

Has one of your staff blown the whistle?



HANDLING A PUBLIC INTEREST DISCLOSURE

*A guide for public sector
managers and supervisors*

2011

Making a public interest disclosure

A guide for individuals working in the public sector

Managing a public interest disclosure program

A guide for public sector organisations

under the

Public Interest Disclosure Act 2010 (Qld)



STOP AND CONSIDER

What kind of information have you received?

IS IT ABOUT BULLYING OR HARASSMENT?

Consult your organisation's bullying or harassment policy and talk to your Human Resources (HR) section. If the matter is serious enough, it may be a public interest disclosure.

Keep reading.

IS IT A WORKPLACE COMPLAINT OR ABOUT A WORKPLACE CONFLICT?

Consult your organisation's grievance policy and talk to your HR section.

IS IT A WORKPLACE HEALTH AND SAFETY (WH&S) ISSUE?

Consult your organisation's WH&S policy and talk to your WH&S officer.

IS IT ABOUT OFFICIAL MISCONDUCT OR A REPRISAL?

It may be a public interest disclosure.

Keep reading.

IS IT ABOUT MALADMINISTRATION OR A MISUSE OF PUBLIC RESOURCES?

It may be a public interest disclosure.

Keep reading.

IS IT ABOUT DANGER TO PUBLIC HEALTH OR SAFETY, THE HEALTH OR SAFETY OF A PERSON WITH A DISABILITY OR THE ENVIRONMENT?

It may be a public interest disclosure.

Keep reading.

IS IT A COMBINATION OF THE ABOVE?

Distinguish the issues so they can be dealt with in the best possible way. There may be a public interest disclosure.

Keep reading.

NOT SURE?

Seek advice from your own manager, another senior manager, your HR section or one of the organisations listed on pp. 32–34.

This guide

A person who makes a **public interest disclosure** receives unique protections for disclosing information in the public interest to a proper authority about wrongdoing in the public sector; or danger to the public health or safety, the health or safety of a person with a disability, or the environment. Making a public interest disclosure is sometimes referred to as 'whistleblowing'.

If you are a manager or supervisor in a public sector organisation, this guide will help you decide what to do if you receive a public interest disclosure under the *Public Interest Disclosure Act 2010* (Qld) (the PID Act). The PID Act replaced the *Whistleblowers Protection Act 1994* (Qld). This guide is intended to be a useful resource to help you identify such a disclosure, and recognise how your own forethought and actions can make a difference to your staff.

While this guide focuses on handling a **public interest disclosure** (PID), the principles of protection and support described apply uniformly to all employees who raise a concern. You should encourage staff to speak up about any type of wrongdoing, or in defence of their own and others' rights as employees. Although these concerns may not satisfy the definition of a public interest disclosure under the PID Act, you still need to take appropriate action, and protect the person from repercussions for raising the issue.

Key to the layout of the guide

Research findings
are in dark blue

Examples
are in light blue

Definitions
are in beige

The Australia-wide research findings presented in this guide are drawn from the report of the *Whistling While They Work, Whistleblowing in the Australian public sector* (Brown 2008). More information about the research is at the end of this guide (see 'About the research' on p. 35), and via www.griffith.edu.au/law/whistleblowing.

Unless otherwise stated, legislation references in this guide are to The PID Act, while chapter and page references are from Brown 2008.

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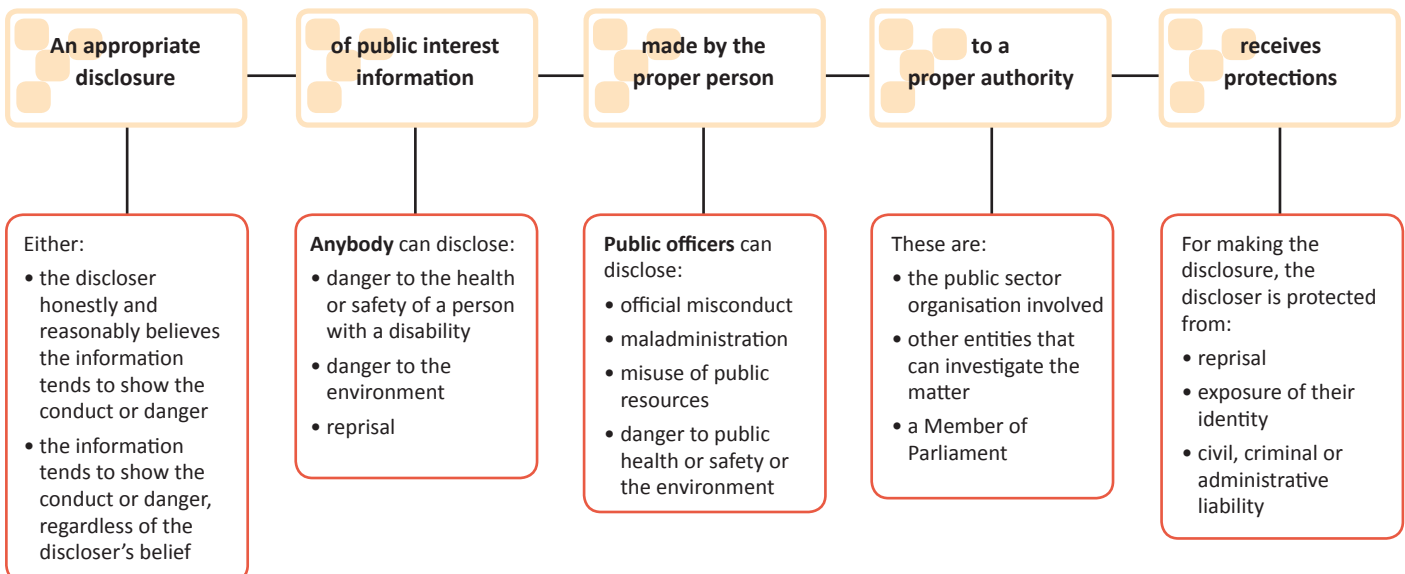
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What do I need to know about PIDs?

What is a public interest disclosure?

The *Public Interest Disclosure Act 2010* (the PID Act) aims to ensure that government is open and accountable by providing protection for those who speak out about wrongdoing or, in other words, make a public interest disclosure (PID).

The PID Act enables people to raise genuine concerns, without fear, 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 (see '[What can be disclosed?](#)' on p. 5).



Why are PIDs important?

Reporting suspected wrongdoing is vital to the integrity of the Queensland public sector.

Employees who are prepared to speak up about official misconduct, maladministration or other wrongdoing are now well recognised as one of the most important and accurate sources of information to identify and address problems that disadvantage or endanger others. Any organisation which values ethical behaviour and accountability must ensure that those who speak out about wrongdoing are protected.

From an organisation's point of view, PIDs have many benefits:

- identifying wrongdoing that needs correction as early as possible
- identifying early any weak or flawed systems which make the organisation vulnerable to loss, criticism or legal action
- avoiding financial loss and inefficiency
- maintaining a positive corporate reputation
- reducing the risks to the environment or the health and safety of employees or the community
- improving accountability.

Making a PID is in accordance with the Queensland public sector's ethical culture; specifically, acting with integrity. Public officers should be encouraged to report fraud, corruption and maladministration of which they become aware.

While the PID Act sets down a system of protection, in order for the legislation to be effective, your organisation needs to demonstrate leadership and commitment to the principles of appropriately dealing with PIDs, as well as supporting and protecting those who make them. You, as a manager, need to embrace these values and communicate them to staff (see *'Encouraging staff to disclose'* on p. 15).

If you ignore the problem, it is likely to get worse. A decision to ignore (or to not manage a PID) for any officer at any level of your organisation is potentially risky. If you as a manager do not provide a safe means for your staff to report:

- you may miss an opportunity to deal with a problem before it escalates
- your organisation's ability to deal with the information appropriately may be compromised
- your own conduct may become an issue
- the reputation and standing of your organisation may suffer
- unwelcome media attention may result in a decline in public confidence in government.

