentially and anonymously report all suspected breaches of the SunWater Code of Conduct such as corrupt conduct or any wrongdoing. All cases are assessed and investigated where required, followed by appropriate disciplinary action depending on the outcome of the investigation. All suspected corrupt conduct matters are referred to the Crime and Corruption Commission (CCC).

### 2. APPLICATION

A Public Interest Disclosure can be made by either an individual or by a person. This policy and guide (Appendix A) applies to all ‘individuals’ and ‘persons’. A Public Interest Disclosure (‘PID’) under the Act is a disclosure comprising:

(a) for an ‘employee’ of SunWater, information about:

- the conduct of another employee that could, if proved, be corrupt conduct;
- the conduct of another employee that could, if proved, be a reprisal that relates to a previous disclosure made by the employee to SunWater or the CCC.

An individual can make a disclosure either to SunWater or to the CCC, however if SunWater has a reasonable procedure for dealing with the PID, then the individual should make the PID to SunWater and the disclosure can be made anonymously.

(b) for any 'Person', information about:

- a substantial & 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; 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; or
- the conduct of another person that could, if proved, be a reprisal.

The term "substantial" is not defined in the Act, however from a SunWater perspective substantial means it needs to be more than trivial or minimal and have weight or importance to SunWater. An example of something that meets the definition of substantial will be an individual receiving a kickback from a supplier for the referral of SunWater work to that supplier, even if the amounts involved are small.

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

For the purposes of this policy and guide, the SunWater Manager Internal Audit is the SunWater 'PID Coordinator' and the owner of this policy and guide. For SunWater, a PID is the same as a whistle-blower report and as such SunWater has elected to call its policy the 'Whistle-blower Policy'.

### 3. KEY PRINCIPLES

SunWater is committed to the objectives of the PID Act and appreciates the value and importance of contributions by individuals and persons in enhancing administrative and management practices and strongly supports Public Interest Disclosures (PID's) being made. SunWater considers PID's are an important component of ensuring our individuals uphold the highest standard of integrity and accountability. The making of a PID supports SunWater's ethical culture, in particular acting with integrity.

When a PID is reported, SunWater commits to:

- properly assess and where appropriate, properly investigate the disclosure thoroughly;
- where required, take action on any wrongdoing in relation to the disclosure;
- keep the discloser informed of the progress and outcome of the investigation (if required and to the extent possible).

The protections under the PID Act apply to an individual or person who makes a PID based on an honest belief on reasonable grounds about the conduct or matter disclosed. However, *it maybe a criminal offence* under the PID Act to make a PID to *intentionally provide information that is false or misleading*.

This policy and guide sets out the framework for the management of PID'S at SunWater as required by the PID Act and the Public Interest Disclosure Standard.

## CONFIDENTIALITY

There is an obligation on SunWater and any individual or person gaining confidential information to keep the identity of a Discloser confidential and information provided confidential, except where it is necessary to discharge a function under any law or legal proceedings and/or when it is unlikely that Reprisal action will follow.

This obligation to maintain confidentiality dictates the involvement of others strictly on a 'need to know' basis only. An individual who has made a PID in accordance with this policy and guide must maintain the confidentiality of that disclosure to ensure that the process is not compromised. Disclosure may, however, be made to other individuals who are authorised to know of the disclosure, or who are involved in the investigation process.

It will be a breach of this policy if a person makes a record of, or intentionally or recklessly discloses information received in the administration of a PID to anyone, except when authorised under this policy.

## REPRISAL AND PROTECTION UNDER THE POLICY FOR THE DISCLOSER

When an Individual or Person makes a PID that complies with the requirements of this policy (the discloser), they are protected in a number of ways and disclosers incur no criminal or civil liability for making a disclosure in accordance with this policy.

SunWater has established procedures for protecting disclosers from reprisals. These include:

- procedures to ensure support to the discloser;
- disclosures are properly assessed, investigated and dealt with and a proper record is kept of the disclosure, including safe storage of information and evidence obtained;
- monitoring the workplace for signs of reprisal action and taking necessary action to protect a discloser if this is evident;
- maintaining integrity and confidentiality throughout the reporting and investigation process.

