

# **INFORMATION DOCUMENT**

**Public Interest Disclosures Against Employees of the Queensland Police Service**

1. **Purpose**

The Queensland Police Service (QPS) is committed to fostering an ethical, pro-disclosure, and investigatively transparent culture. It encourages the reporting of suspected wrongdoing by QPS employees. The QPS will provide support to those who make public interest disclosures (PID) about employees of the QPS.

The purpose of this document is to reinforce this commitment by ensuring the implementation of practical procedures for the reporting and management of PIDs in accordance with the provisions of the *Public Interest Disclosure Act 2010* (PID Act).

1. **Relevance**

This procedural information is relevant to any public officer, including a member of the QPS, who wishes to make a public interest disclosure. A QPS employee should also be aware that fulfillment of their mandatory reporting requirements under s.6A.1 of the *Police Service Administration Act 1990* (PSAA) *may* also be considered to be a public interest disclosure as ‘involuntary disclosures’ are accounted for in the PID Act.

This procedural information is also relevant to any person who is not a public officer but wishes to make an applicable public interest disclosure about QPS employees concerning:

* substantial and specific dangers to the health and safety of a person with a disability; or
* the commission of an offence, or contravention of a condition imposed under a provision mentioned in Schedule 2 of the PID Act, if such contravention would be a substantial and specific danger to the environment; or
* reprisal connected to a previous PID.

1. **Responsibilities**

It is the responsibility of all QPS employees to ensure compliance with legislative provisions of the PID Act when considering, or making, or receiving, or assessing, or investigating, or finalising, or in any other way involved with, a disclosure of public interest information.

Further information on these responsibilities are contained within the relevant legislation and related documents referenced herein.

1. **Applicable Legislation**

* *Public Interest Disclosure Act 2010* (PID Act)
* *Crime and Corruption Act 2001* (CC Act)
* *Ombudsman Act 2001*
* *Police Service Administration Act 1990* (PSAA)
* *Public Records Act 2002*
* *Public Sector Ethics Act 1994*

1. **Definitions**

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| Administrative Action | As defined in schedule 4 of the PID Act |
| Confidential Information | As defined in section 55 of the PID Act |
| Corrupt Conduct | As defined in section 15 of the CC Act |
| Detriment | As defined in schedule 4 of the PID Act |
| Disability | As defined in section 11 of the *Disability Services Act 2006* |
| Discloser | Any person who makes a disclosure in accordance with the PID Act |
| Improper Conduct | As defined in section 329 of the CC Act |
| Investigate | As defined in schedule 4 of the PID Act |
| Investigation | Any inquiry conducted to determine whether allegation/s within the PID can be substantiated, including a review or audit. |
| Maladministration | As defined in schedule 4 of the PID Act |
| Natural Justice | Natural justice equates to the basic fundamental principles of procedural fairness encompassing the twin pillars of the hearing rule and the rule against bias. Natural justice ensures decision-making is fair, reasonable and without bias. |
| Proper Authority | As outlined in section 5 of the PID Act |
| Public Officer | As outlined in section 7 of the PID Act |
| Public Sector Entity | As outlined in section 6 of the PID Act |
| Reasonable Belief | Is a viewpoint which is objectively sensible and demonstrably fair. |
| Reprisal | As outlined in section 40 of the PID Act |
| Subject Member | An member who is the subject of the PID allegation. |
| Victimisation | As outlined in section 6A.2 of the PSAA |

1. **Compliance Statement**

In compliance with the PID Act, the QPS will encourage and facilitate the appropriate disclosure, assessment, reporting, recording and, where appropriate, investigation of public interest disclosures. It will afford reprisal protection to disclosers and ensure approriate consideration be given to the interests of subject member(s). The QPS will:

* promote the public interest by facilitating public interest disclosures of wrongdoing;
* ensure that PIDs are properly assessed and, where appropriate, properly investigated and finalised;
* ensure appropriate 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.

1. **What is a PID?**

The PID Act seeks to safeguard transparency and accountability in government by providing protection for those who speak out about unlawful, negligent, or improper public sector conduct, or danger to public health or safety, the health or safety of a person with a disability, or the environment. These types of wrongdoing are also known as a PID.

A PID can only be made by an individual, it cannot be made by an organisation or a company.

Anybody\*, whether a public officer or not, can make a disclosure about the below types of wrongdoing:

* substantial and specific dangers to the health and safety of a person with a disability;
* the commission of an offence, or contravention of condition imposed under a provision mentioned in Schedule 2 of the PID Act, if such contravention would be a substantial and specific danger to the environment;
* reprisal connected to a previous PID (PID Act, s.12).