- Managers and casehandlers rank reporting by employees as the single most important trigger for uncovering wrongdoing.
- Reports by employees account for two out of every three wrongdoing cases recorded and dealt with by public sector organisations.
- Whistleblower reports are more likely to be substantiated and lead to change in an organisation than allegations or complaints from other sources.

(Chapter 2, pp. 44–45)

Receiving a disclosure about wrongdoing is a lot more common than previously believed. Data collected across Australia over a two-year period from public sector employees revealed that:

- 61 per cent of employees saw wrongdoing in their organisation which they considered serious
- 12 per cent reported some form of wrongdoing which was in the public interest.

(Chapter 2, p. 40)

How are disclosers protected?

Disclosers will be protected by your organisation and the PID Act provisions.

Your organisation must take action to protect the discloser from retribution or reprisal, such as bullying or harassment, for making a PID. Conduct amounting to a reprisal may be a breach of your code of conduct and can be dealt with appropriately, including by disciplinary processes.

In addition, the PID Act provides disclosers with the following protections:

- The discloser's identity will be protected, where possible (see '*Maintain confidentiality*' on p. 24).
- For making the PID, the discloser has immunity from:
 - civil liability (e.g. for defamation)
 - criminal liability (e.g. for breaching statutory confidentiality provisions)
 - disciplinary action, termination of employment, or any other workplace or administrative sanctions.
- Public sector entities must establish procedures to protect their staff from reprisal.
- It is a criminal offence to cause detriment to a person because it is believed that somebody has made or will make a PID.
- Disclosers have the right to apply for an injunction in the Industrial Relations Commission or Supreme Court to prevent a reprisal.
- Disclosers have the right to make a civil claim for damages for a reprisal against the person causing the reprisal or the employer of the person causing the reprisal.
- Disclosers may make a complaint about a reprisal to the Anti-Discrimination Commission Queensland (ss. 36–45).

Disclosers may face difficulties seeking compensation because of the:

- burden of establishing evidence
- costs of taking legal action
- risks of the action failing.

(Chapter 11, p. 274)

Who can make a PID?

PIDs must be made by an individual, not by an organisation or company.

Anybody, whether a public officer or not, can make a disclosure about the following and receive the protections under the PID Act (s. 12):

- danger to the health or safety of a person with a disability
- danger to the environment
- a reprisal.

All **public officers** can make a PID about the following conduct and receive the protections (ss. 13, 18, 19):

- official misconduct.

Only **public officers** of organisations other than government owned corporations can make a PID about the following conduct and receive the same protections (ss. 13, 18):

- maladministration
- misuse of public resources
- danger to public health or safety
- danger to the environment.

PIDs do not need to be voluntary; the discloser may be legally required to provide information (s. 22).

A **public officer** includes:

- Queensland government department or agency employees
- local government employees or councillors
- statutory body employees
- government appointed board or committee members
- public university or TAFE institute employees
- Members of Parliament and their staff
- judicial officers
- police officers.

For certain parts of the PID Act, a **public officer** also includes (s. 7):

- local government corporation employees
- government owned corporation employees.

Public officers may be engaged on a permanent, temporary or casual basis and may include persons engaged under a contract of service. However, it does not include volunteers and contractors.

(PID Act, s. 7)

What can be disclosed?

- Official misconduct
- Maladministration
- Misuse of public resources
- Danger to public health or safety
- Danger to the health or safety of a person with a disability
- Danger to the environment
- Reprisal

(ss. 12, 13, 18, 19)

This guide is about the unique protections the PID Act provides for PIDs. Of course, your staff should feel they are able to approach you about any type of wrongdoing that concerns them. Provide them with support, protect them from any adverse action for speaking up and make sure you address their concerns (see '[What if the report isn't a PID or there is workplace conflict?](#)' on p. 13).

Official misconduct

Official misconduct is wrongdoing by a public officer in carrying out their duties or exercising their powers. Pursuant to s. 14 of the *Crime and Misconduct Act 2001* (the CM Act), it must involve one of the following:

- dishonesty or lack of impartiality
- breach of the trust placed in a person by virtue of their position
- misuse of officially obtained information.

The most common types of wrongdoing observed by Queensland employees that *may* be the subject of a PID are:

- incompetent/negligent decision-making
- improper use of facilities/resources
- roting overtime/leave
- inadequate record-keeping.

(Chapter 2, p. 29)

The conduct must also be a criminal offence or serious enough to justify dismissal if proven (CM Act, s. 15). For example:

- stealing at work
- accepting money or another benefit in return for selecting a specific supplier of goods or services (i.e. secret commissions).

Maladministration

Defined in schedule 4 of the PID Act, maladministration is widely defined to cover an act or failure to do an act that was unlawful, unreasonable, unfair, improper, unjust, improperly discriminatory or based on a mistake of law or fact or otherwise wrong. It must adversely affect someone's interest in a **substantial** and **specific** way. Examples include unreasonable decisions about:

- your eligibility for public housing
- a planning or development application.

Substantial means: 'of a significant or considerable degree'. So, for example, conduct that puts public health, safety or the environment at considerable or great danger.

Specific means: 'precise or particular'.

Misuse of public resources

This involves a **substantial** misuse of public resources. A PID cannot be based on an individual disagreeing with policy that may properly be adopted about amounts, purposes or priorities of expenditure. Examples of PIDs include:

- negligent accounting practices
- inaccurate reporting of a program's performance information.

Danger to public health or safety

This includes any **substantial** and **specific** danger to the health or safety of the public. This includes the health or safety of individuals who are:

- under lawful care or control (i.e. students, patients, prisoners)
- using community facilities
- public or private sector services
- in a workplace. For example:
 - a nurse's negligence that results in the death of a (public or private) hospital patient
 - a company that sells contaminated products to the public.

Danger to the health or safety of a person with a disability

This includes any **substantial** and **specific** danger to the health or safety of a person with a **disability**. For example:

- carers physically or sexually abusing clients
- inadequate decision-making in respect of a mental health patient.

Under s. 11 of the *Disability Services Act 2006* (Qld), **disability** refers to a condition that results in a substantial reduction of a person's capacity for communication, social interaction, learning, mobility, or self care or management.

Danger to the environment

This refers to any conduct that is an offence, or the contravention of a condition imposed, under Queensland environmental legislation (as listed in the PID Act, schedule 2). For example:

- a shipping company discharging oil into the coastal waters of Queensland
- any person or business clearing trees without a permit.

Reprisal

A reprisal is a form of detriment to a person because it is believed that somebody has made or intends to make a PID. Examples include:

- threatening or harassing a discloser or those close to them
- discriminating against a discloser in subsequent job applications.

If you are unsure about these types of wrongdoing (e.g. when misconduct or a reprisal is *official misconduct* or when a decision can be classed as *maladministration*), contact your organisation's specialist area or another appropriate entity such as the Public Service Commission (PSC), Crime and Misconduct Commission (CMC) or Queensland Ombudsman (see '[Where can I get more information?](#)' on p. 32).

Who can receive a PID?

PIDs must be made to a proper authority, but disclosers may choose from a range of avenues, both inside and outside their organisation.

Reporting to your own organisation

An organisation's policies and procedures may establish to whom a PID may be made. However the PID Act (s. 17) provides that a PID may always be made to either:

- the organisation's CEO
- for a department, the Minister administering the department
- a member of the governing body if the organisation has one
- a person who directly or indirectly supervises the discloser
- specialist areas.

- Almost all whistleblowers (97 per cent) first disclose inside their organisation.
- Less than 12 per cent of whistleblowers ever go outside their organisation — and this is typically a last resort.
- Government watchdog agencies receive less than 4 per cent of wrongdoing reports, while MPs receive about 1 per cent.

(Chapter 4, pp. 88, 90)

If a member of your staff has information about a **public sector entity** other than your own, encourage them to disclose to the entity concerned or do so for them.

Reporting to another public sector entity

PIDs can also be made to any **public sector entity** that the discloser believes has the power to investigate and deal with the matter [s. 15(1)(a)(ii)]. Respect and support your staff if they make a PID to an appropriate external entity, and make every effort to help them deal with a PID.

