

Information Privacy, Enquiries, Disclosures and Referral - policy and procedure

Effective Date: 1 October 2025

Version: 1.2

Introduction

The Public Advocate is an independent statutory position whose role is to undertake systemic advocacy on behalf of adults with impaired decision-making ability. More specifically, the functions of the Public Advocate are to:

- Promote and protect the rights of adults with impaired capacity (the adults) for a matter;
- Promote the protection of the adults from neglect, exploitation or abuse;
- Encourage the development of programs to help the adults to reach the greatest practicable degree of autonomy;
- Promote the provision of services and facilities for the adults; and
- Monitor and review the delivery of services and facilities to the adults.

The Office of the Public Advocate (OPA) receives enquiries from people that range from seeking general information, requesting specific advice or information or referrals to appropriate organisations or agencies, to seeking assistance with making a complaint to an agency or organisation.

All enquiries received by OPA need to be addressed consistently, to meet staff obligations under relevant legislation and to ensure that the office maintains accurate and complete records. Records of enquiries maintained by OPA provide valuable input into the identification of systemic issues for people with impaired decision-making ability, contributing to the priorities of the Public Advocate and providing evidence of lived experience to assist in achieving change.

This policy and procedure provides a framework to guide the determination of appropriate responses and courses of action for various types of enquiries received by OPA, within the context of the Public Advocate's role, responsibilities and legislative framework.

It provides a structured and consistent approach to the receipt, collection and management of information received through enquiry channels. This includes, where relevant, identifying the most appropriate point of referral/s to be recommended where an enquiry falls outside scope of the Public Advocate.

Scope

This policy and procedure applies to the Public Advocate and all staff employed by the Office of the Public Advocate.

Queensland legislation

- *Guardianship and Administration Act 2000*
- *Human Rights Act 2019*
- *Disability Services Act 2006*
- *Ombudsman Act 2001*
- *Crime and Corruption Act 2001*
- *Information Privacy Act 2009*
- *Public Interest Disclosure Act 2010*
- *Public Sector Ethics Act 1994*
- *Public Sector Act 2022*
- *Public Records Act 2023*
- *Victims' Commissioner and Sexual Violence Review Board Act 2024*

Process

Dependent on the nature of contact, each enquiry made to OPA will proceed through a process detailed below.

General enquiries

This includes enquiries received by the Public Advocate by members of the community either in-person, by phone, email, a letter or other form of correspondence.

All telephone or in-person enquiries are to be received courteously and dealt with sensitively and professionally.

If an enquiry is received via email, the Public Advocate's website or the Queensland Government's website, all enquirers will receive an automatically generated privacy statement, which will include a link to the Public Advocate's website for additional information and a copy of this policy and procedure. They will also be informed of the timeframe in which a response to their correspondence will be received.

If appropriate to the nature of the correspondence, the person must be made aware of the roles and responsibilities of the Public Advocate, including the possibility that the Public Advocate may not be able to take direct action in relation to the enquiry due to the systemic nature of the position.

Information will be requested from the enquirer only to the extent necessary to sufficiently understand the nature of the enquiry and to determine the most appropriate course of action.

Many different types of enquiries can inform systemic issues, regardless of whether the individual issue/s raised by the enquirer are within the role of the Public Advocate. Therefore, summary information about each enquiry directly relevant to the Public Advocate's role is recorded in the Enquiries Register (further details below).

Personal information

In line with Queensland Privacy Principles 4 and 5 under the *Information Privacy Act 2009* (the IP Act), most callers or those addressing correspondence to the Office will provide the office with what is deemed as unsolicited personal information.

Personal information is defined in Section 12 of the IP Act to mean information or an opinion about an identified individual or an individual who is reasonably identifiable. Unsolicited personal information is further defined to be personal information received by an agency that

the agency took no active steps to collect.

Given that the personal information received by OPA from people making enquiries is generally not solicited (something that would be collected while doing business) an obligation exists under the IP Act for this information to be destroyed or de-identified as soon as practicable if it is lawful and reasonable to do so.

As the content of information provided to OPA by callers may be applicable to the identification of systemic issues, any information relevant to OPA's functions will be de-identified, summarised and recorded in an enquiry register, which will include the date of the call or when correspondence was received.