Full details of SunWater's procedures are reflected in Appendix A of this policy and guide.

It is an offence for a SunWater individual to take reprisal action against a discloser because of a PID. Reprisal can take many forms such as:

- The personal safety of the discloser may be threatened; or the personal property of the discloser may be damaged;
- Disclosers may be faced with intimidation, victimisation or harassment in the workplace and may be discriminated against or disadvantaged in their career or profession;
- Threats made to a discloser that any of these consequences may occur.

This policy is designed to protect the discloser from the above consequences. A reprisal against a discloser will be a breach of the SunWater Code of Conduct and this policy and a discloser who suffers reprisal may also take civil action (including for monetary compensation) against the individual taking reprisal action. 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 SunWater if they suffer from or risk a reprisal from making a PID.

An individual who takes reprisal against a discloser will be guilty of corrupt conduct and may be disciplined and in serious cases, dismissed. Provided that it is made in good faith, and with an honest belief in the facts related to the alleged corrupt conduct or impropriety, a discloser making a PID will still be entitled to protection even if, after investigation it is found to be without substance.

## RIGHTS OF INDIVIDUALS AFFECTED BY A PID

The individual against whom the PID is made (i.e. the subject officer/s) will be presumed to be innocent of any allegation until evidence is produced to the required standard of proof to show otherwise. Subject officer/s who are the subject of an allegation may seek assistance from their legal representative or union.

They can also utilise the services of the Individual Assistance Program (EAP) should they require personal counselling during this process. Assure Programs is the current provider and can be contacted on 1800 808 374.

## 4. DEFINITIONS

The following definitions apply in this policy:

|  |  |
|--|--|
| Confidential Information:              | (a) includes -<br>i. information about the identity, occupation, residential or work address or whereabouts of a person -<br>(A) who makes a public interest disclosure; or<br>(B) against whom a public interest disclosure has been made; and<br>ii. information disclosed by a public interest disclosure; and<br>iii. information about an individual's personal affairs; and<br>iv. information that, if disclosed, may cause detriment to a person; and<br>(b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.  |
| Crime and Corruption Commission (CCC): | The Crime and Corruption Commission (CCC) is a statutory body set up to combat and reduce the incidence of major crime and corruption in the public sector in Queensland.<br><br>Its functions and powers are set out in the <i>Crime and Corruption Act 2001</i> . The CCC investigates both crime and corruption, has oversight of both the police and the public sector, and protects witnesses. The CCC investigates organised crime, paedophilia, terrorist activity and other serious crime referred to it for investigation, receives and investigates allegations of serious or systemic corrupt conduct, helps recover the proceeds of crime, provides the witness protection service for the state of Queensland and conducts research on crime, policing or other relevant matters. |
| Corrupt conduct                        | Corrupt conduct as defined under the <i>Crime and Corruption Act 2001</i><br>1. means conduct of a person, regardless of whether the person holds or held an appointment, that -<br>a) adversely affects, or could adversely affect, directly or indirectly, the   |