Disclosures may have a number of reasons for raising a matter outside your organisation. Some of these may include:

- Their previous disclosures have been ignored.
- They are concerned about confidentiality.
- Urgent action is needed to stop serious wrongdoing.

Public sector entities include:

- state government departments and agencies
- local governments and local government corporations
- courts and tribunals (including during proceedings)
- administrative offices of courts and tribunals (e.g. registries)
- statutory bodies
- TAFE institutes and public universities
- parliamentary committees.

(PID Act, s. 6)

If the discloser’s information relates to one of the categories explained earlier in this guide, the table below will help guide the discloser to the appropriate entity to receive their report. If their information relates to more than one category (e.g. a decision that may constitute both maladministration and a misuse of public resources), the discloser has multiple external reporting avenues available to them (see ‘[Where can I get more information?](#)’ on p. 32).

When the disclosure relates to:	The appropriate entity is:
Official misconduct	→ Public organisation concerned → CMC
Maladministration	→ Public organisation concerned → Queensland Ombudsman
Misuse of public resources	→ Public organisation concerned → Queensland Audit Office
Danger to public health or safety	→ Public organisation concerned → Health Quality and Complaints Commission
Danger to public health and safety of a person with a disability	→ Public organisation concerned → Disability and Community Care Services → Adult Guardian
Danger to environment	→ Public organisation concerned → Department of Environment and Resource Management
Reprisal	→ Public organisation concerned → CMC (if related to official misconduct)

Reporting to a Member of Parliament (MP)

MPs can also receive PIDs. MPs do not have any authority to investigate PIDs, so they need to decide which public sector entity they believe can appropriately deal with the matter (s. 34).

Reporting in relation to the judiciary, local government corporations and government owned corporations

A PID concerning judicial officers can only be received by the chief judicial officer of the relevant court or tribunal (s. 16). A PID concerning officers of a local government corporation or a government owned corporation can only be received by the corporation itself (ss. 18–19). These provisions protect the independence of the judiciary, and the commercial operations of local government corporations and government owned corporations.

The exceptions to this are:

- reports of official misconduct, which can be received by the CMC
- reports of wrongdoing in court registries not relating to their judicial functions, which may be received by the Department of Justice and the Attorney-General, the Queensland Ombudsman or another appropriate entity (see ‘[Where can I get more information?](#)’ on p. 32).

Reporting to a journalist

Public sector employees have a duty to maintain appropriate confidentiality in respect of official information. The PID Act includes a provision to permit disclosures to a journalist, but only as a last resort. A PID can be made to a journalist if the organisation to which the PID was made or referred:

- decided not to investigate or deal with the disclosure
- investigated the disclosure but did not recommend taking any action
- did not notify the discloser within six months of the PID being made whether or not the disclosure was to be investigated or dealt with (s. 20).

A person who makes a PID to a journalist in compliance with these requirements receives the protections of the PID Act. However, the journalist does not receive the protections of the PID Act (e.g. against liability for defamation), nor are they bound by the requirement of the PID Act to keep matters confidential.

This provides a further incentive for organisations to better listen to disclosers, act promptly on their concerns and take all reasonable steps to protect them from reprisals. If organisations do not, allegations that are the subject of a PID can more easily be aired in the public arena. This means that as a manager, you should:

- ensure that disclosers are kept informed of what action is being taken in response to their disclosure
- inform disclosers of their rights and responsibilities in relation to making disclosures to a journalist.

Organisations that cannot receive a PID

The PID Act does not prohibit public officers from making a disclosure to any person or organisation. However, disclosers must make a disclosure to a proper authority to gain the protections available under the PID Act, such as confidentiality and immunity from disciplinary action or prosecution for making the disclosure (s. 36).

This means that, even if the disclosure is subsequently made to a proper authority, disclosures will not receive these specific protections if made to:

- the media, other than as permitted by the PID Act
- unions or professional associations
- Commonwealth Government departments and agencies
- private organisations
- organisations operating outside of Queensland.

There are two main reasons for limiting protection to proper authorities:

- to ensure that the reputation of the person(s) about whom the disclosure was made is not unfairly damaged
- to encourage disclosers to make a disclosure to public sector entities that have responsibility or power to take action.

Oversight body for management of PIDs

The PSC is the oversight body for PIDs in Queensland. It has the following functions:

- monitoring the management of PIDs, for example:
 - *monitoring compliance with the PID Act*
 - *collecting statistics about PIDs*
 - *monitoring trends in relation to PIDs*
- reviewing the way in which organisations deal with PIDs
- performing an education and advisory role.

The PSC can issue standards about the way in which organisations are to deal with PIDs (s. 60). The PSC is required to report on the operation of the PID Act yearly. The report is to contain information about the performance of the PSC in relation to its functions and requirements under the PID Act, as well as statistical information about PIDs. This replaces reporting by individual organisations and provides a more holistic view of the management of PIDs in Queensland.

Further information about the role of the PSC and the assistance available to managers can be found on the PSC's website www.psc.qld.gov.au.

Can PIDs be anonymous?

Yes. Disclosers do not have to identify themselves [s. 17(1)].

Remaining anonymous means disclosers do not identify themselves at any stage to anyone. Recognising that anonymous PIDs can provide valuable information, some organisations have established confidential hotlines for receiving such PIDs.

This means that if you receive information about wrongdoing, and do not know the source, you must assess whether you have received a PID (see '*Consider the information*' on p. 18).

However, anonymous PIDs are often more difficult to investigate. Most investigating organisations strongly encourage disclosers to identify themselves if possible.

On average, 6 per cent of reports of wrongdoing were made to organisations anonymously.¹

Do PIDs have to be in writing?

No. PIDs can be made in any way, including in person or via email.

The only exception is if your organisation's policies and procedures clearly request written PIDs.

This means that, if you receive a PID orally, it is your responsibility to clearly document the information (see '*Keep records*' on p. 27).

On average, 11 per cent of reports of wrongdoing were made orally to organisations.²

Do disclosers need supporting evidence?

Disclosers should not investigate a matter before disclosing; in fact, by doing so, they may hinder any future investigation.

The sooner disclosers raise their concerns, the easier it will be for your organisation to take action.

Even if the discloser's information turns out to be incorrect or unable to be substantiated, their PID is still protected by the PID Act if:

- they **honestly** believe on **reasonable grounds**, that their information **tends to show** the conduct or danger concerned
- the information **tends to show** the conduct or danger, regardless of what the discloser honestly believes.

Information that disclosers may provide to you in support of their allegations include:

- the names of any people who witnessed the wrongdoing or who may be able to verify the allegations or events
- correspondence or other supporting documents
- a diary of events and conversations, or file notes
- dates and times when the wrongdoing occurred.

To determine what are **reasonable grounds**, courts apply an objective test which relates to whether the reasons or basis on which the discloser has formed the belief would induce a reasonable person to form that belief.

Tends to show means that the disclosure cannot be merely a suspicion, but must contain sufficient information to indicate or support the fact that the wrongdoing or danger occurred.

However, deliberately providing false or misleading information, intending that it be acted on as a PID, is a criminal offence with a maximum penalty of two years' imprisonment or 167 penalty units (s. 66).

The first test, often called the subjective test, is the best known test and concentrates on the belief of the discloser but with the added requirement of reasonableness.

The second test, often referred to as an objective test, only takes into account the information received. This covers the situation where the discloser's motives in disclosing may be in doubt (e.g. because of workplace conduct) or where the discloser is unaware that their information is a PID.

What if the report isn't a PID or there is workplace conflict?

Public sector organisations receive a range of complaints from staff and members of the public. Only some of these matters will qualify for protection under the PID Act (see '*Consider the information*' on p. 18).

Whether the information constitutes a PID under the PID Act or not, your organisation may still need to investigate or take other appropriate action.

In addition to PID policies and procedures, the alternative mechanisms for dealing with the information include policies concerning:

- employee complaint handling
- bullying or harassment
- equal opportunity
- workplace health and safety
- disciplinary action
- performance management.

It is your responsibility to find out who within your organisation can deal with the matters raised, depending on the particular circumstances of the information. Guide staff to the most appropriate person.

