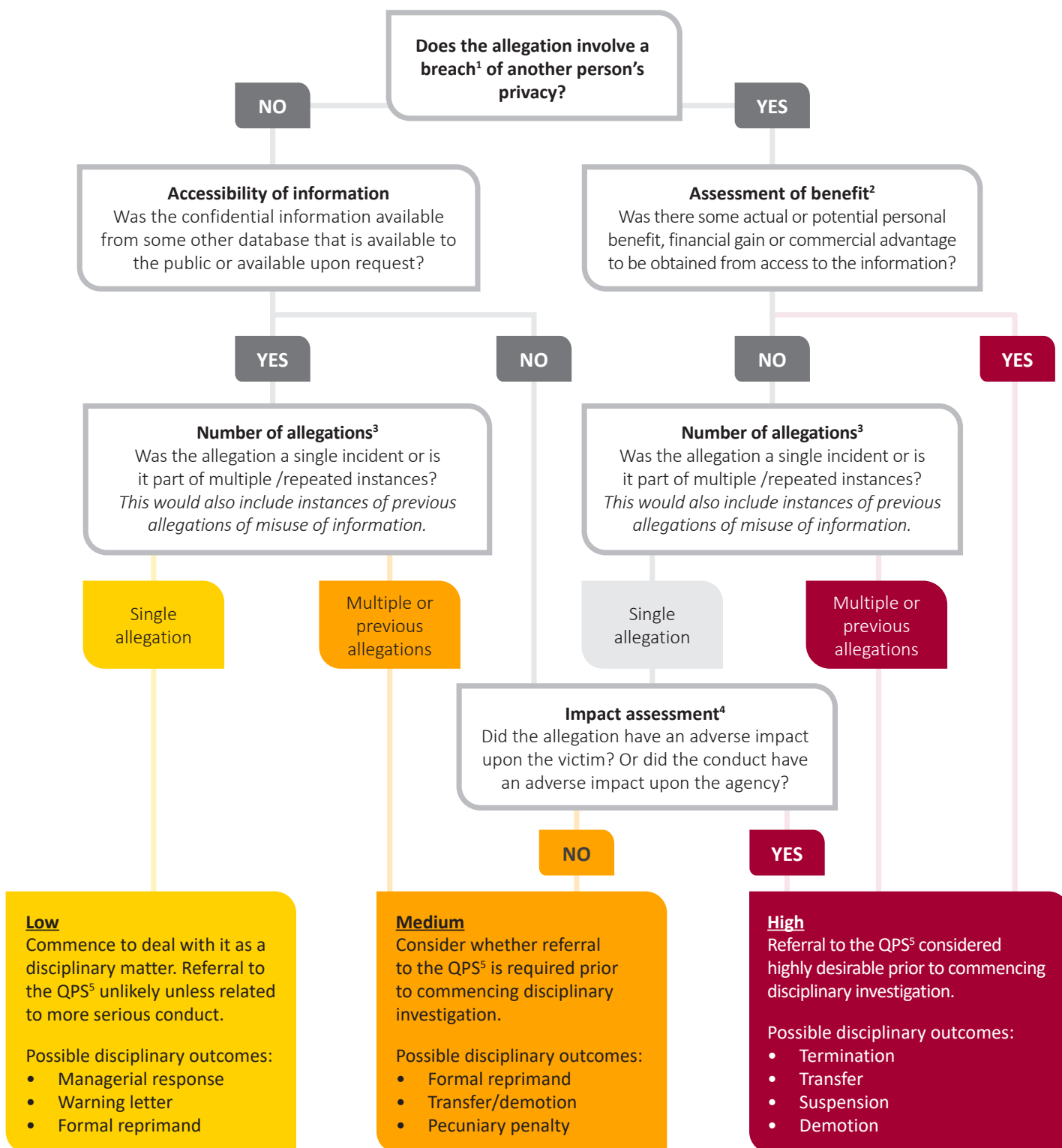


CCC Guide to assessing allegations about misuse of confidential information

This flowchart highlights decision points and recommended courses of action in dealing with a suspected misuse of confidential information. Key concepts (marked with a notation 1 -5) are explained on the next page.



Key concepts and definitions

1. Breaching privacy

Breaching someone's privacy occurs when a person's confidential information is accessed by a third party without that person's consent and without lawful authority. A breach of privacy will usually mean that there has been a failure to comply with one or more of the privacy principles set out in the *Information Privacy Act 2009* (Qld). (For further details, visit the Office of the Information Commissioner: www.oic.qld.gov.au).

2. Determining a benefit

A benefit is anything of value that is received by a public sector employee in the course of their work, apart from their normal employment entitlements. It can be tangible or intangible.

Some possible questions to ask:

- Did the employee obtain information not otherwise available to a member of the public?
- Did the employee obtain information that would be available to the public upon payment of a fee (meaning the employee has avoided paying the fee)?
- Was the employee paid by a third party for accessing/releasing the information?
- Has the employee or a third party obtained information about the budget for a procurement process, thereby giving the person a benefit over other tenderers?
- Has the employee identified that the agency holds no records for a person they have searched? The "negative result" may itself be valuable information, particularly if the agency involved is a law enforcement or regulatory authority.

3. Number of allegations

The number of times a public sector employee accesses information inappropriately can be a relevant factor in determining how the matter should be dealt with. Repeated behaviour increases the seriousness of a complaint. This may involve some discretion by the decision-maker.

4. Assessing the impact

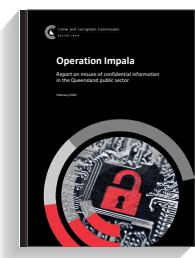
Consider the impact of the unauthorised access and/or disclosure on both the person whose information was accessed and the agency. A related consideration is whether the information was disseminated to a third party.

Assessing the impact when an allegation is first made can be difficult, because once the information is accessed and disseminated it can result in unintended consequences which may not be immediately apparent.


Assessing the impact includes looking at the impact of the employee's conduct not only on the person whose information was inappropriately accessed but also on the agency, including its reputation.

5. Referring a matter to the QPS

The agency must consider a referral to the Queensland Police Service (QPS) for all matters rated medium or high. It is recommended the QPS is consulted prior to commencing a disciplinary process. The QPS will provide advice on whether or not it is appropriate for the agency to commence a disciplinary process first or to run the disciplinary process concurrently with a criminal investigation. It is recommended the agency continues to liaise with the QPS case officer to ensure the disciplinary process does not interfere with the criminal investigation.



For more detail see the Operation Impala report:
www.ccc.qld.gov.au/operation-impala

 Agencies are encouraged to tailor this flowchart to their particular needs and environment, and ensure consistency in the handling of such matters.