Only public officers of organisations, other than government owned corporations, can make a PID about the following types of wrongdoing:

* corrupt conduct;
* maladministration;
* a substantial misuse of public resources;
* a substantial and specific danger to public health or safety;
* a substantial and specific danger to the health or safety of a person with a disability;
* a substantial and specific danger to the environment;
* a reprisal.

QPS employees should also be aware that fulfillment of their mandatory reporting requirements under the PSAA (s.6A.1) *may* also be considered to be a PID as ‘involuntary disclosures’ are accounted for in the PID Act (s.22).

It is an offence under the PID Act (s.66) to purposely give false or misleading information with the intent that it be acted on as a PID. Employees may be subject to disciplinary action for *intentionally* providing false or misleading information in a disclosure, or during the PID investigation process.

*\*includes a member of the public*

1. **PID Management Program**

The QPS Commissioner of Police is responsible for ensuring the QPS has an effective PID management program. The PID management program for the QPS encompasses structural, operational and maintenance elements.

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| **Structural** | **Operational** | **Maintenance** |
| * Commitment to pro-disclosure workforce culture | * Established reporting system | * Education |
| * Effective Policy | * Assessing and acting on PIDs | * Training strategy |
| * Practical Procedures | * Discloser support/protection | * Communication strategy |
| * Resourcing | * Data recording systems | * Review mechanism |

Periodic re-evaluation of the PID management program is jointly undertaken by appointed delegates from the Ethical Standards Command (ESC) and the Inspector of, and appointed delegates from, the Internal Witness Support (IWS), Health and Wellbeing Division (HWD). Re-evaluation is considered essential to inform improvements to service delivery, PID processes, internal workflows and database recording.

1. **The Importance of PID Reporting**

The existence of a pro-disclosure culture within the QPS is pivotal to the integrity of the organisation. Employees who are willing to report corrupt conduct, maladministration and other wrongdoing can be accurate information sources, which contribute to early identification of organisational vulnerabilities, flaws, risks and inefficiencies which can cause reputational harm. It is accepted that reports made by employees are more likely to lead to organisational change, improve accountability and deter improper conduct than reports made by other sources.

The QPS supports the disclosure of information about wrongdoing because:

* the creation of a PID management system improves organisational integrity and transparency;
* PID outcomes can include systems enhancement which can prevent fraud and other resource loss to the QPS; and
* strong processes increase transparency, community trust and enhances the organisational reputation of the QPS.

1. **PID Protections**

A person who makes a PID is afforded distinct protections for disclosures, in the public interest to a proper authority, about wrongdoing in the QPS. However, for a discloser to receive the unique protections of the PID Act, their disclosure must directly relate to:

* corrupt conduct;
* maladministration;
* a substantial misuse of public resources;
* a substantial and specific danger to public health or safety;
* a substantial and specific danger to the health or safety of a person with a disability;
* a substantial and specific danger to the environment;
* a reprisal.

The QPS has both common law and statutory obligations to provide safe workplaces including, as far as is reasonably practicable, the protection of disclosers due to the reporting of a PID.

This QPS is committed to ensuring that no adverse behaviours are directed towards the discloser because of a PID being made.

Section 40(1) of the PID Act provides that a person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, anybody\* has made, or may make, a PID. Section 40(3) of the PID Act provides that a contravention of this requirement is considered a reprisal or the taking of a reprisal.

The PID Act (schedule 4) defines ‘detriment’ as including:

* personal injury or prejudice to safety;
* property damage or loss;
* intimidation or harassment;
* adverse discrimination, disadvantage or treatment about a person’s career, profession, employment, trade, or business;
* financial loss;
* damage to reputation.

It should be noted that for an action or behaviour to be deemed a reprisal, there **must be** a causal link between the detriment and a PID (or an intention to make a PID). Reasonable management action **does not** constitute a reprisal.

If any of the above does occur, the discloser should immediately tell the person who is investigating their disclosure, or other appropriate authority. Additionally, managers must notify the ESC, or other appropriate authority, of any allegations of reprisal action against a discloser, if it is suspected that reprisal action is occurring or likely to occur.

Investigations concerning allegations of reprisal will be investigated by an appropriately qualified person who has not been involved with the initial PID. If the investigation determines there to be insufficient evidence to prove a reprisal to the criminal standard of proof, the subject member(s) may still be subject to disciplinary action.

