

Public Interest Disclosure Procedure

Public Interest Disclosure Act 2010

Policy Statement

The Queensland Reconstruction Authority (QRA) is committed to fostering an ethical, transparent culture. In pursuit of this, QRA values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated in accordance with the *Public Interest Disclosure Act 2010* (PID Act).

Objective

By complying with the PID Act, QRA will:

- promote the public interest by facilitating public interest disclosures (PIDs) of wrongdoing
- ensure that PIDs are properly assessed and, where appropriate properly investigated and dealt with
- ensure suitable consideration is given to the interests of persons who are the subject of a PID and ensure protection from reprisal is afforded to persons making PIDs.

As required under the PID Act, the Chief Executive Officer (CEO) will implement procedures to ensure that:

- any public officer who makes a PID is given appropriate support
- PIDs made to QRA are properly assessed and, where appropriate, properly investigated and dealt with
- appropriate action is taken in relation to any wrongdoing which is the subject of a PID
- a management program for PIDs made to QRA, consistent with the standards issued by the Queensland Ombudsman, is developed and implemented
- public officers who make PIDs are offered protection from reprisal by QRA or other public officers of QRA.

PID Management Program

The CEO has overall responsibility for ensuring that QRA develops, implements and maintains a PID management program. The QRA PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- senior management endorsement of the value to QRA of PIDs, training and awareness and the proper management of PIDs
- ensuring effective and communicated systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls
- a training and awareness strategy to give employees access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed
- the appointment of a unit to be responsible for issues related to the management of PIDs
- regular review of the PID Procedure and evaluation of the effectiveness of the PID management program.

Responsible Officers	Responsibilities
Chris Dunbar, PID Coordinator	<ul style="list-style-type: none"> • document and manage implementation of PID management program
Jess Hanson, Support officer for Internal PIDs	<ul style="list-style-type: none"> • review and update PID procedure annually • maintain and update internal records of PIDs received

<p>Chantelle Kururangi, Support officer for external PIDs</p>	<ul style="list-style-type: none"> • report data on PIDs to Queensland Ombudsman • assess PIDs received • provide acknowledgment of receipt of PID to discloser • undertake risk assessments in consultation with disclosers and other relevant officers • liaise with other agencies about referral of PIDs • allocate Investigator and Support Officer to PID matter • provide advice and information to discloser on QRA PID procedure • provide personal support and referral to other sources of advice or support as required • facilitate updates on progress of investigation • proactively contact discloser throughout PID management process • conduct investigation of information in PID in accordance with terms of reference • prepare report for delegated decision-maker • review investigation report and determine whether alleged wrongdoing is substantiated
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Why make a PID

Employees who are prepared to speak up about public sector misconduct, wastage of public funds, suspected unlawful activity or danger to health, safety or the environment can be the most important sources of information to identify and address problems in public sector administration. QRA supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of QRA
- the outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to QRA
- the community’s trust in public administration is strengthened by having strong processes in place for reporting wrongdoing.

When making a PID the discloser receives the protections provided under the PID Act, including:

- confidentiality – the discloser’s name and other identifying information will be protected to the extent possible
- protection against reprisal – the discloser is protected from unfair treatment by QRA and employees of QRA as a result of making the PID
- immunity from liability – the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing
- protection from defamation – the discloser has a defence against an accusation of defamation by any subject officer.

What is a PID

Under the PID Act, any person can make a disclosure about a:

- substantial and specific danger to the health or safety of a person with a disability
- the commission of an offence, or contravention of a condition imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment
- reprisal because of a belief that a person has made, or intends to make a disclosure.

In addition, public sector officers can make a disclosure about the following public interest matters:

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

A discloser can have either a ‘reasonable belief’ that wrongdoing has occurred, or provide evidence which tends to show the wrongdoing has occurred.

If a disclosure is made anonymously – the discloser is not required to give their name or any identifying information.

Who can a PID be disclosed to?

A PID must be made to the ‘proper authority’ to receive disclosures of the type being made. Disclosers are encouraged to make a disclosure to an appropriate officer of QRA first. If the matter is not resolved, or the discloser is concerned about confidentiality, the disclosure may be made to another appropriate agency.

QRA officers	Other agencies
Chief Executive officer, Chief Finance officer General Managers	<ul style="list-style-type: none"> • Crime and Corruption Commission • Qld Ombudsman • Qld Audit office • Dept. of Children, Youth Justice and Multicultural affairs • Dept. Seniors, Disability Services • Office of the Public Guardian • Department of Environment and science • Member of Legislative Assembly (MP) • The chief judicial officer of a court or tribunal
Chris Dunbar & Jess Hansen	
Chantelle Kururangi (external PIDs only)	

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.