|                                   |  |
|-----------------------------------|--|
|                                   | <p>performance of functions or the exercise of powers of -</p> <ul style="list-style-type: none"> <li>(i) a unit of public administration; or</li> <li>(ii) a person holding an appointment; and</li> </ul> <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> <ul style="list-style-type: none"> <li>(i) is not honest or is not impartial; or</li> <li>(ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or</li> <li>(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</li> </ul> <p>c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and</p> <p>d) would, if proved, be -</p> <ul style="list-style-type: none"> <li>(i) a criminal offence; or</li> <li>(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</li> </ul> <p>2. Without limiting subsection (1), conduct that involves any of the following could be corrupt conduct under subsection (1) -</p> <ul style="list-style-type: none"> <li>(a) abuse of public office;</li> <li>(b) bribery, including bribery relating to an election;</li> <li>(c) extortion;</li> <li>(d) obtaining or offering a secret commission;</li> <li>(e) fraud;</li> <li>(f) stealing;</li> <li>(g) forgery;</li> <li>(h) perverting the course of justice;</li> <li>(i) an offence relating to an electoral donation;</li> <li>(j) loss of revenue of the State;</li> <li>(k) sedition;</li> <li>(l) homicide, serious assault or assault occasioning bodily harm or grievous bodily harm;</li> <li>(m) obtaining a financial benefit from procuring prostitution from unlawful prostitution engaged in by another person;</li> <li>(n) illegal drug trafficking;</li> <li>(o) illegal gambling.</li> </ul> <p>For the purposes of SunWater, the behaviour need not necessarily be criminal to be subject to the operation of this policy.</p> |
| Discloser                         | The individual or person making the PID i.e. the whistle-blower.   |
| Individual                        | Includes all SunWater employees as well as contractors, consultants, volunteers or anyone working at SunWater and includes all workers as defined in the Work Health and Safety Act 2011 (Qld).  |
| Subject Officer/s                 | The individual who is the subject of the allegation i.e. individual accused of committing the corrupt conduct or wrongdoing.   |
| Person                            | An Individual or any other person making a PID e.g. member of public.  |
| Public Interest Disclosure (PID): | Under the PID Act, a PID is a disclosure under Chapter 2 of the PID Act and includes all information and help given by the discloser to a proper authority for disclosure. It sets out the requirements about the  |

|                              |  |
|------------------------------|--|
|                              | information that may be disclosed and who may disclose it, to whom and how. For SunWater, a PID is the same as a whistle-blower report. Refer Appendix A – section 1.1. of the Whistle-blower Guide.   |
| Reasonable Management Action | Reasonable management action under the PID Act means action taken by a manager in relation to an individual and includes any of the following actions taken by a manager —<br>(a) a reasonable appraisal of the individual’s work performance;<br>(b) a reasonable requirement that the individual undertake counselling;<br>(c) a reasonable suspension of the individual from the employment workplace;<br>(d) a reasonable disciplinary action;<br>(e) a reasonable action to transfer or deploy the individual;<br>(f) a reasonable action to end the individual’s employment by way of redundancy or retrenchment;<br>(g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f);<br>(h) a reasonable action in relation to the individual’s failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the individual’s employment. |
| Reprisal                     | Means causing, attempting or conspiring to cause, detriment to another person because, or in the belief that -<br>(a) the other person or someone else has made, or intends to make, a public interest disclosure; or<br>(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.<br>Attempting to cause detriment includes an attempt to induce a person to cause detriment. Refer section Appendix A – section 1.4.   |

## 5. RESPONSIBILITIES

### Chief Executive Officer (CEO) or Delegate

- Approve this policy;
- Communicate the expectation that all individuals are required to conduct their duties to high professional and ethical standards and always act in accordance with the SunWater Code of Conduct;
- Ensure management procedures exist to deal with PID’s;
- Ensure that PID’s are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any proven corrupt conduct or wrongdoing;
- Ensure that individuals making a PID receive support and protection from reprisal;
- Ensure that all legislative obligations in relation to reporting and investigation are met;
- Ensure that all corrupt conduct and major crime matters are referred to the Crime and Corruption Commission (CCC);
- Ensure that a proper record of PID’s or purported PID’s is retained by SunWater;
- Ensure individuals are aware of the appropriate support and protection provided to disclosers and individuals who may be the subject of a PID;

- Conduct or appoint investigators to conduct investigations into PID's (where required), and where a decision is made not to investigate or deal with a PID, provide written reasons for the decision to the discloser;
- Determine the appropriate action to be taken based on the outcome of any internal investigation.

## Manager Internal Audit

The Manager Internal Audit is the PID Coordinator for SunWater and is responsible for:

- Providing advice and assistance to managers/ supervisors and individuals on the application of this policy;
- Conducting or overseeing the conduct of any investigation undertaken in relation to a PID;
- Ensuring the protection of disclosers;
- Drafting correspondence for the CEO or Delegate (as required);
- Holding documentation relating to a PID in a safe and secure location;
- Assist CEO in the discharge of his/ her responsibilities in respect of PID compliance.