*\*includes a member of the public*

**11. Protection Options**

In addition to these legislative protections and the QPS commitment to early intervention, it is accepted there may be circumstances where difficulties arise when the investigation into a PID is ongoing and both the discloser and subject member(s) work in proximity to one another.

In these instances, the QPS may consider any reasonable request or take reasonable management action in relation to work arrangements providing there is no negative impact for the discloser, or subject member(s) during the period of investigation.

Options which may be considered in the protection of disclosers can include:

* a change to supervisory arrangements;
* facilitating a voluntary transfer or temporary secondment of the discloser, or the subject member(s) of the PID, to another appropriate position or location providing it does not cause financial or other detriment;
* any other reasonable request on the part of the discloser or subject member(s);
* any other action or protective act deemed appropriate within the context of the degree of risk of reprisal, its seriousness, and other circumstances.

Additionally, an application for an injunction about a reprisal may be made to the Queensland Industrial Relations Commission (QIRC) under the *Industrial Relations Act 1999* (Qld) or to the Supreme Court (PID Act, ss. 48–49).

**12. PID Management Procedure**

**i. Reporting a PID to a ‘proper authority’**

A PID should be made to the ‘proper authority’ relevant to the type of disclosure being made. The QPS is the proper authority for complaints about QPS employees. Complaints about QPS employees can also be made to the Crime and Corruption Commission who are also an appropriate public sector entity for disclosures against the QPS.

A PID can also be made to any public sector entity that the discloser believes has the power to investigate and deal with the matter (PID Act, s. 15(1)(a)(ii)). Where the QPS decides another proper authority is better able to deal with the PID, the PID may be referred that agency if:

* the PID concerns wrongdoing by that agency or any employee of that agency;
* that agency has the power to investigate or remedy the matter;
* the QPS does not consider it will result in an unacceptable risk of reprisal.

**ii. How to make a PID**

A PID can be made in a variety of ways including in person, in writing, via telephone or email. If a PID is received orally, it is the responsibility of the QPS to record the information.

QPS employees who wish to make a PID are encouraged to do so via the following options:

* to a QPS supervisor or a commissioned officer;
* completion of the online form 466 available via the ESC sharepoint page;
* report direct to the Crime and Corruption Commission via  <https://www.ccc.qld.gov.au/corruption/report-corruption>.

Members of the public who wish to make a PID are encouraged to do so via the following options:

* in person at their local police station;
* completion of the online form <https://forms.police.qld.gov.au/launch/feedback>;
* report direct to the Crime and Corruption Commission online via  <https://www.ccc.qld.gov.au/corruption/report-corruption>;
* report direct to the Office of the Queensland Ombudsman via <https://www.ombudsman.qld.gov.au/make-a-complaint/exceptioncaseone.aspx?agencyid=225>.

In addition to the CCC and Queensland Ombudsman, the following proper authorities can also receive complaints in relation matters in the public interest:

* Queensland Audit Office for disclosures about a substantial misuse of resources;
* Department of Child Safety, Seniors, and Disability Services for disclosures about danger to the health and safety of a child or young person with a disability or for disclosures about dangers to the health and safety of a person with a disability;
* Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability;
* Department of Environment, Science and Innovation for disclosures about danger to the environment;
* A Member of the Legislative Assembly (MP) for any wrongdoing or danger;
* The Chief Judicial Officer of a court or tribunal in relation to a disclosure about wrongdoing by a judicial officer.

A PID can be made anonymously – a discloser is not required to give their name or identifying information. If a discloser does not provide their contact details, the QPS will not be able to acknowledge the PID, provide updates, or seek further clarifying information. It may also create barriers in providing support and protection to the discloser.

When making a PID, disclosers are requested to provide as much information as possible about the wrongdoing, including:

* discloser contact details (unless anonymity desired);
* who was involved;
* time/date it occurred;
* location where it occurred;
* witness details;
* details of evidence which supports the PID occurred, and the whereabouts of that evidence;
* any further information which could assist in the investigation of the PID.

**iii. Assessing a disclosure**

On receipt of any matter which may constitute a PID, a review the matter will be completed by IWS and brief the Chief Superintendent, ESC, Superintendent, Internal Investigations Group, the Superintendent, State Case Management Unit, Inspector State Coordinator, or their representative. A determination will then be made to whether the matter constitutes a PID as part of the Complaint Assessment Committee (CAC).

**iv. Determining if the disclosure is a PID**

The disclosure will be assessed in accordance with the PID Act, the PID standards, guidelines from the Office of the Queensland Ombudsman and any other relevant policy and procedure.