Many reports of wrongdoing will involve disclosures in the public interest as well as grievances, workplace conflict, or performance management concerns. Also, bullying or harassment and workplace health and safety complaints may raise serious public interest issues that could constitute maladministration or even official misconduct.

You should respond by dealing with the issues separately. Try to distinguish between disclosures that are PIDs and disclosures about other concerns, and deal with each using the best mechanism available. This ensures that all concerns can be dealt with appropriately.

As an employer, your organisation has a duty of care to support and protect its employees from any adverse action if they report wrongdoing. Harassing a person who has reported wrongdoing can be dealt with as a disciplinary offence.

Almost half (49 per cent) of all wrongdoing observed by staff *may* not qualify as a disclosure but concerns personnel or workplace grievances. Examples observed in Queensland include:

- bullying
- sexual harassment
- racial discrimination.

(Chapter 2, pp. 29–30)

Interpersonal conflicts accounts for 46 per cent of reports about public interest wrongdoing.

(Chapter 2, p. 37)

How do I manage PIDs?

Your role

Your role, as a supervisor or manager, is vital if organisations are to effectively receive and manage PIDs.

Along with senior management, you are responsible for establishing and maintaining an ethical environment where your staff are encouraged to report wrongdoing and disclosers are protected, in line with the principles of the *Public Sector Ethics Act 1994* (Qld) and the PID Act.

Public sector organisations rely heavily on the ability of managers to recognise information which may be a PID and take appropriate action. Remember, employees do not have to nominate themselves as disclosers to gain the protection of the PID Act. Although you will generally refer PIDs to more appropriate locations in your organisation, in the majority of cases, you have the first opportunity to deal with the concern.

You must inform the discloser of support mechanisms, if needed, and identify and address any risk of reprisal that the discloser may face. Take responsibility for those concerns of which you become aware.

- When deciding whether to report wrongdoing, whistleblowers are more influenced by situational factors (including their perception of management response) than personal characteristics, attitudes or beliefs.
- Whistleblowers are most likely to raise their concerns with their supervisor (73 per cent).
- Almost all whistleblowers bring wrongdoing to the attention of management before looking elsewhere for solutions.

(Chapter 3, p. 72; Chapter 4, pp. 88, 92)

Encouraging staff to disclose

Encourage staff to adopt an ‘if in doubt, speak up’ approach by promoting a positive reporting environment.

Encourage staff to notify you of any concerns they may have, regardless of whether or not these may qualify as a PID. Apply the principles of support and protection uniformly.

In some work environments, staff are either not aware of their responsibility to speak up, or distrust official channels for making PIDs. You have a responsibility to create and support a workplace culture in which your staff feel that wrongdoing is not acceptable, and making a PID is valued and taken seriously.

Employees are more likely to disclose wrongdoing if they know that their concerns will be appropriately handled and they will be adequately protected. Also, by dealing with the matter quickly and appropriately, you minimise the risk of entrenched conflicts and damage to your organisation or workplace.

Encourage your staff to disclose by:

- raising awareness of their responsibility to disclose and how to do so
- advising them of their rights to disclose to other appropriate authorities
- letting them know that they can seek advice confidentially by phoning your specialist area anonymously
- reassuring them that reprisal will not be tolerated and that they will be protected
- ensuring supervisors know how to receive a PID
- handling PIDs in a consistent and appropriate way
- being clear about what conduct is unacceptable
- initiating disciplinary action against staff involved in reprisal
- ensuring all are familiar with your organisation’s PID policy and procedures, and code of conduct
- being visible, approachable, openly communicating and leading by example.

How do your staff view you?

Consider these comments from whistleblowers:

‘Managers were very understanding and supportive of the need to properly and thoroughly investigate.’

VS.

‘Managers viewed my action in a negative light and questioned my course of action, suggesting it would put the organisation in a negative light.’

(Chapter 9, p. 217)

Your obligations as a manager

Responding to PIDs, as well as properly dealing with and protecting disclosers, is a management responsibility.

Your organisation will have a **specialist area** or officer to support you in fulfilling your obligations. Notify them of any PIDs that you receive. If you are unsure of who to contact, speak to a Human Resources (HR) officer.

Most organisations also have policies or procedures in place to manage PIDs.

Given that in most cases disclosers are your staff, you have a duty of care to ensure that professional, respectful and safe standards of behaviour are maintained. You are legally liable not only for your own actions and behaviour, but, in certain circumstances, for the actions and behaviour of your staff. Disclosers who suffer a reprisal may seek compensation not only from the person causing the reprisal but also the person's employer (s. 43).

The employing organisation has a defence if it can show on the balance of probabilities that it took reasonable steps to prevent reprisal happening.

Also be mindful of your obligations under workplace health and safety legislation, which include ensuring your staff have a working environment free from bullying and harassment. If the discloser is subjected to detriment, initiate disciplinary action against those involved.

Your organisation's PID policies and procedures will detail who is responsible for handling PIDs and investigating information about wrongdoing. Such **specialist areas** include:

- Internal Witness Support
- Ethical Standards/Equity and Merit
- Internal Audit/Fraud Investigation/Complaints
- Human Resources/Employee Relations.

Your obligations under the PID Act

You carry primary responsibility for minimising the risk of reprisal.

Take all reasonable steps to prevent victimisation or retaliation because it is believed that somebody has made or will make a PID. Continually monitor the work environment for signs of **detriment to a discloser** and, if necessary, take corrective action early. Be mindful of how investigations are conducted, announcements are made or staff are informed of events to minimise staff drawing their own conclusions as to the identity of the discloser.

Organisations can deal with reprisal behaviour against any employee who has reported wrongdoing by taking disciplinary action. Your organisation will also have policies to deal with bullying and harassment. Contact your specialist area or HR for further information.

A reprisal is an indictable offence punishable by up to two years' imprisonment or 167 penalty units (s. 41). Ensure that you don't act in a way that could be perceived as:

- victimising, bullying, intimidating or harassing a discloser (e.g. withdrawing resources, denying them a promotion or reference, forcing them to transfer or take leave)
- acting negligently or failing to exercise your duty of care
- dealing unfairly with a discloser (e.g. inconsistent treatment of disclosers compared to non-disclosers in your organisation or in similar positions)
- acting against the discloser but not the person(s) who is the subject of a PID
- failing to properly assess and deal with PIDs in a timely manner.

A reprisal may also be official misconduct. Any suspicions of official misconduct must be reported to the CMC.

Detriment to a discloser is commonly known as a reprisal. This includes any action that:

- causes personal injury or prejudice to safety
- results in property damage or loss
- intimidates or harasses
- discriminates against or disadvantages the person's career, profession, employment, trade or business
- causes financial loss
- causes damage to reputation.

Detriment must be in response to a disclosure or an intention to make a disclosure [s. 40(1)]. Unrelated disciplinary or other work-related action against a discloser may be considered as reasonable management action and therefore not detriment under the PID Act (see s. 45).

Detriment taken against a person other than the discloser (e.g. a relative, co-worker or anybody incorrectly believed to be the discloser) is still a reprisal if taken because a PID was or will be made.

Whistleblowers generally find they are not treated badly for reporting wrongdoing. However, reprisals almost always come from the workplace, and managers (not co-workers) are likely to be responsible. About one in four whistleblowers report poor treatment:

- 13 per cent by management only
- 4 per cent by co-workers only
- 5 per cent by both.

The most common types of reprisal when they do occur include harassment, undermining of authority, heavier scrutiny of work and ostracism by colleagues.

(Chapter 5, pp. 123, 128–129)

Managing a PID — 12 steps

The rest of this section describes the PID process and provides some practical tips on how to manage PIDs in 12 steps.

