

Questions and Answers

Public Interest Disclosures

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1. Where can I find information on Public Interest Disclosures (PIDs)?

In the first instance you can refer to the department's policy and procedure 'Public Interest Disclosures' (PID) and these Q&As that support the policy and procedure.

The policy and procedure should also be read in conjunction with the *Public Interest Disclosure Act 2010* (the PID Act) and the Queensland Ombudsman's (Ombudsman's) three Public Interest Disclosure Standards relating to:

1. [Standard 1/2019 — Public Interest Disclosure Management Program](#)
2. [Standard 2/2019 — Assessing, Investigating and Dealing with Public Interest Disclosures](#)
3. [Standard 3/2019 — Public Interest Disclosure Data Recording and Reporting](#)

More information can also be obtained from the Ombudsman's publications *Managing/Making/ /Handling a PID* on the Queensland Ombudsman website.

2. What is a PID?

In general terms a PID is the disclosure of information of public interest involving wrongdoing or suspected wrongdoing within the public sector. The PID Act provides a framework on:

- who can make a disclosure
- the types of matters that can be disclosed
- how PIDs can be managed
- how certain protections can be offered to those who make a PID.

A PID must be made by a person to an appropriate entity, within the meaning of the PID Act. A PID related to the disclosure of suspected wrongdoing within the public sector commonly includes allegations of corrupt conduct, maladministration, a **substantial** misuse of public resources, **substantial** and **specific** danger to the health or safety of a person with a disability, the environment or to public health or safety or reprisal against a person who has made a PID.

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.

A full definition of what would constitute a PID can be found in section 12 and section 13 of the PID Act.

3. Why make a PID?

The PID Act encourages the disclosure of information about suspected wrongdoing in the public sector so that:

- public sector organisations can better identify wrongdoing
- suspected wrongdoing can be properly evaluated and investigated
- action can be taken to fix problems
- systems that can reduce the risk of wrongdoing can be implemented.

A disclosure of suspected wrongdoing is an important component for ensuring that everyone in the department upholds the highest standards of integrity and accountability. Employees and members of the public are an important source of information for identifying and resolving wrongdoing and are encouraged to speak up because reporting suspected wrongdoing is vital to the integrity of the department and the wellbeing of vulnerable members of society.

As employees we have an obligation under the Code of Conduct for the Queensland Public Service (the Code), section 1.1(d) to commit to the highest ethical standards and meet our obligations to report suspected wrongdoing not consistent with the Code.

4. Who can make a PID?

Pursuant to section 12 of the PID Act, any person, including a public sector employee, can make a public interest disclosure about:

- substantial and specific danger to the health or safety of a person with a disability
- substantial and specific danger to the environment caused by commission of an offence or contravention of a condition in certain environmental legislation
- reprisal after making a public interest disclosure.

Pursuant to section 13 of the PID Act, a public sector officer can also make a public interest disclosure about:

- corrupt conduct
- maladministration that adversely affects someone's interests in a substantial and specific way
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- a substantial and specific danger to the environment.

A PID can be made if a person honestly and reasonably believes the disclosure can show wrongdoing, suspected wrongdoing or danger and that the information is of public interest and is made to a proper authority. Whether or not a disclosure will be recognised as a PID will be determined by the department taking into consideration the type of information supplied and who has made the disclosure.

If you are unsure about whether or not something you know could become a PID talk to your manager about it in the first instance. If you are still not sure you can seek further advice from a senior manager, the Manager, Ethical Standards; or the Director, Cultural Heritage Unit.

5. Who can a PID be disclosed to?

Disclosers are encouraged to make a disclosure to an appropriate officer of the department first. If the matter is not resolved, or the discloser is concerned about confidentiality, the disclosure may be made to another appropriate agency.

Within the department, any person (including employees) can make a disclosure to:

- any person in a supervisory or management position
- Human Resources and Ethical Standards
- the Ethical Standards unit
- the Cultural Heritage Unit (in relation to allegations of a substantial and specific danger to the environment)
- the Director-General or other executives.

PIDs may also be made directly to other agencies that have a responsibility for investigating information disclosed:

- Crime and Corruption Commission (CCC) for disclosures about alleged corrupt conduct including allegations of reprisal
- Queensland Ombudsman for disclosures about alleged maladministration
- Queensland Audit Office for disclosures about an alleged substantial misuse of resources

- Department of Child Safety, Seniors and Disabilities Services for disclosures about an alleged danger to the health and safety of a child or young person and for disclosures about an alleged danger to the health and safety of a person with a disability
- Office of the Public Guardian for disclosures about an alleged danger to the health and safety of a person with a disability
- Department of Environment and Science disclosures about an alleged danger to the environment.

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

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

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

6. What is a public officer?

A public officer includes:

- Queensland government department or agency employee
- local government employees or councillors
- statutory body employees or members
- public university or TAFE institute employees
- members of Parliament and their staff
- Queensland Police officers.

