

## Purpose

To establish the obligations of the Office of the Health Ombudsman (OHO) in dealing with public interest disclosure (PID) and to assist employees and others to report wrongdoing under the *Public Interest Disclosure Act 2010*.

The intent of this policy is to ensure:

- disclosers are given appropriate support
- disclosures made to the OHO are appropriately dealt with
- appropriate action is taken in relation to confirmed wrongdoing
- a management program for PIDs is implemented
- disclosers, and others who contribute to PID investigations, are protected from reprisal.

## Application

This policy applies to all employees of the OHO and any member of the public who makes a public interest disclosure to the OHO about the conduct of an OHO employee.

## Policy statement

The OHO recognises the important role public interest disclosure (PID) can play in identifying wrongdoing. By making a PID, a discloser is contributing to an ethical workplace culture and supporting the performance of the OHO.

The OHO will ensure disclosers are supported and protected from reprisal action for making a PID and that an officer who is the subject of a PID will be given appropriate consideration. The OHO is also committed to developing, implementing and maintaining a management program of PIDs.

## Legislative provision

- *Public Service Act 2008*
- *Public Interest Disclosure Act 2010*
- *Industrial Relations Act 1999*
- *Public Sector Ethics Act 1994*
- *Code of Conduct for the Queensland Public Service*
- *Crime and Corruption Act 2001*

## Other references

- OHO *Public interest disclosure procedure*
- Guideline: PIDs and complaints under the *Health Ombudsman Act 2013*

# Roles and responsibilities

## Health Ombudsman

The Health Ombudsman is responsible for complying with the obligations outlined in the *Public Interest Disclosure Act 2010*.

## Executive Advisor

The Executive Advisor, Health Ombudsman's Office is the OHO's PID coordinator and is responsible for:

- coordination of the OHO PID processes, including a management program and reporting to the oversight body, the Queensland Ombudsman
- monitoring the investigation (if applicable) and resolution of PIDs and managing support and protection of disclosers
- notifying parties of the outcome/s of the PID process.

## OHO Leadership Team

The role of OHO Leadership Team members is to

- raise awareness with staff about PIDs and encourage reporting of wrongdoing
- respond to a reported PID using the OHO's established procedures
- in response to a PID
  - provide support to a discloser
  - monitor for reprisal
  - maintain appropriate confidentiality and keep appropriate records.

However, if a conflict of interest arises and the OLT member is unable to provide support, the principal human resource officer will take over this role.

## All employees

OHO employees are responsible for reporting suspected wrongdoing to a proper authority and maintaining appropriate confidentiality.

## Making a public interest disclosure

Any person, including an employee, may make a PID about an OHO employee's conduct that may be:

- a substantial and specific danger to the health or safety of a person with a disability<sup>1</sup>
- a substantial and specific danger to the environment
- a reprisal.

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<sup>1</sup> Section 12 *Public Interest Disclosure Act 2010*

OHO employees may also make PIDs about:

- conduct that, if proven, could be 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 the health or safety of the public
- a substantial and specific danger to the environment.

OHO employees are encouraged to report PIDs directly to the Executive Advisor. However, employees can report PIDs externally to another proper authority, either as a first step or if they are unhappy with the OHO's initial response.

Members of the public are encouraged to report PIDs regarding the OHO to the Health Ombudsman. However, members of the public may also choose to report PIDs to another proper authority, either as a first step or if they are unhappy with the OHO's action on the PID.

## Public interest disclosure information

Disclosures can be made verbally or in writing. Disclosers are encouraged to give their contact details so the OHO can provide support and feedback.

Anonymous disclosures will be accepted and the OHO is committed to taking appropriate action on the disclosure.

Ideally, PID information should include:

- information about relevant events, dates and places
- the name and job title of the person involved, if known
- the names of people who may be able to provide extra information
- any other relevant information.

Under the *Public Interest Disclosure Act 2010*, a PID discloser may disclose substantially the same information to a journalist after they have made a PID disclosure to the OHO or another entity under certain circumstances. Refer to section 20 of the *Public Interest Disclosure Act 2010* for more information.

PID disclosure information should be forwarded to:

Executive Advisor  
PO Box 13281  
George Street  
Brisbane Qld 4003  
Phone 07 3158 1006

## False or misleading information

It is an offence under the *Public Interest Disclosure Act 2010* to intentionally make a false or misleading statement intending it to be acted upon as a public interest disclosure. An employee who makes a false or misleading statement may be subject to disciplinary action.