## Managers and/ or Supervisors

Your role, as a supervisor or manager, is vital if SunWater is to effectively receive and manage PID's. Along with senior management, you are responsible for establishing and maintaining an ethical environment where your staff are encouraged to report wrongdoing and disclosers are protected, in line with the principles of the SunWater Code of Conduct and the PID Act. More specifically, you are responsible for:

- Complying with this policy;
- Maintaining an ethical culture and leading by example;
- Ensuring individuals in your business area are aware of their obligations in relation to the requirements of this policy;
- Ensuring that disclosers are treated fairly and protected from reprisals;
- Providing support to disclosers including advising of available assistance and support;
- Monitoring the workplace for signs of reprisal against a discloser or an individual who is the subject of a PID under the principles of natural justice;
- Ensuring that, if PID allegations are substantiated, investigation recommendations are implemented quickly to reduce the risk of re-occurrence.

## Individuals

- Comply with this policy;
- Conduct your duties to a high ethical and professional standard;
- Participate in ethical decision-making, Code of Conduct and Fraud and Corruption prevention awareness training;
- Not record or disclose confidential information gained through involvement in the lodgment or investigation of a PID, except where permitted by this policy or the PID Act;
- Not encourage or engage in corrupt conduct;
- Seek help from a manager or supervisor if you have an ethical dilemma;
- Refer potential PID's to the PID Coordinator;
- Cooperate with investigations into PID's;
- Discourage, not engage in and report any reprisal action.

## 6. POLICY REVIEW AND EVALUATION

This policy will be reviewed by the Manager Internal Audit with input from Manager P&C and Corporate Counsel once every 2 years at a minimum.

### REFERENCES

This policy is to be read in conjunction with:

- [Public Interest Disclosure Act 2010 \(Qld\)](#);
- [SunWater Enterprise Agreement](#);
- [SunWater Code of Conduct](#);
- [Fraud and Corruption Policy and Guide](#);
- [Fraud and Corruption Control Plan](#);
- [Unacceptable Workplace Behaviour Policy and Guide](#);
- [Public Interest Disclosure Standard](#).

## APPENDIX A

### 1. WHISTLE-BLOWER PROCEDURE GUIDE

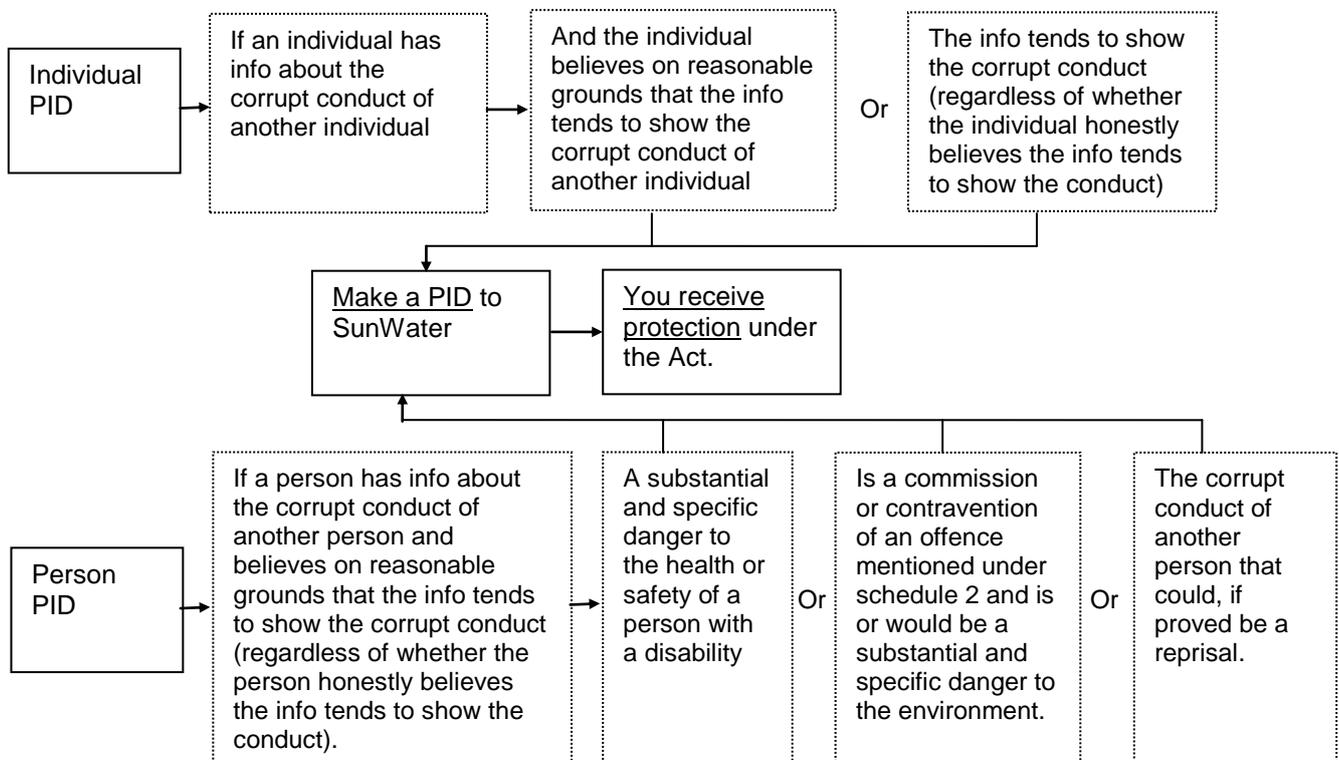
{this section should be read in conjunction with the previous section “the Whistle-blower Policy”}