As the manager of a discloser, you must:

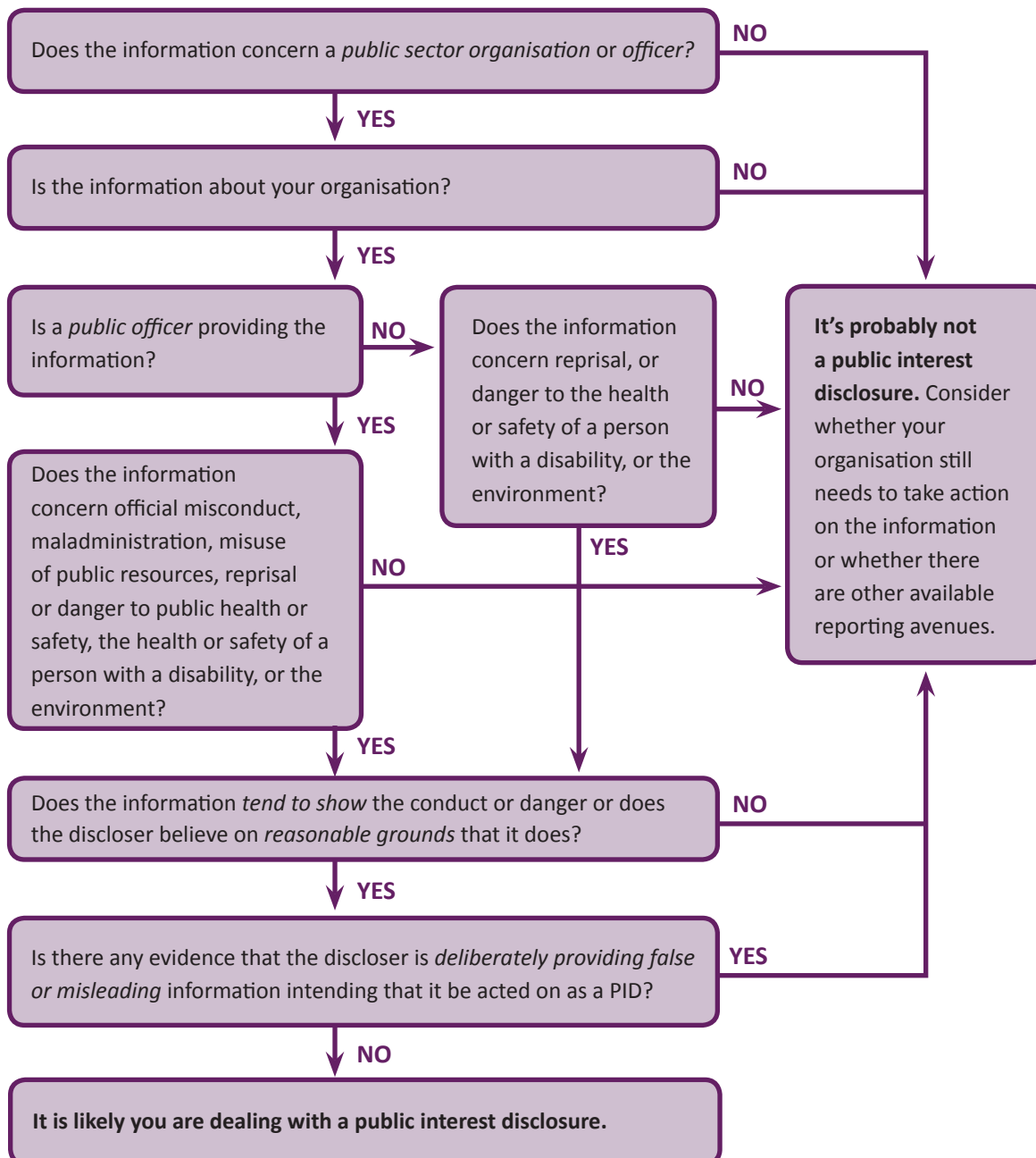
- ✓ consider the information
- ✓ refer and seek advice
- ✓ inform
- ✓ take action
- ✓ provide support
- ✓ manage expectations
- ✓ maintain confidentiality
- ✓ assess the risks
- ✓ protect disclosers
- ✓ manage the impact of any investigation
- ✓ keep records
- ✓ remember the officer who is the subject of the PID.

Consider the information

When you receive information about wrongdoing, consider whether the matter is a PID.

The flowchart on the following page will help you decide when information may be a PID. However, keep in mind that whether or not a disclosure is protected by the PID Act, your organisation may still need to investigate or take other appropriate action, as well as support and protect the person who provided the information.

Ensure you are, and are perceived to be, impartial and objective. This means you do not take sides, have a preconceived outcome in mind, or make assumptions. Consider the facts as they appear based on the information you have at hand.



An individual receives protection if their information satisfies the definition of a PID under the PID Act (ss. 11, 17). This has a number of implications:

- err on the side of caution and interpret the PID Act broadly — when in doubt, assume that a discloser is protected and act accordingly.
- you must not wait for a discloser to identify as a person making a PID under the PID Act. In some cases, your employee may not be aware that their complaint or information amounts to a PID. As their manager, it is your responsibility to identify whether or not it is, and then to tell the discloser what you have decided and explain what a PID is (see *'Inform'* on p. 21).
- a person cannot request that their information not be treated as a PID, nor do you have such discretion (if it meets the requirements of the PID Act). You must, however, treat the PID as confidential to protect the identity of the discloser (see *'Maintain confidentiality'* on p. 24).
- if the wrongdoing is believed to constitute a PID, the discloser's motives are irrelevant.

Refer any suspicions of intentionally false or misleading information to your organisation's appropriate specialist area (see *'Your obligations as a manager'* on p. 16) or HR officer for them to consider taking disciplinary action in response.

Refer and seek advice

Dealing with PIDs requires a partnership between you, other levels of management and investigators.

Handling and investigating PIDs must be well managed and carried out by trained and experienced staff, generally from your organisation's specialist area.

Liaise with your specialist area immediately after receiving a PID, or if you suspect or become aware of reprisal action against a discloser, they will guide you on how to proceed. Do not attempt to gather evidence first as this may prematurely alert the person(s) about whom the allegation has been made or compromise any later investigation.

Tell your supervisor about all PID matters, even when you feel you have the authority and competence to deal with them yourself.

You are not breaching your confidentiality obligations by discussing the PID with your organisation's specialist area or your supervisor because they 'need to know'. The only times you should not advise them are if they are involved in the wrongdoing, have knowingly allowed it to continue, or they have a close relationship with the alleged wrongdoer. If this is the case instead, consider advising your CEO or an appropriate external entity.

Referring the PID to others does not negate your responsibility for managing the discloser. Remember that your role continues even if your specialist area is taking action, such as investigating the PID (see '*The process is ongoing*' on p. 30). You must ensure that the discloser can work in a safe environment, free from reprisal.

According to public sector organisations, the most common investigators of wrongdoing are:

- senior managers
- CEOs
- human resource units
- internal audit/fraud investigation units
- external government entities.

(Chapter 8, p. 184)

Inform

The PID Act requires your organisation to give reasonable information about the PID to the discloser (s. 32).

A discloser can easily become concerned or dissatisfied if they feel they are being left in the dark or that nothing is happening. Under the PID Act, organisations are required to provide the discloser with reasonable information about the PID. The minimum is:

- confirmation the disclosure has been received
- a description of the action proposed to be taken
- if action has been taken, a description of the results of the action.

The information must be given to the discloser in writing. Further information may be prescribed by a standard issued under s. 60 of the PID Act. In any event, best practice would require that managers, in consultation with specialist areas, ensure that a discloser also understands:

- that their information is a PID and what this means
- what you have done or intend to do (e.g. notifying others)
- likely timeframes
- their involvement in the process (e.g. providing further information to investigators)
- the protections that will apply
- their responsibilities (e.g. maintaining confidentiality except when seeking support)
- that your organisation will keep their identity confidential except in certain circumstances
- how they will be updated on progress and outcomes
- who to contact if they want further information or are concerned about reprisal.

Answer any questions or concerns the discloser may raise. You can also refer them to:

- your organisation's PID policy or procedures
- other support networks or services (see '[Provide support](#)' on p. 22)
- *Making a public interest disclosure: a guide for individuals working in the public sector.*

Balance the requirement to inform the discloser with the need to maintain confidentiality (see '[Maintain confidentiality](#)' on p. 24). Be careful not to release information if it will impact upon:

- anyone's safety
- the investigation of the allegation
- the confidentiality of the person(s) who is the subject of a PID.