Making a PID does not stop the discloser from facing disciplinary or criminal action if the discloser has been involved in wrongdoing. A manager may take reasonable management action in relation to an employee who has made a PID only if the manager's reasons for taking the action do not include the fact that the person has made a PID.

## Taking action

Disclosures will be assessed as either:

- not needing further action
- needing further action and/or investigation
- a matter to be referred to another proper authority (such as the Crime and Corruption Commission).

The OHO is committed to taking appropriate action to deal with PIDs and to taking appropriate action on the findings of a PID investigation.

## Support and feedback to disclosers

A discloser will be informed in writing that the disclosure has been received, the action the OHO will take and the result of the action taken. If no action is to be taken, the discloser will be informed of that decision.

The OHO will support disclosers, and will arrange for regular follow up with the discloser to advise on progress in resolving the PID.

## Confidentiality

The *Public Interest Disclosure Act 2010* has strict rules for confidentiality. If these rules are not followed, it could be a criminal offence.

The OHO will work to preserve confidentiality as required by the *Public Interest Disclosure Act 2010*.

This includes:

- information about who made the PID and who is the subject of the PID
- information disclosed and information about the disclosure that may cause detriment if known.

Disclosers are advised that the provisions that protect your confidentiality do not apply to people that you may tell outside of the PID process.

While the OHO will work to protect confidentiality, the discloser's identity might become known:

- through the application of the principles of natural justice
- through a court or tribunal action
- if authorised under a regulation or another Act.

If this is likely, the OHO will consider the risks and inform the discloser.

## Protection of disclosers

Making a PID about suspected wrongdoing is the right thing to do. Disclosers should not suffer harm or detriment because they have spoken up, or someone believes they may have spoken up. This kind of action is called reprisal.

The OHO will protect people who make a PID, or are involved in a PID investigation, from reprisal.

When a disclosure is made, the OHO will look at the risks to the discloser and offer support.

## Responding to reprisals

Reprisal is an offence under the *Public Interest Disclosure Act 2010*. Allegations of reprisal will be assessed and appropriate action will be taken. Appropriate action may include referral to the Crime and Corruption Commission.

## Rights of subject officers

A person who is the subject of PIDs is entitled to appropriate confidentiality and reasonable and fair treatment. They are entitled to seek assistance from their legal representative or union.

## Recordkeeping and reporting

The OHO will ensure that all PID recordkeeping and reporting meet the requirements of the *Public Interest Disclosure Act 2010*.

The Executive Advisor is responsible for internal PID reporting and reporting to the oversight agency—the Queensland Ombudsman.

## Further information

Information about PIDs, including a guide and fact sheets for disclosers, is available from the Queensland Ombudsman website [www.ombudsman.qld.gov.au](http://www.ombudsman.qld.gov.au).

## Definitions

<b>Employee</b>	A public service officer, temporary employee (engaged under section 148(2)(a) of the <i>Public Service Act 2008</i> ), or general employee (engaged under section 147(2)(a) of the <i>Public Service Act 2008</i> ) and includes a person engaged by the entity under a contract of service.
<b>Proper authority</b>	Every public sector entity is a proper authority if the disclosure is about the entity or its employees. Any agency with the power to investigate or remedy the PID matter is also a proper authority. For example, the Crime and Corruption Commission (CCC). In addition, a member of the Legislative Assembly is also a proper authority for the purposes of a PID disclosure.
<b>Public interest disclosure</b>	A public interest disclosure (PID) is a disclosure about suspected wrongdoing in the public sector and includes all information and help given by the discloser to a proper authority for the disclosure. In particular, a PID may be made about: corrupt conduct, maladministration, misuse of public resources, danger to public health or safety, danger to the health and safety of a person with a disability, or danger to the environment.
<b>Public officer</b>	An employee, member or officer of the Office of the Health Ombudsman, whether full-time, part-time, temporary or casual.

<b>Effective date</b>	July 2018
<b>Review date</b>	July 2020
<b>Custodian / Contact</b>	Executive Advisor
<b>Approved by</b>	Health Ombudsman
<b>Approval date</b>	27 July 2018
<b>Signature</b>	