7. Are there any implications if I want to make a PID but remain anonymous?

PIDs can be made anonymously, but can be more difficult for the department to manage, as you will not be able to be contacted to provide additional information if required. You should also consider that if you make a disclosure anonymously you will not receive any advice about the outcome of your disclosure (as the department will not know your identity).

The department is also unable to provide any direct support or protection to you if you choose to remain anonymous.

8. What do I do if a member of the public wants to make a PID?

If a member of the public contacts you and states that they want to make a PID, you must forward the disclosure to either the Cultural Heritage Unit (if the PID relates to a substantial and specific danger to the environment and does not relate to employee conduct) or to Ethical Standards (for all other PIDs) to assess whether the information disclosed actually falls within the definition of a PID. A member of the public may state that they want to make a PID; however, what they are really making is a complaint and the department will assess and determine if the information disclosed falls within the definition of a PID.

9. Who should I talk to if I believe I have received a PID?

If you receive a complaint you should take a cautious approach and maintain confidentiality to the extent necessary and seek advice from your line manager in the first instance. You can also approach the Manager, Ethical Standards or Director, Cultural Heritage Unit with particular reference to a complaint made by a member of the public in relation to a substantial and specific danger to the environment.

You do not need to determine if a complaint is eligible to be assessed as a PID. These responsibilities are held with Ethical Standards or the Cultural Heritage Unit.

10. How are PIDs assessed?

Ethical Standards or the Cultural Heritage Unit will assess each disclosure to determine whether it falls within the legislative meaning of a PID. A staff member receiving a complaint shall promptly forward the concern to Ethical Standards or the Cultural Heritage Unit for assessment and does not need to further assess PID eligibility.

Ethical Standards or the Cultural Heritage Unit will formally assess each disclosure and provide advice to the delegate of eligibility and advise a level of risk of reprisal. Advice will be provided to the delegate of what, if any, action is required by the region or service unit to minimise any risk of reprisal.

11. Are PIDs always confidential?

If the information falls outside that scope, the complaint will still be dealt with, however, this will not be a PID under the PID Act. While standard confidentiality processes will be maintained, the particular requirements for confidentiality, support and protections provided in accordance with the PID Act, will not apply.

Depending on the nature of your complaint, it may be dealt with as a customer or service delivery complaint under the department's Complaints Management policy or as an employee grievance under the department's Resolution of Individual Employee Grievances policy.

12. Are PIDs always confidential?

No. Information about a PID can be disclosed, however, this only occurs in specific circumstances. These circumstances are outlined in Section 65 of the PID Act.

It is important to note that the duty of maintaining confidentiality does not affect the department's obligations to provide subject officers with procedural fairness. So when investigating, or otherwise dealing with a PID, it may sometimes be necessary to disclose confidential information (such as the identity of the discloser) to a subject officer in order to provide them with sufficient information to respond to the allegations.

13. Will my identity be kept confidential if I make a PID?

The PID Act creates a duty of confidentiality. It does not provide an absolute guarantee of anonymity for disclosers.

In certain circumstances it may be necessary for your identity and the information you disclosed to be further disclosed to enable a full investigation to be completed. Information about who and what has been disclosed may only be released where it is essential to do so under the principals of natural justice where a person's rights would otherwise be detrimentally affected, and where it is unlikely a reprisal will be taken against the discloser because of the disclosure.

14. Is there support available to employees who make a PID?

The department provides a range of support mechanisms to any employee who makes a PID. These include:

Management support

- Management is ideally placed to ensure the discloser is supported at the workplace. Management must monitor the workplace for signs of harassment or victimisation and anticipate problems before they arise. Managers shall support disclosers by acknowledging that making the PID was the right thing to do and is supported by the department, assuring the discloser that management

will take all reasonable steps to protect the discloser and undertake to keep the discloser as informed as they can.

Personal support

- In low risk of reprisal assessments, the delegated officer, in consultation with Ethical Standards or the Cultural Heritage Unit, will nominate a support person from within the discloser's own region, or within a relevant workgroup, if appropriate. In medium or high risk of reprisal assessments, a nominated support person from their workgroup will be allocated to support the discloser.

Employee Assistance Service (EAS)

- The services of the EAS are available to a discloser who is a departmental employee before, during or after the investigation of a PID and any subsequent action arising.

15. Does the PID Act provide me with any specific protection if I make a PID?

There are protections under the PID Act for those who make legitimate PIDs including immunity from any civil or criminal liability arising from making the disclosure and protection from defamation action.

16. Are there any limits on protections I have under the PID Act?

The PID Act only provides you with protection if you make the disclosure in the appropriate way. For example, if you disclose information to a journalist prior to making a PID to a proper authority you will not be protected.

If you knowingly make a false or misleading disclosure intending that it be acted on as a PID you will not receive protection under the PID Act.