Take action

You must respond to a PID, but resolution of the matter may not require a formal investigation.

Tailor your response to fit the circumstances, in consultation with your organisation's specialist area.

Your options include:

- providing an explanation to the discloser (e.g. if the discloser was not aware of all the circumstances surrounding an action which appeared to be improper)
- increased supervision or performance management strategies, guidance or counselling, or specific training
- mediation or conciliation
- an internal audit
- a review of an issue or the operations of a particular unit
- implementing or changing policies, procedures or practices
- a formal investigation of the allegations
- referral to an appropriate external entity.

56 per cent of whistleblowers state that their allegation was investigated.

(Chapter 5, p. 113)

Provide support

Given that reporting wrongdoing is rarely an easy experience, support — both informal and professional — is essential for a discloser.

If their needs are met, and the procedures used are seen as fair, disclosers are more likely to accept your organisation's decision about their information, even in cases where the outcome is unfavourable for them. Matters tend to escalate when disclosers believe they have been ignored or not been taken seriously.

43 per cent of whistleblowers report negative impacts. These include:

- less trust in their organisation
- disempowerment or frustration
- increased stress, anxiety or mood swings.

(Chapter 5, p. 133)

Disclosers have needs as individuals — to be heard, understood and respected. The Wood Royal Commission into police corruption noted that 'the most conspicuous needs' of disclosers were for:

- more personal contact at an early stage
- greater support from supervisors
- appreciation for their action by the organisation.

(Wood, JRT 1997, *Final report of the Royal Commission into the New South Wales Police Service Volume II: Reform*, Government of New South Wales, Sydney, p. 375)

Provide active support for the discloser, including:

- acknowledgment for having taken the step to come and see you
- an assurance that they have done the right thing and your organisation appreciates it
- a clear offer of support — ‘I will help you with this’
- an assurance that you will take all reasonable steps necessary to protect them
- an undertaking to keep them informed of what is happening.

Ask your organisation’s specialist area for information on what support your organisation provides. Specialist areas are a good source of information for the discloser regarding the investigation process and outcomes. However, it is important that the discloser understands that the person investigating the PID must remain impartial and, based on the evidence at hand, may sometimes reach a conclusion that the discloser is not expecting.

Disclosers normally rely on some of the following for support:

- internal witness or discloser support programs
- co-workers
- family and friends
- unions/professional associations
- Employee Assistance Programs which provide staff with access to professional counselling services.

Around one in 10 organisations have formal internal systems to support whistleblowers.

(Chapter 9, p. 207)

The most common sources of support for whistleblowers are:

- work colleagues
- family
- unions/professional association
- supervisors
- counsellors.

(Chapter 9, p. 215)

Ensure the discloser knows what support is available to them, apart from you. Arrange a support network for the discloser; for example, appoint a mentor or peer support officer in the discloser’s workplace who can not only act as a sounding board and provide positive reinforcement, but attend interviews or meetings with the discloser. Your organisation may even have a peer support network.

Discuss possible sources of assistance with the discloser and seek their agreement for you to divulge their identity so you can arrange support. Advise the discloser that they can discuss their situation and the PID process with support persons, but ask them not to provide information that would identify those involved with the PID or information that they have a duty to keep confidential.

If a discloser or another employee sustains an injury (including a psychological injury) which could have been prevented because, for example, your organisation as an employer failed to take reasonable steps to support them, your organisation may be liable. The discloser may be able to seek compensation under the *Workers’ Compensation and Rehabilitation Act 2003* (Qld) or at common law.

Also be aware that you may find the experience difficult and stressful. If needed, seek support for yourself.

Manage expectations

While research shows that the majority of disclosers generally find that they are not treated badly for disclosing (see p. 15), the discloser needs to be prepared for what may be a difficult process.

Discuss with the discloser what outcome they want, whether their expectations are realistic and what your organisation will be able to deliver. Reassure the discloser of the value of their role in bringing the information to light, but stress that it is now the responsibility of the organisation to resolve the matter.

Work with your specialist area to manage the expectations of the discloser. They have a role in providing information about how investigations will proceed, including likely timeframes and possible outcomes.

The majority of whistleblowers are not satisfied unless an investigation confirms their disclosure and the organisation takes action in response.

(Chapter 5, p. 118)

Given that a discloser with unreasonably high expectations may quickly become dissatisfied, the sooner this conversation begins, the better.

Maintain confidentiality

Confidentiality not only protects the identity of the discloser and the rights of those who are the subject of a PID, but also maintains the integrity of your organisation's reporting system.

A breach of confidentiality is a criminal offence carrying a maximum fine of 84 penalty units [s. 65(1)]. Make every reasonable effort to maintain confidentiality.

Any person who gains confidential information under the PID Act must not disclose the information, intentionally or recklessly, other than under the PID Act or other legislation, or for court proceedings. Confidential information includes:

- information about the identity, occupation, residential or work address or whereabouts of a discloser or the subject(s) of a PID
- the information disclosed in the PID
- information about an individual's personal affairs
- information that, if disclosed, may cause detriment to a person(s) [s. 65(7)].

Staff can make inferences about a discloser's identity from all sorts of information. Great care needs to be taken when talking about the matter to others, such as referring to the discloser as 'the person' instead of 'he' or 'she'. Be careful about when and how you talk to the discloser to avoid alerting others.

Be mindful of how announcements are made or staff are informed of events to minimise staff drawing their own conclusions about the identity of the discloser. Remain alert to staff trying to identify the discloser through informal channels.

Regardless of the care taken, there may be cases where the identity of the discloser is not confidential. To assess this, ascertain whether:

- the discloser has complained about the issue or flagged their intention to disclose to colleagues
- the information, or the issues raised, can easily be traced to the discloser
- the issues raised cannot be investigated with procedural fairness without identifying the discloser (see *'Remember the officer who is the subject of the PID'* on p. 28).

If confidentiality is compromised or you believe that it will be, liaise with your organisation's specialist area for further assistance on how to manage the situation.

If the identity of a discloser needs to be revealed to ensure procedural fairness, you **must** assess whether identifying the discloser would expose them to harm or whether the discloser fears that it would. The discloser must be informed beforehand and the reasons explained.

Assess the risks

You have a responsibility, whenever you receive a PID, to assess the risk of reprisal.

Commence an assessment of risk as early as possible. Steps to take include:

- ask the discloser whom they have told and how they think those involved might respond.
- ascertain the likelihood of confidentiality being maintained (see *'Maintain confidentiality'* on p. 24)
- explore the likelihood that anyone would want, and have the opportunity, to commit a reprisal
- consider the history of your work unit in reacting to disclosures
- check with your organisation's specialist area to see if your organisation has an established risk assessment process and inform them of your conclusions
- mitigate risks to protect the discloser
- plan how you can best monitor the situation for problems that may arise.

Discussing risks with disclosers may discourage them, or be perceived as a warning to withhold their information, so be sensitive.

Disclosers may be at a higher risk of reprisal if:

- the investigation is unlikely to be substantiated
- the wrongdoing is serious and occurs frequently
- the investigation is conducted outside the organisation
- the discloser became aware of the wrongdoing because it was directed at them
- the wrongdoer is more senior than the discloser
- there is more than one wrongdoer
- the discloser's immediate work unit is small.

(Chapter 6, pp. 147–150)

Protect disclosers

Take practical action to prevent, stop and correct any disadvantage to the discloser.

Listen and respond to any concerns about reprisal the discloser may have, and keep records. Each allegation of reprisal must be assessed separately to the initial information (see '*Consider the information*' on p. 18).

Do not wait for a complaint of victimisation; actively monitor what is going on in the workplace, anticipate problems and nip them in the bud. If you fail to ensure a safe working environment for the discloser, you may be breaching your duty of care obligations.

Immediately notify your organisation's specialist area of any form of detriment against a discloser. Do not conduct inquiries or gather information yourself; the detriment may be a criminal offence or official misconduct and your actions may compromise a subsequent investigation. Your organisation also has the power to treat such behaviour as a disciplinary offence, or to deal with it under its bullying and harassment policies.