If the content or nature of the information received is not deemed to be inside the scope of OPA's remit (eg. a referral to the Office of Fair Trading for a faulty product complaint or a referral to the Residential Tenancies Authority for a rent dispute etc) such information will be destroyed (if sent via email or letter) or not officially recorded in the enquiries register (if a call to the Office).

Process associated with the de-identification of enquiries

As noted above, all enquiries received by the Public Advocate relevant to systemic advocacy functions will be summarised and recorded in the enquiries register.

The information from the call or email will be recorded, in the first instance, in an identified format, to allow for any follow up calls/ enquiries to be made.

Following an appropriate period of time (to be decided by the Public Advocate or Manager), the details of the call/correspondence will be de-identified and held on the enquiries register in the de-identified format described above.

Exceptions

There are some exceptions to this procedure including:

- When a person calls or corresponds (via email or post) with the Public Advocate and is aware of the Public Advocate's function as a systemic advocate.
 - In these situations, where a person contacts the office to discuss systemic issues directly relevant to the operations of OPA, the retention of personal information (in the form of contact details and personal information supplied to the Public Advocate to support a systemic advocacy position) is solicited information in line with Queensland Privacy Principle 3 – as it is directly related to OPA's functions.
 - Those contacting the office to discuss systemic issues will, however, be asked to provide consent for their personal details to be retained with the information they provide to OPA for the purposes of systemic advocacy.
- When a person calls or corresponds (via email or post) with the Public Advocate and is referred to another organisation by the Public Advocate **directly** (with or without consent).
 - If the Public Advocate receives a call or correspondence and decides to refer the caller to another organisation **directly** this is known as a warm referral. This type of referral will ordinarily only be undertaken with the person's consent (templates are provided to staff for the purpose of obtaining this consent). If consent is not provided by the person (noting the exception below) they will be informed of the referral agency's contact details to make a self-generated contact if they choose to do so. The personal information associated with the call (and the consent from the person to refer the information) will be retained for a reasonable period so that

- o additional communication with the referral agency can be undertaken if required.
 - o If the Public Advocate receives a call or correspondence that provides information related to the health and safety of an adult with impaired decision-making ability and it is decided that a referral direct to an organisation rather than a public interest disclosure should be made, then the Public Advocate may refer this information, in line with the information sharing provisions of the *Guardianship and Administration Act 2000*, to another agency for action without the consent of the person calling or corresponding. If this decision is made, the Public Advocate would inform the person who has made the call/authored the correspondence of the action taken (if appropriate).
- For these exceptions, personal information related to the call/correspondence will be retained by the Public Advocate for a period appropriate for systemic advocacy and to facilitate communication with the referral agency (if required).

Other types of contact with OPA

Complaints about OPA and the Public Advocate

Complaints can be defined as contact with the Public Advocate or OPA where a person expresses dissatisfaction with staff conduct, customer service, internal policy or procedures and practices.

When a complaint is received, every effort will be made to resolve it on an informal basis and at the initial point of contact. However, if the complaint cannot be resolved informally, it will then be managed as a formal complaint in accordance with the Department of Justice (DoJ) *Client Complaint Management Policy* and DoJ *Client Complaint Management Procedure 2025*.

This may also include complaints relating to:

- a breach of the Information Privacy Principles under the IP Act;
- a complaint relating to the *Human Rights Act 2019*, if an individual feels that their human rights have been breached by the Public Advocate or OPA staff; or
- a complaint relating to a breach of the Charter of Victims' Rights, contained in the *Victims' Commissioner and Sexual Violence Review Board Act 2024*.

A potential breach of human rights or a breach of the Charter of Victims' Rights may be noted directly by a complainant or assessed to involve a breach by an OPA staff member or the Public Advocate.

Formal complaints will be managed in accordance with the key requirements of the DoJ *Client Complaint Management Policy* and the DoJ *Client Complaint Management Procedure 2025*.

When an enquiry is considered a formal complaint, the enquirer is to be advised of this status and the processes involved, including the investigation of the complaint. A formal response must be provided to the complainant about the outcome of the complaint investigation. In some cases, it may be determined that an investigation is not justified.

