

# Public interest disclosure policy

## POLICY STATEMENT

The objective of this policy is to inform both the public and employees that the QCA supports the provisions of the *Public Interest Disclosure Act 2010* and is committed to good governance, natural justice and due process when a public interest disclosure is made.

## 1 SCOPE/APPLICATION

What constitutes a public interest disclosure (PID) depends on who is making the disclosure, with the *Public Interest Disclosure Act 2010* (PIDA) distinguishing between disclosures made by a public officer and those made by anyone else. Lodgement of a public interest disclosure will be acknowledged and processed in accordance with this policy and procedure.

### 1.1 PIDs made by public officers

QCA staff can make a PID on the following:

- corrupt conduct (as defined in the *Crime and Corruption Act 2001*);
- maladministration that adversely affects anyone's interest in a substantial and specific way;
- negligent or improper management by a public officer, public sector entity or a government contractor resulting or likely to result in substantial waste of public funds; or
- conduct of another person causing a substantial and specific danger to public health or safety or to the environment.

### 1.2 PIDs made by any person

Anyone (including QCA staff) can make a PID on the following:

- a substantial and specific danger to the health and safety of a person with a 'disability' as defined in the *Disability Service Act 2006*;
- a substantial and specific danger to the environment; and
- a reprisal taken against anybody as a result of a PID.

### 1.3 Subjective and objective test

In order for a disclosure to be considered a PID, it must meet either the subjective test or the objective test.

If a person has information about the conduct of another person or another matter and the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter then this will meet the requirements of the subjective test.

If a person has information that tends to show the conduct or other matter regardless of whether the person honestly believes the information tends to show the conduct or other matter, then this will meet the requirements of the objective test.

The disclosure is still a PID and covered by the PIDA even if it proves later not to contain this type of information.

#### 1.4 Disclosures which are not PIDs

Some disclosures are not protected by the PIDA, including disclosures:

- made to the media (except in special circumstances outlined in 1.4);
- made frivolously or vexatiously;
- that primarily question the relative merits of government or QCA policy; and
- that are made substantially to avoid disciplinary action.

Disclosures that are wilfully false constitute an offence under the PIDA.

A disclosure cannot be based on a mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure.

## 2 WHO CAN PIDS BE MADE TO?

To make a PID, the QCA's preferred approach is that you contact the Director Corporate Services or the Chief Executive Officer if the PID concerns the Director Corporate Services. Alternatively, a disclosure can be made to the Crime and Corruption Commission if it concerns corrupt conduct, the relevant Ombudsman if it concerns maladministration or a waste of public funds or a Member of Parliament.

A PID can be made to a journalist when the disclosure has already been made to the QCA and the QCA has decided either:

- not to investigate or deal with the disclosure;
- investigated, but did not recommend any action be taken; or
- did not notify the discloser within six months whether or not the disclosure would be dealt with or investigated.

The discloser may then make a disclosure of substantially the same information to a journalist and receive the protection available under the PIDA.

## 3 SUPPORT AND PROTECTION FOR DISCLOSERS

The QCA will take the concerns of those making a disclosure seriously and ensure your privacy and confidentiality (as far as possible) throughout the process. Disclosers will be protected against reprisal and bullying and staff members who make disclosures will be provided with Employee Assistance Program (EAP) support if they wish.

The Crime and Corruption Commission operates a support program for people who are considering making, or have made a PID, about corrupt conduct or for people experiencing difficulties as a result of making a PID about corrupt conduct. The services include provision of confidential counselling, advice and referral information. Consultative advice and education seminars on making a PID are also offered upon request.

A person who makes a PID cannot be held liable civilly, criminally or under an administrative process. Under Section 73 (2)(f) of the *Industrial Relations Act 1999*, it constitutes an unfair dismissal if an employee is dismissed on the basis of making a PID or because of a belief that an employee has made or may make a PID in accordance with the PIDA.

For those who make PIDs, they are reminded that the matters surrounding the investigation will be confidential and they are requested to maintain the integrity of the process by not discussing it with work

colleagues or others unconnected with the matter. All statements and correspondence in regard to the matter should be regarded as strictly confidential. However, the confidentiality provisions do not preclude staff sharing this information with a Union representative or support person.

Where required, interpreters or other assistance will be provided to staff or other persons wanting to report misconduct, official misconduct or make a PID.

#### 4 SUPPORT FOR STAFF ABOUT WHOM A PID HAS BEEN MADE

The rights of any person who is the subject of, or is in some way associated with, a disclosure are important, and they will be entitled to confidentiality and the presumption of innocence.

Staff who are subject of an allegation may seek assistance from their legal representative or union and may utilise the services of the QCA's EAP for advice and counselling.

Protection exists for those against whom an intentionally false PID is made. It is an offence under Section 66 of the PIDA, punishable by up to two years imprisonment, to intentionally make a false or misleading statement intending it to be acted upon as a PID.

#### 5 CONFIDENTIALITY

Section 65 of the PIDA makes it an offence for a person to make a record of, or intentionally or recklessly disclose confidential information received in the administration of the PIDA to anyone, except where authorised to do so by the PIDA.

Strict confidentiality is to be maintained at all times in relation to reporting and investigation of PIDs. All QCA records of PIDs will be held and securely filed by the QCA.

#### 6 REPRISAL

If a person making a PID has concerns about reprisal being taken against them because of the disclosure, under the PIDA, the person can be given special protection to prevent this occurring.