Your response to the alleged reprisal will depend on its seriousness and other circumstances. The most common forms of discloser harassment require *you* to take action as soon as you become aware of the conflict. By ignoring or not challenging harassment, you are in effect authorising it and problems are likely to escalate.

Actions you may take to resolve conflict include:

- exercising independent judgment and setting an example for staff
- confronting general workplace prejudices about whistleblowing
- reminding staff that they all must report wrongdoing
- reinforcing the role of management to resolve the situation
- providing advice or guidance
- increasing your supervision of the workplace.

If, as a manager, you believe the matter is potentially serious enough to require significant action such as transfer, relocation, a leave of absence, physical protection or an injunction, discuss your concerns and options with your specialist area.

Manage the impact of any investigation

While your organisation's specialist area is likely to manage any investigation itself, you will need to manage the *impact* of any investigation.

When the existence of an investigation becomes generally known to staff (as it usually does once staff start being interviewed), reactions, emotions and morale can vary considerably. Some staff may welcome action being taken, while other staff may not. As a result, workplace tensions may arise.

You are uniquely placed to anticipate staff responses. Be vigilant in preventing gossip and innuendo about the alleged wrongdoing and those involved by keeping the channels of communication open. Staff will be looking to you for information, reassurance and leadership.

If confidentiality has already been compromised, your role may involve:

- letting staff know that information about wrongdoing has been provided
- allowing staff to talk about what's happened and air their feelings
- explaining to any potential witnesses why they are being interviewed and encouraging them to assist the investigator
- encouraging staff to approach you if they have any questions
- indicating when further information is likely to be available.

Keep records

Records ensure that all action taken regarding the receipt and processing of a PID is reviewable.

Details about how and when a PID was made must be comprehensively recorded and kept in a secure place. Also document all follow-up conversations where the PID is discussed.

Make sure your records are factual and free from unnecessary statements such as observations, sentiment or personal opinions. If the PID was made orally, ensure that your written version of the PID is accepted as accurate by the discloser.

If the discloser has made notes, ask for a copy of these. In addition, note any documentary evidence that may exist to support the information, but do not interfere with this evidence in any way. If you are concerned that documentary evidence may be destroyed unless it is secured urgently, contact your specialist area or an appropriate external entity to discuss your concerns.

Remember the officer who is the subject of the PID

Of all the parties involved, the employee(s) about whom the PID was made is likely to find the PID experience most stressful, so ensure you do not forget their rights.

Liaise with your organisation's specialist area about when to approach the person(s) who is the subject of the PID [the subject officer(s)] — do not alert them if this would adversely affect or compromise an investigation. In some cases, it may be better for someone else to advise the subject officer(s); for example, the investigator or a more senior departmental officer than you.

Confidentiality

In addition to protecting the identity of the person making a PID, under the PID Act, you must also protect the identity of the subject officer(s) [s. 65(7)(a)(B)].

Natural justice

The subject officer(s) must be accorded natural justice. Also known as procedural fairness, natural justice should be managed by the specialists investigating the PID. However, you need to understand the principles involved. It means that the subject officer(s) has the right to:

- know about the substance of the allegations if a decision is going to be made about their conduct
- have a reasonable opportunity to put their case forward (whether in writing, at a hearing or otherwise)
- have a decision-maker act fairly and without bias.

However, affording natural justice **does not** mean that you must advise the subject officer(s) of the allegation as soon as it is received. Furthermore, the subject officer(s) need not be told about the allegation if it is misleading or of no substance and you do not intend to act on the allegation.

You can only provide the name of the discloser if it is *essential* to do so to afford the subject officer(s) natural justice *and* it is unlikely that a reprisal will be taken against the discloser [s. 65(5)].

Support

Once it is appropriate to advise the subject officer(s), reassure them that the PID will be assessed impartially, objectively and reasonably, and is only an allegation until evidence collected shows otherwise. Provide them with information about their rights, and the progress and outcomes of any investigations. Also, consider referring the person(s) to an Employee Assistance Program to ensure that they receive appropriate support (see '[Provide support](#)' on p. 22).

Continue managing

Making a PID does not shield disclosers from the reasonable consequences flowing from unsatisfactory performance or wrongdoing on their part.

You may need to take **management action** against a discloser for unsatisfactory performance or wrongdoing that:

- they have revealed in their PID
- is completely unrelated to their PID.

In some cases, the discloser may perceive that management action is being taken in retaliation for making the PID. The PID Act permits a manager to take reasonable management action provided the reason for taking that action does not include the fact that the employee has made a PID.

Therefore, whenever you are contemplating taking management action against a discloser, you must be able to clearly demonstrate that:

- there are sufficient grounds
- the action is reasonable, proportionate and consistent with similar cases
- you have taken into account the discloser's particular circumstances
- you are not taking management action because they have made a PID.

Reasonable **management action**, taken by a manager in relation to an employee who has made a PID, includes any of the following:

- a reasonable appraisal of work performance
- a reasonable requirement the employee undertake counselling
- a reasonable suspension
- a reasonable disciplinary action
- a reasonable action to transfer or deploy the employee
- a reasonable action to end employment by redundancy or retrenchment
- a reasonable action in relation to a failure to obtain a promotion, reclassification, transfer or benefit.

[s. 45(3)]

Follow your organisation's established procedures for taking the action, such as performance management, diminished performance or disciplinary policies. Consult with your organisation's HR section about how to take management action against the discloser. Also, thoroughly document the process. Take great care to record all actions and contact relating to the discloser.

If you cannot demonstrate that your action is reasonable, you leave yourself open to allegations of committing a reprisal against the person for making a PID. Given that this is a criminal offence under the PID Act (s. 41), seeking advice from your specialist area is critical.

If you need to performance-manage a discloser, ask yourself:

- Are the problems affecting a discloser's work performance related to the stress of making a disclosure or to other extenuating circumstances?
- Was the discloser aware of your expectations and standards? What proof is there?
- Are issues based on fact/evidence/objective assessment or on speculation/personal opinion/hearsay?
- Have I given the discloser:
 - an opportunity to respond?
 - time and assistance to improve?
 - access to training, resources or support?
- Have I kept adequate and accurate records?

The process is ongoing

Providing support and information to the discloser and your staff needs to be ongoing.

Meet with the discloser periodically or any time something significant occurs (e.g. the start or completion of an investigation, when any decisions are made, the return of the subject officer to the workplace) to:

- advise them of progress
- ensure that they are not suffering any detriment
- obtain any further information that may be relevant.

The whistleblowers who are best informed about the outcomes of investigations are those most likely to think the outcomes are satisfactory.

(Chapter 5, p. 118)

Some disclosers feel dissatisfied if an investigation is unable to substantiate their information and they believe, rightly or wrongly, that their information is true. If this is the case:

- provide sufficient information to ensure the discloser understands why their PID wasn't upheld
- remind the discloser of the important role they have played and the value of making a PID
- let the discloser know if their information has helped your organisation identify broader problems or prevent similar wrongdoing in the future
- inform the discloser of any internal right of review in your organisation.

If a PID is substantiated, advise the discloser of this and what action your organisation will take in response. This may include:

- stopping the matter or preventing it from recurring (e.g. providing training and awareness, introducing new technology)
- implementing or changing policies, procedures or practices
- offering mediation or conciliation
- taking disciplinary action against the person(s) responsible for the matter
- referring the matter to the Queensland Police Service or another person, organisation or entity that has the power to take further action (e.g. initiating legal proceedings against those involved in criminal activity).

Regardless of the outcome, the discloser still receives the protections under the PID Act. Continue to support the discloser for having done the right thing by bringing the matter to your attention.

Once a matter is finalised, debrief other staff in your workplace individually or in groups to:

- clarify any decisions or outcomes, without breaching confidentiality
- emphasise the opportunities to learn from the situation.

Checklist for handling a PID

After receiving a PID, ask yourself ...