In line with the DoJ *Client Complaint Management Policy* and the DoJ *Client Complaint Management Procedure 2025*, all formal complaints relating to a breach of the Information Privacy Principles under the IP Act will be forwarded to the Director, Information and Privacy Unit for investigation.

Complaints about external agencies

The Public Advocate does not have a complaint investigation function. Further, it is not practicable for OPA to become directly involved in enquiries identified as complaints by individuals (i.e. not at a systemic level) about the policies, procedures, services, practices or staff conduct of other agencies.

OPA will assist by providing the enquirer with a suggestion about a suitable referral contact where possible. OPA cannot act as an intermediary in these matters unless the Public Advocate considers there are exceptional circumstances which warrant direct involvement.

This includes public interest disclosures, which are addressed in greater detail below.

Mandatory reporting of misconduct, official misconduct or public interest disclosures

Public Interest Disclosures (PIDs)

The *Public Interest Disclosure Act 2010* (the PID Act) provides a way for people to disclose information about serious wrongdoing in the public sector, and to ensure that they are appropriately protected when they do¹.

A PID can be made;

- by a public officer about official misconduct; maladministration; substantial misuse of public resources; and substantial danger to public health or safety or the environment; or
- by any person (including a public officer and members of the public) about substantial danger to a person with a disability, danger to the environment, and reprisal.

PIDs are handled differently depending on whether they involve the actions of someone employed by DoJ (i.e., an OPA staff member) or relate to other agencies.

Internal issues

If an OPA staff member or the Public Advocate receives information about a **DoJ officer or other employee of the agency (including OPA staff members and the Public Advocate)** that they reasonably consider to be a PID, it will be addressed in accordance with DoJ's *Public Interest Disclosure Policy 2024*.

This policy requires that the disclosure be referred to the Executive Director, Ethical Standards Unit for investigation and remedy where required.

Normally, a referral will be made by email to the Executive Director, Ethical Standards Unit, and if the matter involves a critical incident with a threat to a person's safety or wellbeing, a follow up telephone call. Where a matter involves an immediate threat to a person's safety or wellbeing, OPA may also seek the assistance of the Queensland Police Service or Ambulance Service.

The Executive Director, Ethical Standards Unit will provide confirmation of the referral. They will then be responsible for the management and resolution of the issue. The Ethical Standards Unit will also ensure that the matter is reported in line with annual report requirements for the department.

¹ Queensland Ombudsman, *How to make a public interest disclosure*, 16 March 2021, <<https://www.ombudsman.qld.gov.au/how-to-complain/how-to-make-a-public-interest-disclosure>>

Other allegations that may be misconduct under the *Public Sector Ethics Act 1994*, *Public Service Act 2022*, the *Code of Conduct 2011* or the *Crime and Corruption Act 2001* will also be referred as per the *Public Interest Disclosure Policy*.

External Issues

If an OPA staff member receives information that is related to an **agency, person or organisation external to DoJ** that they reasonably consider to be a PID, a different procedure is required.

In most circumstances OPA and the Public Advocate will not be considered the 'proper authority' for this type of PID, as OPA does not provide services directly to the community.

A 'proper authority' is a person and/or organisation authorised under the PID Act to receive and action PIDs.

Examples of proper authorities include;

- the public sector agency responsible for the alleged wrongdoing
- an agency that has the authority to investigate the matter (like for example the Crime and Corruption Commission)
- the Chief Judicial Officer of a court or tribunal when the report is about suspected corrupt conduct or reprisal by a judicial officer or any member of Parliament.²

When this type of PID is received by a staff member or the Public Advocate, liaison with the Executive Director, Ethical Standards Unit may be required to help identify the most appropriate course of action and referral to the proper authority.

This liaison will include consideration of any risk of reprisal that may result from the matter being referred to another agency/entity. An appropriate course of action will then be taken to minimise this risk, and the referral completed by either OPA or the Executive Director, Ethical Standards Unit. Records of the actioned referral and any responses received will be retained.

