

Public Interest Disclosure Management Guide to Internal and External Review Rights

The Office of the Queensland Ombudsman, as the oversight agency under the *Public Interest Disclosure Act 2010* (the PID Act), has developed this tool to assist agencies to comply with the requirements of the PID Act and the Public Interest Disclosure standards.

This guide provides a general outline of the points at which a party to a public interest disclosure (PID) has a right to seek an internal or external review. This guide should be read in conjunction with the **Model Public Interest Disclosure Management Process Guide**.

The Public Interest Disclosure Team at the Office of the Queensland Ombudsman provides guidance to agencies around the interpretation and application of the PID Act. You are welcome to contact the PID Team by email through PIDAdmin@ombudsman.qld.gov.au.

INFORMATION RECEIVED

Is the information a PID?

Action

Assess the information received to determine whether it meets the tests under section 12, section 13 or section 19 of the PID Act. If in doubt, treat the disclosure as a PID and apply the PID Act to the management of the disclosure.

If the information does not meet the test of a PID, make and keep a written record of the assessment decision, including the factors considered in reaching a determination.

Manage the information in accordance with the complaints management system, employee grievance procedure or other relevant policy.

Review

There is no right to review under the PID Act should the complainant be dissatisfied with the decision not to assess the information as a PID. However, as this is an administrative decision, they can pursue a complaint through the relevant internal complaints process (i.e. administrative actions complaints process or general complaints management system). If the complainant is an employee, the complaint could be dealt with through the relevant employee grievance process.

Once all rights of internal review have been exhausted, the complainant may make a complaint to the Queensland Ombudsman under the *Ombudsman Act 2001* if they remain dissatisfied.

MANAGING THE PID

Decide whether to decline to deal with the PID under section 30 of the PID Act?

Action

If the information is assessed as a PID the entity must decide whether or not to investigate or deal with it. Under section 30(1) of the PID Act, agencies may decide not to investigate or deal with a PID if:

- it has already been investigated or dealt with
- it should be dealt with by another appropriate process
- the age of the information makes it impracticable to investigate
- it is too trivial to warrant investigation and dealing with it would substantially and unreasonably divert resources
- another entity that has jurisdiction to investigate has advised that an investigation is not warranted.

Review

Under section 30(2) of the PID Act agencies must give written reasons for a decision to decline to deal with a PID under section 30 to the discloser. Section 30(3) of the PID Act provides that a discloser who receives a written decision under section 30(2) can apply to the chief executive of the agency for a review of the decision within 28 days after receiving the written reasons. PID Standard 2/2019 requires the agency to inform the discloser of their review rights.

Once all rights of internal review have been exhausted, the discloser may make a complaint to the Queensland Ombudsman under the *Ombudsman Act 2001* if they remain dissatisfied.

FINALISE MANAGEMENT OF PID

Is a party to the PID process dissatisfied with how the PID was managed?

Action

Review

Manage the PID in accordance with the PID Act, PID standards and the agency's PID procedure. In accordance with Standard 2/2019:

- provide information to the discloser
- assign a Support Officer and provide appropriate support
- assess the risk of reprisal and develop a risk management plan if required
- monitor and manage reprisal
- afford natural justice.

Inform the discloser in writing of the action taken and a description of the results of the action as required by section 32(2) of the PID Act.

There is no right of review under the PID Act should the discloser, subject officer or another party be dissatisfied with how the PID was managed or the outcome. However, as this is an administrative decision, they can pursue a complaint through the relevant internal complaints process (i.e. administrative actions complaints process or general complaints management system). If the party is an employee, the complaint could be dealt with through the relevant employee grievance process.

Once all rights of internal review have been exhausted, the discloser may make a complaint to the Queensland Ombudsman under the *Ombudsman Act 2001* if they remain dissatisfied.