#### Step 1 – Your assessment (as a “Discloser”) and choice of disclosure type

##### 1.1 Understanding what constitutes a PID

The PID Act enables individuals and other persons to raise a PID or whistle-blower report (i.e. information/ evidence) relating to *genuine concerns* (and without fear) about the corrupt conduct of another individual or information relating to reprisal action taken against an individual or other person who has made a PID. In simple terms, the act requires SunWater to have protection mechanisms in place to protect a whistle-blower (whether an individual of SunWater, a contractor or a member of the public) who is making a report of corrupt conduct or wrongdoing perpetrated by another individual.

A PID is different from a general complaint about dissatisfaction with a service or a decision by an organisation and is different from an employee related complaint that can be resolved by agreement between two parties. You, as an individual and a discloser of a PID have a choice of whether you want to make an Individual PID or a Person PID and also whether anonymously or not.



Should you be aware or become aware of any activity or incident that you consider is corrupt conduct or similar which would adversely impact SunWater, we encourage you to speak up and let us know. For your disclosure of information to receive the unique protections afforded under the PID Act, the information must relate to corrupt conduct or wrongdoing, or be a reprisal against you for a previously disclosed PID or be a danger to the health or safety of a person with a disability or be an offence endangering the environment as covered under Schedule 2 of the Act (refer Appendix 2).

The sooner disclosers raise their concern, the easier it will be for SunWater to take action. Even if the discloser's information 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 what the discloser honestly believes.

Information that disclosers may provide in support of their allegations include things such as the names of any people who witnessed the wrongdoing or who may be able to verify the allegations or events; correspondence or other supporting documents; a diary of events and conversations, or file notes; and dates and times when the corrupt conduct or wrongdoing occurred.

## 1.2 If you make a false or misleading disclosure

An individual or person who gives information to SunWater, 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 individual may also face disciplinary action under the SunWater Code of Conduct.

While any assessment of whether a disclosure is false or misleading will take into account the circumstances of the individual, indicators of a false or misleading disclosure include:

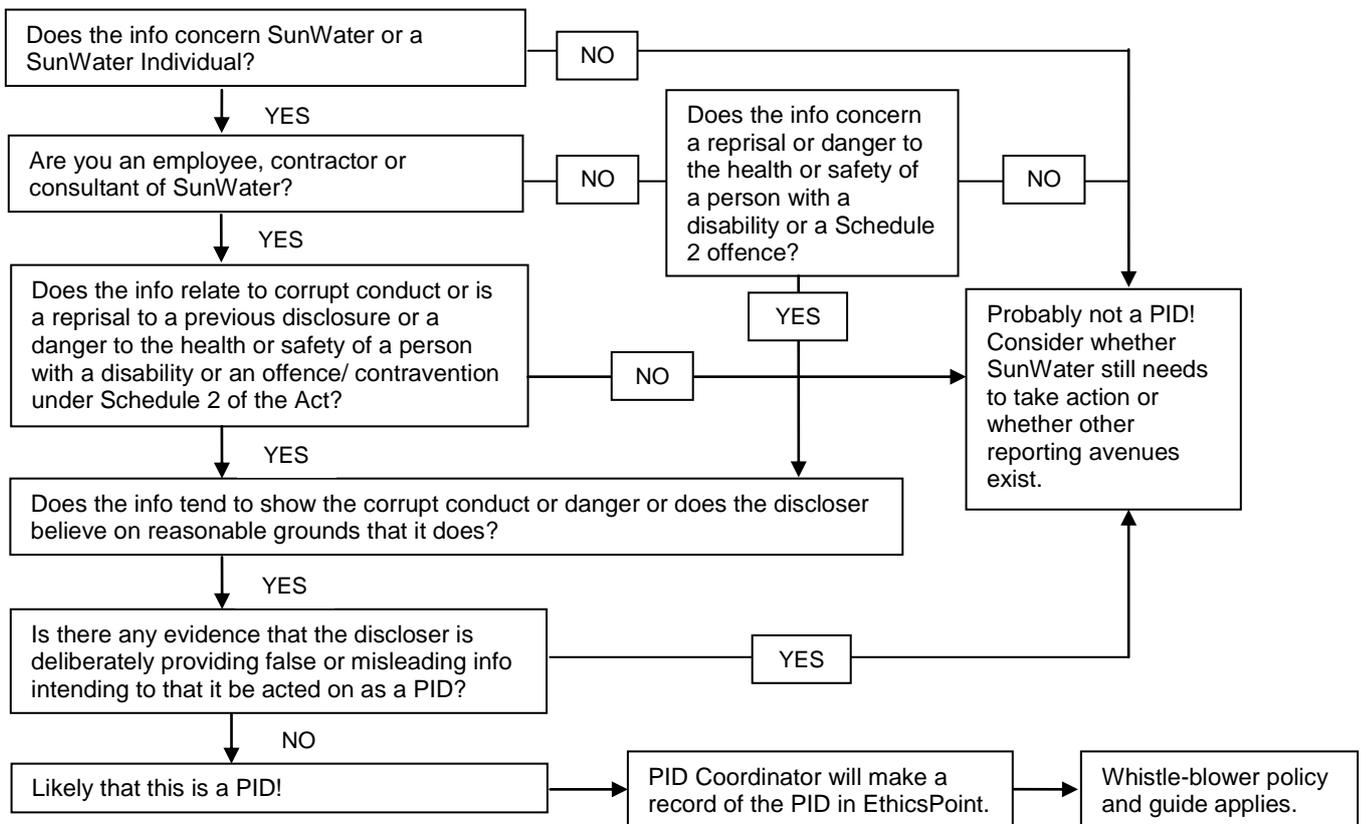
- the discloser has a history of making false or unsubstantiated complaints;
- there is no information to support the allegation in any way;
- the allegation is not serious or sensible, and is of such a nature that a reasonable person could not treat it as being genuine;
- the allegation is on face value,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

## STEP 2 – SunWater Assessment on Receipt of a PID

On receipt of information/ disclosure, the PID Coordinator will make an initial assessment of the veracity of the disclosure and subsequently escalate this information to the CEO. In conjunction with the CEO, a decision will be made in accordance with this policy and guide as follows:

- the person making the disclosure is able to receive the protection under the PID Act;
- the disclosure concerns a matter about which a PID can be made;
- the disclosure meets either the subjective or objective test set out in the PID Act;
- the disclosure has been made to an individual or entity who may receive a PID; and
- the disclosure has been made in accordance with SunWater's procedure or to a person listed in the PID Act.