If staff who have made a disclosure believe they have been disadvantaged or subjected to a reprisal for making a disclosure, this should be raised with the Director Corporate Services or the Chief Executive Officer if the disclosure or reprisal concern involves the Director Corporate Services.

Section 40 of the PIDA makes it an offence for an employee to take a reprisal because of a belief that another person has made, or intends to make a PID.

#### 7 DISCLOSURES OR REPRISALS INVOLVING THE CHIEF EXECUTIVE OFFICER

If a disclosure or reprisal concern involves the Chief Executive Officer, the matter should be referred to the Chair of the QCA who will handle the matter in accordance with the principles outlined in this document.

#### 8 PRINCIPLES

The following principles apply:

- all public sector officers have an ethical responsibility to report suspected corrupt conduct, maladministration, wasting of public funds, substantial and specific danger to public health and safety, the environment or a person with a disability, and reprisal action;
- the principle of natural justice (procedural fairness) will apply to all investigations of matters the subject of PIDs. The QCA is committed to treating all PIDs appropriately and making the process fair for both the discloser and the person who is subject to the disclosure;

- the rights of any person who is subject to, or is in some way associated with, a disclosure will be safeguarded; and
- managers and supervisors are to ensure staff are aware of their responsibilities in making a PID and are able to advise others of the appropriate reporting process.

## 9 PROCEDURE

Disclosure can be made in writing or orally and anonymously if desired. Disclosures should include anything that is relevant and does not need proof as long as the person making the disclosure has reasonable grounds to believe that it has occurred. If in any doubt, the Director Corporate Services (or the Chief Executive Officer if the disclosure concerns the Director Corporate Services) can give advice.

Where possible, the disclosures should include:

- the name and relationship to the QCA of the person (e.g. staff, consultant, member) subject to the disclosure;
- details of relevant events, dates and places;
- the names of people who may be able to back up what has been claimed in the disclosure; and
- any other evidence that supports the disclosed view.

Where the QCA receives an oral PID, the discloser will be asked to put the details in writing. If the discloser is unwilling or unable to do so, the staff member should document the conversation and ask the discloser to confirm the contents before signing it. If circumstances prevent this occurring (e.g. the telephone caller remains anonymous), the staff member receiving the PID should record the date, time and circumstances of the PID. It should then be forwarded to the Director Corporate Services or the Chief Executive Officer if the disclosure concerns the Director Corporate Services.

In order to make a disclosure to the QCA please use the following details:

By email: [publicdisclosure@qca.org.au](mailto:publicdisclosure@qca.org.au)

By letter: Director Corporate Services (or Chief Executive Officer if the PID concerns the Director Corporate Services)

Queensland Competition Authority

GPO Box 2257

Brisbane QLD 4000

By phone: 07 3222 0505

In person: Level 27, 145 Ann Street

Brisbane QLD 4000

To make a complaint in person, please phone first for an appointment.

To make a complaint to the CCC direct, please use the following details:

By email: [mailbox@ccc.qld.gov.au](mailto:mailbox@ccc.qld.gov.au)

By letter: Director, Complaints Section  
Crime and Corruption Commission  
GPO Box 3123  
Brisbane QLD 4001

By phone: 07 3360 6060 or 1800 061 611 (Toll free outside Brisbane)

In person: Level 2, North Tower Green Square  
515 St Pauls Terrace  
Fortitude Valley Qld 4006

To make a complaint in person please, please phone first for an appointment.

## 9.1 The assessment and investigation process

When a PID is received, it will be provided to the Director Corporate Services (or the Chief Executive Officer if the disclosure concerns the Director Corporate Services) who will:

- make an assessment as to whether it is to be referred to the CCC or another agency for review or investigation or whether the QCA is able to investigate the matter or deal with in some other way;
- if the matter is to be dealt with by the QCA, be responsible for the investigation and may be completed by an independent investigator;
- once the investigation is complete and relevant parties consulted, recommend corrective or disciplinary action to the Chief Executive Officer where necessary (or in the case of a disclosure concerning the Director Corporate Services, determine corrective or disciplinary action where necessary); and
- inform the person making the PID of progress and the outcome.

## 10 DEFINITIONS

EAP	Employee Assistance Program
PID	Public interest disclosure
PIDA	<i>Public Interest Disclosure Act 2010</i>
QCA	Queensland Competition Authority

## 11 REFERENCES

The QCA's public interest disclosure policy takes into account the following legislation:

[\*Public Interest Disclosure Act 2010\*](#)

[\*Public Sector Ethics Act 1994\*](#)

[\*Crime and Corruption Act 2001\*](#)

[\*Disability Service Act 2006\*](#)

The *Public Sector Ethics Act 1994* and the *Public Interest Disclosure Act 2010* provide the ethical framework for the public sector and spell out the protection principles. The *Crime and Corruption Act 2001* provides an external reporting mechanism and an independent investigation and enforcement body. The *Disability Service Act 2006* specifically allows disclosures to be made in relation to a person with a ‘disability’.

## 12 RELATED DOCUMENTS

[Code of Conduct for Employees](#)

[Delegation Policy](#)

[Finance Manual](#)

[Purchasing Policy](#)

RELEASE NOTICE			
<i>Version</i>	<i>Amendment details</i>	<i>Updated by</i>	<i>Date</i>
Ver2.0	Updated to ensure alignment with current statutes and some minor amendments	Director Corporate Services	28/06/2017
Ver2.01	Document transferred into new QCA Policy template and re-configured to comply with template outline	Executive Assistant	28/06/2017

**Approved by:**  
**Name:** Charles Millstead  
**Title:** Chief Executive Officer  
**Signature:**

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