Letter templates have been prepared and will be maintained by the OPA Manager to facilitate the referral of PIDs to the proper authority. The letters have been developed for two scenarios;

1. a disclosure being referred to a proper authority and no additional action being undertaken by the Public Advocate.
2. the matter being referred to the proper authority with the Public Advocate continuing to take an active interest in the disclosure due to the potential for systemic issues to be involved.

Each letter template has been developed in consultation with the Ethical Standards Unit and finalised for use by the Public Advocate.

Mandatory reporting of child safety concerns

If any information received raises a suspicion about the safety of a child or young person (under 18 years of age), OPA will follow the requirements under the DoJ *Child Protection Reporting Policy 2016*.

² Queensland Ombudsman, *What is a public interest disclosure?*, 13 October 2020, < <https://www.ombudsman.qld.gov.au/improve-public-administration/public-interest-disclosures/what-is-a-public-interest-disclosure>>.

Right to Information

Right to Information applications submitted to the Public Advocate or the Office of the Public Advocate are referred to DoJ's Right to Information and Privacy Unit for action, under a delegation agreement between the Public Advocate and the Director-General, DoJ.

Other considerations

Enquiries of an abusive, aggressive or threatening nature

The Public Advocate and staff understand and acknowledge that many enquirers who contact the office may be in a stressed, frustrated or emotional state due to either their individual circumstances, or following repeated interactions with systems where they have been unable to have their needs met. Some people with impaired decision-making ability can also experience difficulty expressing themselves or regulating their behaviour.

In the interests of staff wellbeing, OPA will not tolerate persistent abusive, aggressive or threatening behaviour from enquirers. When behaviour is considered inappropriate by the individual staff member, the staff member will advise the person that the current contact will cease until such time that the person behaves in an appropriate manner. This may involve terminating a telephone call, ending an email conversation, or concluding a meeting. If the person contacts OPA on numerous occasions and inappropriate behaviour continues (as determined by the individual staff member taking the call), the situation will be escalated to the Public Advocate for resolution.

Annual reporting requirements

Formal complaints, human rights based complaints, complaints involving a breach of the Charter of Victims' Rights and any PIDs made by OPA and related to DoJ staff will be compiled with information from other DoJ business units and reported in the DoJ Annual Report.

Protection of personal information

The Enquiries Register noted above will only be accessible to OPA staff.

A person's contact details may be exchanged with a relevant agency if this is supported by the IP Act and the exchange of information is necessary to resolve or manage the enquiry. Personal information may also be exchanged where there is a mandatory policy or legal requirement.

Information obtained from OPA enquiries may be used, de-identified and/or aggregated, for systemic advocacy purposes (as noted above).

Should a data breach involving any personal information held by OPA or the Public Advocate occur, this will be referred to and addressed under the *DoJ Data Breach Notification Policy and Procedure, Chapter 3A Information Privacy Act 2009, 2025*.

Should those people for whom personal information is held by the Public Advocate or the Office of Public Advocate wish to access this information, they can do so, either informally under DoJ's *Administrative Release Policy*, or formally under the *Right to Information Act 2009*.

Accountabilities

The Director-General, DoJ is the Chief Executive of the Department and has responsibility to:

- report official misconduct to the Crime and Corruption Commission (*Crime and Corruption Act 2001*);
- discipline or dismiss departmental staff for misconduct (*Public Sector Act 2022*);
- maintain a complaints management system that deals effectively with complaints received; and
- develop, implement, and maintain a PID management program.

The Public Advocate is accountable for this policy and procedure which applies to the position and OPA.

OPA staff are accountable for applying this policy and procedure when handling and managing enquiries. Staff are expected to be aware of the procedure requirements and protocols to ensure a responsive, consistent, and sensitive approach to public or organisational enquires.

Training

All OPA staff and the Public Advocate are expected to complete the annual Ethical Standards training course available in Evolve, which includes information related to many of the tasks required in this procedure.

This course provides staff with an understanding of expectations regarding behaviour, accountabilities and the information required to meet these expectations. The course includes training on the Code of Conduct for the Queensland Public Service, the Department's Workplace Policy, corrupt conduct and misconduct, and education on other important ethical issues.