How to make a PID

A discloser can make a PID in any way, including anonymously, either verbally or in writing. To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to:

- provide contact details (this could be an email address or a telephone number)
- provide as much information as possible about the suspected wrongdoing, including: who was involved, what happened, when it happened, where it happened, whether there were any witnesses, and if so who they are, any evidence that supports the PID, and where the evidence is located, any further information that could help investigate the PID
- provide this information in writing.

Deciding whether a matter is a PID

If there is any doubt as to whether a matter is a PID, further information may be obtained to inform the decision. If doubt still remains, the matter will be considered and managed as a PID.

It is an offence under the PID Act to intentionally give false or misleading information intending it be acted on as a PID. Employees may be subject to disciplinary action for intentionally giving false or misleading information in a PID, or during an investigation into a PID.

Where a discloser states they are making a PID, but it is assessed that the matter is not a PID QRA will advise the discloser:

- that their information has been received but was not assessed as a PID
- the reasons for the decision
- the review rights available if the discloser is dissatisfied with the decision and how to request review
- any action QRA proposes to take in relation to the matter
- any other options the discloser has in relation to the matter.

Assessing a PID

Once the matter has been assessed as a PID, QRA will advise the discloser:

- that their information has been received and assessed as a PID
- the action to be taken by QRA in relation to the disclosure, which could include referring the matter to an external agency, or investigating
- the likely timeframe involved
- the name and contact details of the QRA support officer to contact for updates or advice
- of the discloser's obligations regarding confidentiality
- the protections the discloser has under the PID Act
- the commitment of QRA to keep appropriate records and maintain confidentiality, except where permitted under the PID Act
- how updates regarding intended actions and outcomes will be provided to the discloser
- contact details for the QRA's Employee Assistance Program.

If the PID has been made anonymously and the discloser has not provided any contact details, QRA will not be able to acknowledge the PID or provide any updates.

Referring a PID

If QRA decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency or
- that agency has the power to investigate or remedy the matter.

The discloser will be advised of the action taken by QRA.

Risk assessment and protection from reprisal

Disclosers should not suffer any form of detriment as a result of making a PID. Upon receiving a PID, QRA will conduct a risk assessment to assess the likelihood of the discloser (or witnesses or affected third parties) suffering reprisal action as a result of having made the disclosure.

This assessment will take into account the actual and reasonably perceived risk of the discloser (or witnesses or affected third parties) suffering detriment, and will include consultation with the discloser.

If the discloser is anonymous, a risk assessment will be undertaken on the basis of information available in the PID. The risk assessment will also take into account the risk to persons who may be suspected of making the PID.

Consistent with the assessed level of risk, QRA will develop and implement a risk management plan and arrange any reasonably necessary support or protection for the discloser. The risk management plan will be reviewed while the PID is being managed.

Declining to take action on a PID

Under the PID Act, the QRA may decide not to investigate or deal with a PID in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process
- the information disclosed should be dealt with by another process
- the age of the information makes it impractical to investigate
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert QRA from the performance of its functions or
- another agency with jurisdiction to investigate the information has informed QRA that an investigation is not warranted.

If a decision is made not to investigate or deal with a PID QRA will give the discloser written reasons for that decision. If the discloser is dissatisfied with the decision they can request a review by writing to the CEO of QRA within 28 days of receiving the written reasons for decision.

Communication with disclosers

Under the PID Act, the QRA must give reasonable information to a discloser.

QRA will acknowledge receipt of the PID in writing as soon as practicable. The discloser will be provided with information that meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman, including:

- the action that will be taken in response to the PID
- the protections under the PID Act
- confidentiality obligations of the discloser and the QRA and
- support arrangements.

QRA will maintain contact with the discloser and provide regular updates during the management of the PID. In accordance with the PID Act, after finalising action in response to the PID, the QRA will advise the discloser in writing of the action taken and the results of the action

Confidentiality

QRA will make every attempt to protect confidentiality, however a disclosers identity may need to be disclosed to:

- Provide natural justice to subject officers and
- Respond to a court order, legal directive or court proceedings

QRA will ensure that all communications with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

Support for disclosers

QRA recognises that providing appropriate support to a discloser is an important feature of effective PID management. A PID Officer will assist the discloser to access information about PIDs, protections available under the PID Act and the PID management process. A PID Officer will proactively contact the discloser to offer support.