All PID's are then assessed and managed by the PID Coordinator in conjunction with the Manager P&C and the CEO. In making an assessment on whether SunWater is dealing with a PID, the following flowchart will apply.



PID's could be received by SunWater through the SunWater Whistle-blower hotline, directly by disclosers to the PID Coordinator or to the PID Coordinator via another individual or a Manager/Supervisor or the Manager P&C or anyone else. Once you, the discloser have made a disclosure and it meets the requirements of a PID, you are afforded the protection under this policy and guide.

### Step 3 – PID Procedures after validation of a PID matter

Once SunWater has assessed the disclosure as a valid PID matter, the following support is offered to the Discloser which may include:

- acknowledging that making the PID was the right thing to do and is valued;
- making a clear statement that SunWater will support the Discloser;
- appointing an appropriate person (separate from the investigation function) with sufficient authority to ensure the Discloser has appropriate support and protection from reprisals;
- regularly checking on the Discloser's well-being where this is warranted and advising the Discloser of the availability of the individual assistance scheme; and
- where the health of the Discloser becomes a concern, liaising with officers responsible for occupational workplace health and safety.

On receipt of your PID and after assessment, a proper record will be maintained of your disclosure on the EthicsPoint case management system. Access to the EthicsPoint Case Management System is limited to only the PID Coordinator (i.e. Manager Internal Audit) and the Manager P&C (or delegate).

Details recorded are:

- the name of the discloser (if known), info disclosed and any action taken; and
- if the matter has been referred to the CCC, then a note to that effect. If the matter is referred to the CCC, all the above information is forwarded to the CCC for the CCC to make a decision.

Written notification will be provided by SunWater to the Discloser covering:

- confirmation that the PID was received by SunWater;
- a description of the action proposed to be taken, or taken, by SunWater in relation to the disclosure; and if action has been taken by SunWater in relation to the PID - a description of the results of the action.

However, no notification will be provided to a discloser if the giving of the 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.

If the matter is referred back from CCC to SunWater to deal with, then the Fraud and Corruption Policy and Guide will apply in terms of the process and the investigation into the matter.

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

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

If SunWater decides not to investigate or deal with a PID, SunWater will give written notice to the discloser within 21 days from date of notification setting out the reasons for its decision. A discloser may apply to the CEO for a review of the decision within 28 business days after receiving the written reasons. SunWater will respond to a PID, but resolution of the matter does not necessarily require a formal investigation. Possible next steps could include:

- Provide 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);
- increase supervision or performance management strategies, guidance or counseling, or specific training; or mediate or review the operations of a particular unit;
- follow through with an internal audit; or implement or change policies, procedures or practices; or initiate a formal investigation of the allegation or refer the matter to an appropriate external entity.

The PID Coordinator and/ or Manager P&C (or delegate) will make recommendations to the CEO in relation to appropriate action to be taken in relation to proven corrupt conduct or wrongdoing which is the subject of the 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.

## Step 4 – Your Protections

### 1.3 Anonymity and Confidentiality protections

Anonymity is where the discloser does not identify themselves at any stage to anyone. For SunWater, an investigation into wrongdoing is more efficient and successful if when making a disclosure you identify yourself. However, you do have the option of making a disclosure anonymously either in writing or by telephone (to a SunWater responsible staff member or the PID Coordinator or using the SunWater Whistle-blower Hotline) or on-line (using the Hotline). If you do decide to disclose anonymously, you will need to provide sufficient information for the matter to be investigated, as it will not be possible for us to refer back to you for clarification or more information (unless you use the Whistle-blower Hotline since there is mechanism to make a PID report anonymously and still communicate with the SunWater's PID Coordinator).

Confidentiality relates to where if you disclose your name, SunWater is committed to acting on your information discretely and confidentially without revealing your name (unless required by a law). The Act makes it an offence for an individual who receives confidential information to make a record of the information or intentionally or recklessly disclose the information to anyone except:

- for the purpose of the PID Act or another Act; or for a proceeding in a court or tribunal;
- if authorised under a regulation or another Act;
- if the person to whom the information relates consents in writing;
- if the consent of the person to whom the information relates cannot reasonably be obtained, and the disclosure of information would be unlikely to harm the interests of that person and would be reasonable in the circumstances;
- 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.