17. Can my manager still take action against me if I have made a PID?

A manager cannot take action against you for making the PID. However, as you are still an employee of the department a manager is not prevented from taking 'reasonable management action' should it be necessary. For example, managing the work performance of an employee who has made a PID. However, reasonable management action can only be taken if the manager's reasons for taking the action **do not** include the fact that the person has made the PID.

18. Is there support available for subject officer/s?

The PID Act requires the department to ensure appropriate consideration is given to the interests of the person/s subject of the PID.

There are various means of support available to employee/s who are subject of a PID.

- A contact person will be appointed by delegates to support subject officer/s throughout the investigation process. The purpose of the contact person is to provide advice on how the investigation is progressing and to assist them if they experience any difficulties in the workplace while the investigation process is progressing.
- Subject officer/s may also seek assistance from their union or private legal representative (at their own expense).
- The department's Employee Assistance Service is available for support.

The employee/s subject of an investigation is likely to find the process stressful. Their rights and needs should not be forgotten. When advising the subject officer/s of the investigation, they need to be reassured that the PID will be dealt with impartially, fairly and reasonably, and is only an allegation until evidence collected shows otherwise.

19. What happens if the information turns out to be false or misleading?

Making a false or misleading PID may lead to serious consequences. It is an offence under the PID Act for a person to knowingly provide false and misleading information, with the intention of it being acted on as a PID.

20. What is meant by reprisal action?

Reprisal occurs if a person causes, or attempts to cause, or conspires to cause detriment to another person, because of, or in the belief that:

- the person or someone else has made a PID;
- the person or someone else intends to make a disclosure under the Act;
- the person or someone else is going to be involved in a proceeding under the Act against any person; or
- the person or someone else has been or intends on being involved in a proceeding under the Act against any person.

21. What might a reprisal involve?

Detriment (or threats of action) includes, but are not limited to:

- personal injury or prejudice to safety
- property damage or loss
- intimidation or harassment
- adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business
- financial loss
- damage to reputation, including personal, professional or business.

22. What if I think I might be at risk of reprisal?

If you have made or are making a PID you are entitled to take action to protect yourself. This might include:

- discussing the matter with your regional executive director, regional director, director, manager or the PID liaison officer
- requesting a transfer to another work area within the department, or a changed seating or supervisory arrangement where this may be appropriate
- applying to the Public Sector Commission (PSC) for relocation outside of the department
- making a civil claim for damages through the District or Supreme Court or making a complaint under the *Anti-Discrimination Act 1991*
- lodging a workers' compensation claim, if you have sustained an injury as a result of the reprisal action
- lodging a complaint or appeal if the reprisal action adversely impacted you (refer to PSC Directives on Appeals)
- applying to the Queensland Industrial Relations Commission (QIRC) or the Supreme Court for an injunction against reprisal action
- reporting the matter to the Queensland Police Service (QPS) if you believe your personal safety is at risk, or a criminal offence has occurred.

23. What immediate actions can be taken to reduce the risk of reprisal?

Risk management action in the workplace may include:

- Determining whether the parties involved are likely to have ongoing contact in the workplace and relocating parties if necessary
- Implementing additional management supervision in the workplace, or offering support and counselling to the discloser
- Supporting the employee in obtaining assistance or protection from other agencies (e.g., the QPS) if they have concerns regarding safety outside of work.

24. Should I advise a member of the public to protect themselves against reprisal?

Unlike public officers who make a disclosure, the department does not have any employment relationship with the discloser who is a member of the public. It is therefore limited in the level of support it can provide.

You should make a member of the public aware of the protective actions they can take and their right to do so. The actions they can take include:

- commencing proceedings in a court under section 42 of the PID Act
- making a complaint about a reprisal under section 41 of the PID Act
- reporting the matter to the QPS if they believe their personal safety is at risk, or a criminal offence has occurred.

25. What happens if someone does take reprisal against a discloser or someone else?

If you believe that reprisal action is being taken against you or someone else, report this to your manager or supervisor in the first instance, or to the Manager, Ethical Standards.

A reprisal is a criminal offence under the PID Act and could result in a fine or a term of imprisonment.

26. Can the department reduce the risk of reprisal?

Ethical Standards or the Cultural Heritage Unit will assess the risk of reprisal and where it is warranted, will formulate (in consultation with the delegate) a strategy to manage the risk.

If the risk assessment indicates that the risk of reprisal is sufficiently high, a formal protection plan will be developed in consultation with the discloser and other stakeholders as appropriate.

27. Can I appeal if I disclose something and am advised no action will be taken?

After receiving the written reasons, a discloser may apply to the Director-General or delegated officer, for a review of the decision.

Delegations:

Please refer to the HR Delegations to identify delegation levels for this particular matter:

- Human Resource delegations

Office: Corporate Services

Help Contact: Human Resources and Ethical Standards

Related policy, legislation or standard:

[Public Interest Disclosures Policy and Procedure](#)

[Public Interest Disclosure Act 2010](#)

[Queensland Ombudsman — Public Interest Disclosures](#)