Information and support will be provided to the discloser until the matter is finalised.

Investigating a PID

If a decision is made to investigate a PID, this will be done with consideration for the:

- principles of natural justice
- obligation under the PID Act to protect confidential information
- obligation under the PID Act to protect officers from reprisal
- interests of subject officers.

Appropriate action will be taken if the wrongdoing is substantiated after being investigated. Where the investigation does not substantiate wrongdoing, QRA will review systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

Rights of subject officers

QRA acknowledges that for officers who are the subject of a PID the experience may be stressful. QRA will protect their rights by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice
- confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation and
- referring them to the Employee Assistance Program for support.

Related legislation and documents

- Crime and Corruption Act 2001*
- Information Privacy Act 2009*
- Public Interest Disclosure Act 2010*
- Local Government Act 2009*
- Ombudsman Act 2001*
- Public Records Act 2002*
- Public Sector Ethics Act 1994*

Related documents

- Complaints management policy
- Customer complaints management procedure
- Dealing with a complaint involving the Chief Executive Officer procedure
- Managing employee complaints procedure
- Managing corrupt conduct procedure
- Privacy complaints procedure

Definitions

Term	Definition
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Confidential Information	(a) Includes – (i) information about the identity, occupation, residential or work address or whereabouts of a person – (A) who makes a public interest disclosure; or (B) against who a public interest disclosure has been made; and (ii) information disclosed by a public interest disclosure; and (iii) information about an individual’s personal affairs; and (iv) information that, if disclosed, may cause detriment to a person; and (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.
Corrupt conduct	Defined in section 15 of the <i>Crime and Corruption Act 2001</i>
Detriment	Includes – (a) personal injury or prejudice to safety; and (b) property damage or loss; and (c) intimidation or harassment; and (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business (e) financial loss
Discloser	A person who makes a disclosure in accordance with the <i>Public Interest Disclosure Act 2010</i>
Natural Justice	Natural justice, also referred to as ‘procedural fairness’ applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law a safeguard applying to an individual whose rights or interests are being affected. The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, are; <ul style="list-style-type: none"> • Avoid bias; and • Give a fair hearing • Act only on the basis of logically probative evidence.
Proper Author	A person or organisation that is authorised under the <i>Public Interest Disclosure Act 2010</i> to receive disclosures
Reasonable belief	A view which is objectively fair or sensible
Reprisal	The term ‘reprisal’ is defined under the <i>Public Interest Disclosure Act 2010</i> as causing, attempting to cause or conspiring to cause detriment to another person in the belief that they or someone else: <ul style="list-style-type: none"> • Has made or intends to make a disclosure; or • Has been or intends to be involved in a proceeding under the PID Act against any person. Reprisal under the <i>Public Interest Disclosure Act 2010</i> is a criminal offence and investigations may be undertaken by the Queensland Police Service.
Subject Officer	An officer who is the subject of allegations of wrongdoing made in a disclosure

Making a PID

Lodging a PID within QRA:

- By email: Chris.Dunbar@gra.qld.gov.au
- By Mail: Attn: PID Coordinator, Queensland Reconstruction Authority, PO Box 15428, City East Q 4002

Disclosures about corrupt conduct can also be made directly to the Crime and Corruption Commission:

- By email: mailbox@ccc.qld.gov.au
- By letter: Director, Complaints Section, Crime and Corruption Commission, GPO Box 3123, Brisbane, Qld, 4001
- By phone: By phone: (07) 3360 6060 or 1800 061 611 (toll free outside Brisbane)

Privacy and record-keeping

In accordance with its obligations under the PID Act and the *Public Records Act 2002*, QRA will ensure that:

- accurate data is collected about the receipt and management of PIDs
- Anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID.

Information Privacy Act 2009 will be applied when managing PIDs. QRA will handle all personal information including collection, storage, use and disclosure of personal information.

Document review

The Chief Executive Officer will review this policy within twelve months of the initial approval date, then at least once every three years, and as required to take into account changes to relevant legislation, government policy and practices, changing trends, and feedback.

Document control

Version No.	Date	Approved by	Next scheduled review date
1.1 FINAL	21 July 2020	[Brendan Moon, CEO]	31 July 2021
2.1 FINAL	31 July 2021	[Brendan Moon, CEO]	31 July 2024

Revisions history

Revision No.	Date	Page/s	Description of revision
1	10/07/2020	7	Initial Draft
2	24/07/2020	7	Final Draft
3	30/07/2020	8	Revised draft version 2.1