If there is uncertainty as to whether the reported matter is a PID, the assessors may obtain further information to inform the decision. If uncertainty remains the matter will be considered and managed as a PID.

**v. If the disclosure is not assessed as a PID**

When a discloser asserts they are making a PID, but their disclosure is not assessed as a PID, the QPS will advise the discloser of the following:

* the provided information was received but was not assessed as a PID;
* the reasons for the determination;
* if the dicloser is unsatisfied with the decision, their rights in relation to having the decision reviewed externally by making a complaint in accordance with s.20 of the *Ombudsman Act 2001*;
* any action the QPS intends to take in relation to the matter including disciplinary or other investigation/s;
* other options and protections the discloser may have in relation to their report of wrongdoing including protection from vicitimisation under provisions of the PSAA (s.7.3).

**vi. Risk assessment and protection from reprisal after disclosure is assessed as a PID**

The Inspector, IWS, HWD is responsible for assessing the needs of disclosers who are members of the QPS for protection against reprisals and recommending measures to prevent such reprisals. The Inspector, IWS, should:

* assess the risk of reprisal faced by members of the QPS because of the making of a public interest disclosure. In making this assessment the Inspector, IWS should consult with the member making the disclosure, and with the consent of that member may consult with other members of the QPS, (for example a human services officer, human resource management personnel);
* recommend to the Executive Director, HWD, any action which may be necessary to protect members of the Service from reprisals; and
* monitor the situation of a member of the QPS who has made a public interest disclosure to prevent reprisals being taken against that member or any other member (MSM, s.5.8.4).

**vii. Appointment of a support officer for the discloser**

The QPS acknowledges that reporting wrongdoing can be an uncomfortable experience and recognises that support should be afforded to a discloser to ensure effective PID management.

The Inspector, IWS will ensure a case management officer is assigned to assist a discloser, who is a member of the QPS. To assist the discloser, IWS will provide the case management officer with information about PIDs, relevant protection under the PID Act and the PID management process. The assigned case management officer will initiate contact with the discloser to offer support.

Information and support will be provided to the discloser until finalisation of the matter.

Where the discloser is a member of the QPS, they will continue to be managed in accordance with fair-minded and reasonable management practices both during and following the management and handling of a PID.

**viii. Provision of information to the discloser**

The QPS must give reasonable information to the discloser by providing information which meets the requirements of the PID Act (s.32) and the PID standards released by the Queensland Ombudsman. The PID will be acknowledged in writing by IWS as soon as a reasonably practicable and, if the discloser is a member of the QPS, the information from IWS will outline:

* confirmation the PID has been received by the QPS;
* action that will be taken in response to the PID or, if action has been taken, a description of that action;
* confidentiality responsibilities of the discloser and the QPS;
* support services available to the discloser;
* timely updates during PID case management.

However, information need not be provided if the giving of the information would be likely to adversely affect:

* any person’s safety;
* the investigation of an offence or possible offence;
* necessary confidentiality about an informant’s identity (PID Act, s.32(4)).

If the discloser is external to the QPS, the PID will be acknowledged in writing by IWS as soon as reasonably practical and, the information from IWS will outline:

* confirmation the PID has been received by the QPS;
* confidentiality responsibilities of the external discloser and the QPS;
* support services available to the external discloser.

However, information need not be provided if the giving of the information would be likely to adversely affect:

* any person’s safety;
* the investigation of an offence or possible offence;
* necessary confidentiality about an informant’s identity (PID Act, s.32(4)).

Further information will be provided to the external disloser by ESC and will outline:

* action that will be taken in response to the PID or, if action has been taken, a description of that action;
* timely updates during PID case management.

**ix. Decision to take no action on a PID**

As per the provisions of the PID Act, the QPS may decide not to investigate or deal with a PID in a variety of circumstances which include:

* when the substance of the PID has previously been investigated or dealt with by another appropriate process; or
* the PID should be dealt with via an alternate appropriate process; or
* the age of the PID makes it impractical to investigate; or
* the QPS considers the PID too trivial to warrant investigation which would substantially and unreasonably divert the QPS from the performance of its functions; or
* another entity with jurisdiction to investigate the PID has notified the QPS that investigation is not warranted (PID Act, s.30).

If the discloser is known and able to be contacted, the QPS decision-maker, or their representative, will provide the discloser with written reasons pertaining to the decision to take no action. If dissatisfied with the outcome, the discloser can request a review, in writing to the Commissioner of Police, within 28 days of receipt of the written outcome. The review will be conducted by an appropriate senior commissioned officer who was not the initial decision-maker.