Maintaining confidentiality is very important in the handling of a disclosure. Confidentiality not only protects you, the discloser, against reprisals, but any other people affected by your disclosure. In protecting your confidentiality, SunWater will ensure that the details of your disclosure, the investigation and related decisions will be kept secure. However while every attempt to protect confidentiality will be made, there will be occasions when disclosure of your identity may be necessary and these include providing natural justice to the subject officer and/ or responding to a court order or legal directive in court proceedings (e.g. subpoena, notice to produce, direction by a parliamentary committee).

We will advise you if your identity needs to be revealed for any reason listed above and seek your consent. We will attempt as far as possible to avoid a situation where your identity will need to be revealed.

### SunWater will assess the risk of reprisal from your PID

SunWater will consider relevant factors leading to a higher risk of reprisal e.g.

- the investigation is unlikely to be substantiated; or the wrongdoing is serious and occurs frequently; or
- the wrongdoer is more senior than the discloser; or there is more than one wrongdoer or
- the discloser's immediate work unit is small.

In addition to protecting the identity of the person making a PID/ Whistle-blower, under the PID Act SunWater must also protect the identity of the subject officer/s.

## 1.4 What is a Reprisal

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: 1) anybody has made or may make a PID, or 2) 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; or property damage or loss; or
- intimidation or harassment; or adverse discrimination, disadvantage or treatment about a person's career, profession or employment, trade or business;
- financial loss; or damage to 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.

*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.*

In accordance with the PID Act, SunWater has established procedures to protect disclosers from reprisals which include: a) monitoring of a discloser's workplace for signs of reprisal action, 2) early intervention through an assessment of the culture within the work area and conducting awareness communication sessions and training, 3) holding supervisors and/ or managers responsible for supporting the discloser and ensuring the discloser does not suffer harassment, victimisation or any form of reprisal, 4) changing work environments e.g. changing seating arrangements, granting a discloser leave of absence until the matter is resolved, transfer/ relocation of affected staff etc. The action taken to prevent, or in response 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. Each allegation of reprisal is assessed separately from the initial allegation, as a potential fresh PID under the PID Act.

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 SunWater if they suffer from or risk a reprisal from making a PID.

## Step 5 – Protections for the Subject Officer

### Natural justice

The subject officer(s) must be accorded natural justice. Also known as procedural fairness, natural justice will be managed by the PID Coordinator. It means that the subject officer(s) has the right to:

- know about the substance of the allegations if a decision is going to be made about their conduct;
- have a reasonable opportunity to put their case forward (whether in writing, at a hearing or otherwise);
- have a decision-maker act fairly and without bias.

However, affording natural justice does not mean that SunWater must advise the subject officer(s) of the allegation as soon as it is received.



## Whistle-blower Policy and Guide

Revision: 3  
Last Revision Date: SEP 2014  
Next Revision Date: SEP 2016  
Approved by: CEO  
Owner: MANAGER INTERNAL AUDIT

---

Furthermore, the subject officer(s) need not be told about the allegation if it is misleading or is of no substance, and thus SunWater does not intend to act on the allegation. SunWater 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), SunWater will reassure them that the PID will be assessed impartially, objectively and reasonably, and is only an allegation until evidence collected shows otherwise. SunWater will provide them with information about their rights, and the progress and outcomes of any investigations. SunWater will also refer the person(s) to the Individual Assistance Program to ensure that they receive appropriate support.

## APPENDIX B

### 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)

#### Environmental Protection Act 1994

- all provisions for which a contravention is an offence

#### Fisheries Act 1994

- section 89 (Noxious fisheries resources not to be possessed, released etc.)
- section 90 (Nonindigenous fisheries resources not to be possessed, released etc.)
- section 91 (Aquaculture fisheries resources not to be released)
- section 92 (Duty of person who takes or possesses noxious or nonindigenous fisheries resources)
- 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)

#### 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 169(2) (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)

### **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)