- Have I liaised with my organisation's specialist area?
- Have I asked for advice, support and help?
- Do I understand my organisation's policies or procedures for handling PIDs?
- Have I provided the discloser with enough information?
- Am I supporting the discloser, as well as linking them to other sources of support?
- Does the discloser have realistic expectations about the investigation, its outcome and likely timelines?
- Have I proactively assessed the risk of detriment?
- Have I maintained confidentiality? Do I need to take other action to ensure the discloser is protected?
- Am I monitoring the work environment for signs of stress, rumours or detriment?
- Am I documenting everything so that it can be reviewed if necessary?
- Have I considered the needs of the person(s) against whom the PID was made?

Where can I get more information?

All contact details correct as at publication (2011).

For advice about making a PID:

See your own organisation's policy or *Making a public interest disclosure: a guide for individuals working in the public sector*.

For advice about managing a PID program:

See *Managing a public interest disclosure program: a guide for public sector organisations*.

For the most up-to-date version of the PID Act:

See the Queensland Government legislation website: www.legislation.qld.gov.au

For advice on official misconduct:

Crime and Misconduct Commission

Phone: (07) 3360 6060	Address: Level 2, North Tower, Green Square
Toll free: 1800 061 611 (outside Brisbane)	515 St Pauls Terrace
Fax: (07) 3360 6333	Fortitude Valley QLD
Email: mailbox@cmc.qld.gov.au	Postal: GPO Box 3123
Web: www.cmc.qld.gov.au	Brisbane QLD 4001

For advice on matters of state and local government administration:

Queensland Ombudsman

Phone: (07) 3005 7000	Email: ombudsman@ombudsman.qld.gov.au
Toll free: 1800 068 908 (outside Brisbane)	Address: Level 17, 53 Albert Street
Fax: (07) 3005 7067	Brisbane QLD
Web: www.ombudsman.qld.gov.au	Postal: GPO Box 3314
	Brisbane QLD 4001

For advice about your rights and obligations under the PID Act or standards issued under the PID Act:

Public Service Commission

Phone: 1300 038 472	Address: Level 13, 53 Albert Street
Fax: (07) 3224 2635	Brisbane QLD
Email: pscenquiries@psc.qld.gov.au	Postal: PO Box 15190
Web: www.ethics.qld.gov.au	City East QLD 4002

For advice about a health service complaint:

Health Quality and Complaints Commission

Phone:	(07) 3120 5999	Email:	info@hqcc.qld.gov.au
Toll free:	1800 077 308 (outside Brisbane)	Address:	Level 17, 53 Albert Street Brisbane QLD
TTY:	(07) 3120 5997	Postal:	GPO Box 3089 Brisbane QLD 4001
Fax:	(07) 3120 5998		
Web:	www.hqcc.qld.gov.au		

For advice about discrimination and complaints about reprisal:

Anti-Discrimination Commission

Phone:	1300 130 670	Email:	info@adcq.qld.gov.au
Toll free		Address:	Level 17, 53 Albert Street Brisbane QLD (Brisbane Office)
& TTY:	1300 130 680	Postal:	PO Box 15565 City East QLD 4002
Fax:	(07) 3247 0960		
Web:	www.adcq.qld.gov.au		

Contact the Commission for the locations of their regional offices throughout Queensland.

For advice on matters of the environment:

Department of Environment and Resource Management

Phone:	137 468	Email:	dermcomplaints@epa.qld.gov.au
TTY:	133 677	Postal:	GPO Box 2454 Brisbane QLD 4001
Web:	www.derm.qld.gov.au		

Contact the department for the locations of their regional offices throughout Queensland.

For advice on matters of financial management:

Queensland Audit Office

Phone:	(07) 3149 6000	Address:	Level 14, 53 Albert Street Brisbane QLD
Fax:	(07) 3149 6011	Postal:	GPO Box 1139 Brisbane QLD 4001
Email:	enquiries@qao.qld.gov.au		
Web:	www.qao.qld.gov.au		

For advice on matters relating to a person with a disability:

Disability and Community Care Services

Phone:	(07) 3224 7179	Email:	complain@disability.qld.gov.au
Web:	www.communities.qld.gov.au	Postal:	GPO Box 806 Brisbane QLD 4001

Contact the department for the locations of their regional offices throughout Queensland.

For advice on matters relating to children or young people:

Commission for Children and Young People and Child Guardian

Phone:	(07) 3211 6700	Address:	Level 17, 53 Albert Street
Toll free:	1800 688 275		Brisbane QLD
Fax:	(07) 3035 5900	Postal:	PO Box 15217
Web:	www.ccypcg.qld.gov.au		City East QLD 4002

For advice on matters relating to adults with an impaired capacity:

Adult Guardian

Phone:	(07) 3234 0870	Email:	adult.guardian@justice.qld.gov.au
Toll free:	1300 653 187	Address:	Level 3, Brisbane Magistrates Court
TTY:	(07) 3406 7711		363 George Street
Fax:	(07) 3239 6367		Brisbane QLD
Web:	www.justice.qld.gov.au/justice-services/guardianship/adult-guardian	Postal:	PO Box 13554, George Street
			Brisbane QLD 4003

For advice about local governments:

Department of Local Government and Planning

Phone:	(07) 3227 8548	Address:	Ground Floor
Fax:	(07) 3224 4683		63 George Street
Web:	www.dlgp.qld.gov.au		Brisbane QLD
Email:	info@dip.qld.gov.au	Postal:	PO Box 15009
			City East Brisbane QLD 4002

For advice on criminal conduct in public or private organisations:

Queensland Police

Contact your local police station.
Web: www.police.qld.gov.au

For advice on disclosures in Commonwealth organisations:

Australian Public Service Commission's Employment Policy Adviceline

Phone: (02) 6202 3859
Email: employmentadvice@apsc.gov.au

About the research

The research in this guide is based on findings drawn from the *Whistling While They Work, Whistleblowing in the Australian public sector* (ed. AJ Brown 2008, ANU E Press, Canberra). This national research project aimed to enhance the theory and practice of internal witness management in public sector organisations. Under the leadership of Griffith University, researchers from five leading universities and 14 partner organisations from across Australia were involved.

The research comprised:

- a survey of public sector agencies ($n = 304$, response rate = 40 per cent)
- a survey of a random sample of public sector employees ($n = 7663$, response rate = 33 per cent)
- a survey of internal witnesses ($n = 240$, response rate = 53 per cent)
- interviews with internal witnesses
- a survey of public sector casehandlers ($n = 315$, response rate = 19 per cent) and managers ($n = 513$, response rate = 17 per cent)
- interviews with casehandlers and managers
- a survey of integrity agencies ($n = 16$, response rate = 67 per cent) and their employees ($n = 82$, response rate = 27 per cent).

The majority of research presented in this guide uses data collected in the jurisdictions of Queensland, New South Wales, Western Australia and the Commonwealth. Where findings in this guide are specific to Queensland, this is noted.

The research defined a 'whistleblower' as:

- a discloser of *public interest* information (as opposed to personnel or workplace grievances)
- a *discretionary* discloser (as opposed to reporting being part of their normal professional responsibility).

The findings of any research are dependent on the methodology used and the information collected. Consequently, when considering the research findings, remember:

- While a large number of agencies participated in this research, many elected not to. Agencies with poorer systems in place *may* have been less likely to participate. Therefore the results presented may provide a 'best case scenario' of the way whistleblowing is managed.
- The extent that the respondents are representative of any individual agency is also unknown.
- Former employees were not included in the sample of employees surveyed.
- The surveys rely on the self-reported perceptions of respondents.

The final report of the project, *Whistling while they work: towards best practice* (Roberts, Olsen & Brown 2009) is available free online. It provides more detail on practical solutions for encouraging public interest disclosures in agencies, as well as new model procedures for managing whistleblowing.

For more information on the project, visit www.griffith.edu.au/law/whistleblowing.



¹ Based on independent analysis of the Whistling While They Work research data conducted by the CMC in 2008.

² *ibid.*

Acknowledgment: We gratefully acknowledge the Office of the Public Sector Standards Commissioner in Western Australia and the New South Wales Ombudsman. Sections of this guide have been adapted from or informed by their publications.

Disclaimer: This publication has been developed to help individuals who may receive a disclosure. However, it is a guide only and should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases.



Crime and Misconduct
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www.cmc.qld.gov.au



Queensland
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