Related policies and procedures

- *Code of Conduct for the Queensland Public Service 2024*
- *Public Interest Disclosure Policy 2025, DoJ*
- *Complaints Management Policy and Complaints Management Procedure 2025, DoJ*
- *Child Protection Reporting Policy, 2016, DoJ*

Contact

Manager, Office of the Public Advocate

Approval

Name	Date
John Chesterman, Public Advocate	1 October 2025

Review

A review of this procedure is to be conducted at the discretion of the OPA Manager and/or the Public Advocate.

A mandatory review will coincide with the appointment of a new Public Advocate or any changes in legislation related to this procedure.

Definitions

Complaint

A complaint is the verbal or written expression of dissatisfaction about the policies, products, projects or services provided by us and/or our staff. A client complaint made to DoJ may contain issues regarding one or more of the below:

- a decision, or failure to make a decision;
- an act or the failure to act;
- staff conduct, or the service delivery provided by DoJ staff, or,
- a policy or procedure.

(based on DoJ *Client Complaints Management Policy 2025*).

Corrupt conduct

See section 15 of the *Crime and Corruption Act 2001*

Disability

As defined in section 11 of the *Disability Services Act 2006*, for the purposes of this procedure:

(1) A disability is a person's condition that—

(a) is attributable to—

- (i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or
- (ii) a combination of impairments mentioned in subparagraph (i); and

(b) results in—

- (i) a substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self-care or management; and
- (ii) the person needing support.

(2) For subsection (1), the impairment may result from an acquired brain injury.

(3) The disability must be permanent or likely to be permanent.

(4) The disability may be, but need not be, of a chronic episodic nature.

DoJ

Department of Justice

Impaired decision-making capacity	<p>Under the <i>Guardianship and Administration Act 2000</i>, impaired capacity for a person for a matter means the person is not capable of -</p> <ul style="list-style-type: none"> (a) understanding the nature and effect of decisions about the matter; and (b) freely and voluntarily making decisions about the matter; and (c) communicating the decisions in some way. <p>The person must be an adult (18 years old and over).</p>
Enquirer	<p>The person who contacts OPA seeking information, advice or other action. This person can be a member of the community, from another government agency or another organisation. An enquirer may contact OPA on behalf of either themselves or another person or group of people.</p>
Misconduct	<p>Under section 91 (5) of the <i>Public Sector Act 2022</i>, "misconduct means–</p> <ul style="list-style-type: none"> (a) inappropriate or improper conduct in an official capacity; <u>or</u> (b) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the public sector entity in which the employee is employed." <p>Examples:</p> <ul style="list-style-type: none"> • Victimising another public sector employee in the course of the other employee's employment in the public sector
OPA	Office of the Public Advocate
Public Interest Disclosure (PID)	<p>A PID can relate to:</p> <p>By public officers:</p> <ul style="list-style-type: none"> • Corrupt conduct including fraud and corruption • Maladministration that adversely affects anybody's interests in a substantial and specific way • A substantial misuse of public resources (including funds, but not based on a mere disagreement over policy that may properly be adopted about amounts, purposes and priorities of expenditure) • A substantial and specific danger to public health or safety or the environment <p>By any person:</p> <ul style="list-style-type: none"> • Reprisal as a result of a PID • Specific offences presenting a substantial and specific danger to the environment <p>A substantial and specific danger to the health or safety of a person with disability</p>
Public service employee / officer	<p>Under Part 2, Subdivision 2 s.12 of the <i>Public Sector Act 2022</i>, "a person is a public service employee if the person is employed under the Act as:</p> <ul style="list-style-type: none"> a) a public service employee; or b) a person employed under another Act or law in a public sector entity"

A public service officer includes Chief Executives, Senior Executives or an officer of another type (s. 13).

Reprisal

The term 'reprisal' is defined under the *Public Interest Disclosure Act 2010* as causing, attempting to cause or conspiring to cause detriment to another person in the belief that they or someone else:

- has made or intends to make a disclosure; or
- has been or intends to be involved in a proceeding under the disclosure Act against any person

Reprisal under the *Public Interest Disclosure Act 2010* is a criminal offence and investigations may be undertaken by the Queensland Police Service.

Substantial and specific

Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance.

Specific means 'precise or particular'. This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.

Unit of public administration

See section 20 of the *Crime and Corruption Act 2001*