



QUEENSLAND  
**OMBUDSMAN**

*Standing for fairness*

# Public Interest Disclosures: Rights and responsibilities of employees

The Office of the Queensland Ombudsman is an independent agency responsible for overseeing implementation of the *Public Interest Disclosure Act 2010*, or PID Act.

The PID Act is an important part of the integrity framework within the Queensland public sector. This office has been given a range of responsibilities to **provide advice and assistance to agencies** to ensure they have appropriate systems in place to support staff making public interest disclosures.

This video, which is aimed at public officers, sets out disclosure rights and responsibilities if they make a public interest disclosure.



# What is a PID?

People generally know when something is wrong, or when another person in their organisation is not doing things the way that they should be.

The PID Act provides a way for people to **disclose information about serious wrongdoing** in the public sector, and to ensure they are appropriately **protected when they do**.

People who report wrongdoing are doing the right thing because:



- wrongdoing such as fraud and corruption increases the cost of providing public services
- alerting an organisation to wrongdoing provides senior officers with an opportunity to fix it, and
- it's in everyone's interests that dangers to public health and safety or to the environment are dealt with

The PID Act applies to a range of entities within the Queensland public sector, including:



- state government departments
- local councils
- public authorities
- public universities
- and, to a limited extent, state government owned corporations.



# Who can make a PID?

There are two types of PIDs that can be made.

PIDs that any person can make, and PIDs that only public officers can make.

Any person can make a PID about:

- substantial and specific danger to the health and safety of a person with a disability
- substantial and specific danger to the environment
- reprisal as a result of making a previous PID

## Public officers can make PIDs about additional types of wrongdoing.

An agency's PID coordinator will be able to advise on whether or not a particular employment arrangement is subject to the PID Act.

Public officers are employed by a public sector entity in Queensland and include:

- a paid employee, member or officer of the entity
- a person on a contract of service (for example, engaged on a temporary basis to fill a position, possibly through a labour hire company)

For the purposes of the PID Act, a person is not considered to be a public officer if they:

- are a volunteer, unpaid trainee or work experience student
- are employed on a contract for service (for example, they may be engaged for their specialist skill or expertise on a particular project)



# What is the PID about?

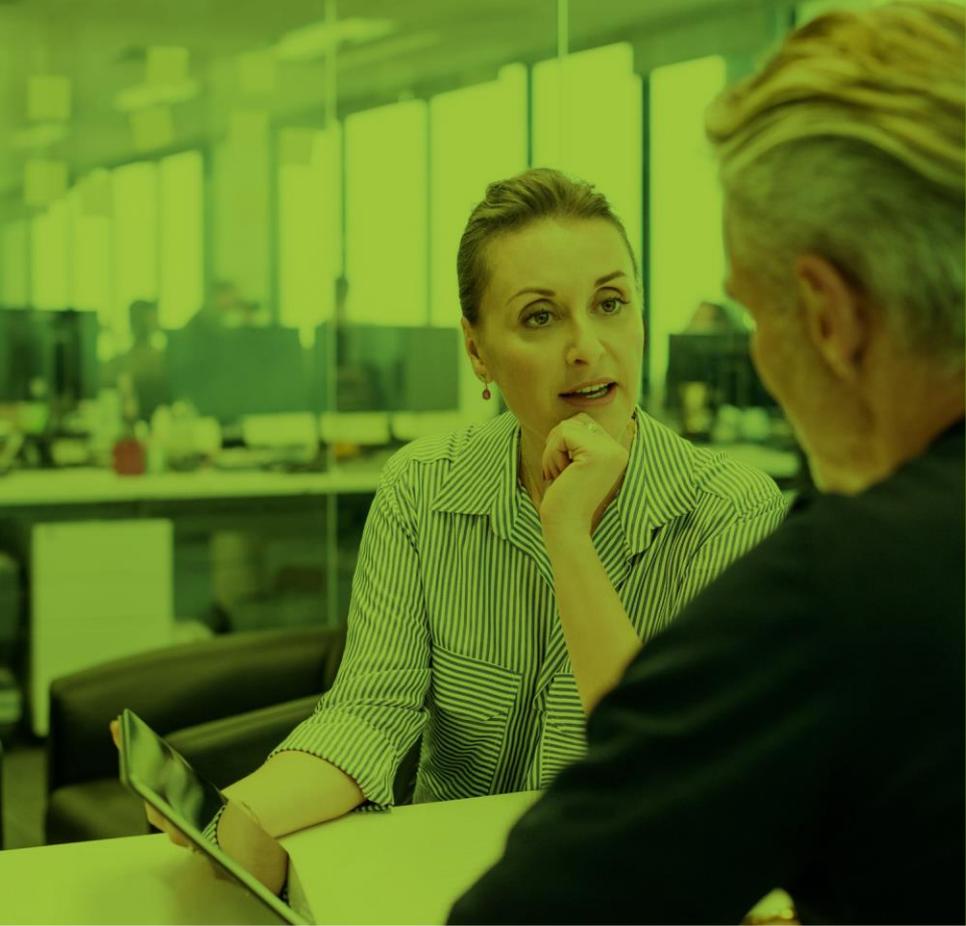
In addition to the PIDs that any person can make, public officers can also make PIDs about:

- Corrupt conduct, for example criminal conduct such as fraud or assault; appointing a family member without following the appropriate recruitment process
- Maladministration that adversely affects a person's interests in a substantial and specific way – for example, making a decision that is unlawful or discriminatory; or failing to act on a complaint of harassment or unfair treatment
- Substantial misuse of public resources, for example the purchase of unnecessary goods or services
- Substantial and specific danger to public health or safety, for example not following infection control or equipment sterilisation requirements
- Substantial and specific danger to the environment, for example committing an offence under a piece of environmental legislation

In order to make a PID, a person must have either:

- an honest belief on reasonable grounds that wrongdoing has occurred, or
- have information which tends to show the wrongdoing. Even if they don't have any evidence about the wrongdoing, that they believe has or will occur, they can still report the matter.

It is an offence to intentionally make a false or misleading PID.



Where  
do I report  
a PID?

A PID must be made to the right place – referred to as a proper authority.

The proper authority will differ depending on the type of PID being made

This could include:

- the entity to which the conduct relates
- an entity with the power to investigate the disclosure
- any member of Parliament\*

\*Members of Parliament are unable to investigate PIDs, but can refer them to the right place for further action.

In limited circumstances, a PID can be made to a journalist and the discloser still receives protection under the PID Act.

For this to apply the discloser must have:

- already made the disclosure to a proper authority, and
- been advised that there will be no investigation, or
- been advised that an investigation has happened, but there will be no action, or
- received no notification for six months after making a disclosure to a proper authority

Disclosers should get advice about whether they would be protected before they make a PID to a journalist.



How am I  
protected?

Research suggests that one of the main reasons people don't make PIDs is because they are afraid of what will happen to them if they do.

The PID Act provides a number of protections to people who make PIDs. The information that might identify them is kept confidential, unless:

- it needs to be released for court proceedings
- it needs to be released for the purposes of administering the PID Act
- it is required by another act or regulation
- consent is gained in writing from the discloser
- its release is necessary to provide for the safety or welfare of a person.

A person making a PID has a defence if someone brings defamation action against them.

A person making a PID is not breaching any confidentiality obligations or restrictions on release of information by disclosing the material in the PID.

A public officer is still liable for their own conduct if they are involved in the wrongdoing.



# What is reprisal?

A person must not cause, or attempt to cause, detriment to someone because, or in the belief, they have made a PID.

If they do, they are **taking reprisal action**.

Examples of reprisal include causing personal injury, damaging property, harming a person's reputation, bullying or harassing someone, or causing financial loss. The PID Act creates an **offence of reprisal**, which can be investigated by an appropriate authority.

In addition to creating a criminal offence, the PID Act provides some other avenues to pursue a complaint of reprisal. A complaint of reprisal can be made to:

- The public sector entity where the reprisal has occurred
- The Anti-Discrimination Commission Queensland
- The Crime and Corruption Commission

A remedy for reprisal can also be pursued through:

- an administrative appeal through the Queensland Industrial Relations Commission
- a claim for damages through the Supreme or District Court

It is not considered reprisal if a manager takes reasonable management action for reasons not related to someone making a PID.

This could include:

- reasonable appraisal of an employee's work
- reasonable disciplinary action
- reasonable action to transfer or deploy the employee
- reasonable action to end employment by way of redundancy or retrenchment

# Discloser rights

A person making a PID has the right to:

- make the PID anonymously
- receive a written acknowledgement of the PID
- be provided with support
- be consulted about any risks to their safety as a result of making the PID
- be protected against reprisal
- receive communication on a regular basis
- receive a written decision about the action the entity has taken in response to the PID
- seek a review if they're unhappy with the decision about the PID

# Discloser responsibilities

A person making a PID has the responsibility to:

- keep the information about the PID confidential
- keep copies of letters or emails they receive about the PID secure
- comply with their organisation's Code of Conduct
- advise the PID coordinator or support person if they experience reprisal action
- not post on social media about the PID
- not make false or misleading PIDs
- not engage in reprisal action against others

For more information about making a PID, please refer to:

- each agency's PID procedure and nominated PID contact, published on the agency's website
- Queensland Ombudsman [www.ombudsman.qld.gov.au](http://www.ombudsman.qld.gov.au)
- Crime and Corruption Commission [www.ccc.qld.gov.au](http://www.ccc.qld.gov.au)