**x. Investigate the PID**

Upon the matter being assessed as a PID, a determination will be made as to whether the disclosure is to have assessment or management inquiries, or an investigation is to be commenced. The Senior Sergeant, Complaint Management Unit, is responsible for ensuring written instructions in accordance with the decisions of the CAC are provided to the Internal Investigations Group or the relevant Professional Practice Manager.

If the CCC has requested oversight, the written CAC decisions will provide any relevant information in this respect. If a decision is made to investigate a PID, this will be done with consideration of the:

* legislative obligation under the PID Act to protect confidentiality;
* legislative obligation under the PID Act to afford protection from reprisal;
* principles of natural justice;
* interests of subject member(s).

**xi. Finalise the investigation of the PID**

If the investigation substantiates wrongdoing, appropriate action will be taken and where requested, outcome advice will be provided to the CCC. Where appropriate, outcome advice will be provided to the discloser.

Whether or not wrongdoing is substantiated, the QPS will consider issues identified during the investigation including, the need to review systems, policies and procedures, provide training, conduct internal audits, or review operations of a particular area via the professional practices committee.

**xii. Confidentiality**

Discloser: Every reasonable attempt will be made by the QPS to protect confidentiality of the discloser, however, a discloser’s identity may need to be disclosed to:

* an authorised person for investigation;
* making a record for the purposes of assessing, investigating, or reporting a disclosure under policy and this procedure;
* provide natural justice to subject member(s);
* respond to a court order, legal directive, or court proceedings.

Subject Member: In addition to protecting the identity of the person making a PID, action must also be taken to protect the identity of the subject member(s) (PID Act, s. 65(7)(a)(B)).

**xiii. Rights of subject member(s)**

The subject member(s) must be afforded natural justice. This procedural fairness is managed by the specialists investigating the PID. The doctrine of natural justice means the subject member(s) has the right to:

* know the substance of the allegations;
* be given reasonable opportunity to put forward their case;
* have a decision-maker act fairly and without bias.

Natural justice does not mean the subject member(s) is provided advice about the allegation as soon as it is received. Additionally, there is no requirement to advise the subject member(s) of misleading or no substance allegations, which require no further action.

The name of the discloser should only be provided if it is necessary to afford the subject member(s) natural justice and it is unlikely that a reprisal will be taken against the discloser (PID Act, s. 65(5)).

Subject member(s) are to be reassured that the PID will be assessed impartially and objectively and provided with information about their rights, and the progress and outcomes of any investigations. Consideration will also be given to referring subject member(s) to a suitable employee assistance program to ensure that they receive appropriate support.

**xiv. Disclosure to Journalists**

The discloser may provide substantially the same information to a journalist if the following conditions have been met:

* a valid PID was initially made to a proper authority; and

the proper authority to which the disclosure was made or referred:

* decided not to investigate or deal with the PID; or
* investigated the PID but did not recommend taking any action; or
* failed to notify the discloser within 6 month of making the disclosure whether or not the disclosure was to be investigated or otherwise dealt with (PID Act, s. 20(1)(2)(3)(4)).

**xv. Keeping and maintaining records**

As per legislative obligations under the provisions of the *Public Records Act 2002* and the PID Act, the QPS will ensure:

* accurate data is collected in relation to the receipt and management of PIDs and other complaints against QPS employees;
* de-identified information is reported to the oversight agency, the Office of the Queensland Ombudsman, via the external PID reporting database.

1. **Related Documents**

* Office of Queensland Ombudsman – PID Resources:
* *Managing a public interest disclosure program – Guide for Public Sector Organisations*
* *Making a public interest disclosure – A guide for individuals working in the public sector*
* *Handling a public interest disclosure – A guide for public sector managers and supervisors*
* *PID assessment guide*
* *PID risk assessment and risk management guide*
* Public Interest Disclosure Standard No. 1/2019
* Public Interest Disclosure Standard No. 2/2019
* Public Interest Disclosure Standard No. 3/2019
* Code of Conduct for the Queensland Public Service
* QPS Management Service Manual s.5.8
* QPS Internal Witness Support Complaint Management Policy 2020/02
* Australian Standard 8004-2003 Whistleblower protection programs for entities

1. **Re-evaluation and review**

This procedure will be reviewed two years from the date of approval, unless changes in legislation or government policy which impact its’ functionality occur before the two-year period has lapsed. This procedure will remain in effect until revised, superseded or rendered obsolete.

**Public Interest Disclosure (PID) Reporting Flowchart**

