

What is a public interest disclosure?

A public interest disclosure is a disclosure about wrongdoing in the public sector that serves the public interest. For an allegation to be considered a public interest disclosure under the *Public Interest Disclosure Act 2010* (the PID Act) it must be:

- public interest information about serious wrongdoing or danger
- an appropriate disclosure
- made to a proper authority.

Why make a public interest disclosure?

Corruption, maladministration and misuse of public resources contributes to increased costs of providing public services. It reduces the quality of services as a result of unfair, unreasonable and unlawful decisions and actions. Wrongdoing by particular public sector officers and agencies damages the reputation of the wider public sector.

The PID Act encourages the disclosure of information about suspected wrongdoing in the public sector so that:

- public sector organisations can better identify wrongdoing
- suspected wrongdoing can be properly evaluated and investigated
- action can be taken to fix problems
- systems that can reduce the risk of wrongdoing can be implemented.

An effective system for dealing with public interest disclosures helps to safeguard the integrity

of Queensland's public sector.

What can a public interest disclosure be about?

Under the PID Act, only some kinds of information are 'public interest disclosures'.

Any person, including a public sector employee, can make a public interest disclosure about:

- danger to the health or safety of a person with a disability
- danger to the environment caused by commission of an offence or contravention of a condition in certain environmental legislation
- reprisal after making a public interest disclosure.

A public sector officer can also make a public interest disclosure about:

- corrupt conduct
- maladministration that adversely affects someone's interests in a substantial and specific way
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- a substantial and specific danger to the environment.

Section 12 and 13 of the PID Act provide more information about what is public interest information when making a public interest disclosure. If a disclosure is not a public interest disclosure, it may still be in an important complaint.

What is an appropriate disclosure?

An appropriate disclosure is where:

- the discloser has an honest and reasonable belief that the information provided tends to show the conduct or danger
- the information tends to show the conduct or danger regardless of the discloser's belief.

Information that 'tends to show' wrongdoing or danger must be more than a mere suspicion. There must be information that indicates or supports a view that the wrongdoing or danger has

or will occur.

The discloser is not required to undertake any investigative action before making a disclosure.

Information may still be a disclosure under the PID Act even if the information turns out to be incorrect or unable to be substantiated provided the discloser had a genuine and reasonable belief that it did occur. This allows for genuine misinterpretations of information to fall within the scope of the PID Act.

Who is a proper authority?

Proper authorities are persons and organisations authorised under the PID Act to receive public interest disclosures.

Examples of proper authorities include:

- The public sector agency responsible for the wrongdoing. A public sector entity is a proper authority if the disclosure is about the conduct of that entity or its employees.
- An agency you believe has authority to investigate the matter. For example, the Crime and Corruption Commission is a proper authority for disclosures about corrupt conduct.
- The Chief Judicial Officer of a court or tribunal when the report is about suspected corrupt conduct or reprisal by a judicial officer.
- Any Member of the Queensland Parliament (an MP).

What protection does the Public Interest Disclosure Act provide?

Disclosers are entitled to reasonable information about the action taken as a result of making a disclosure. This includes information about the action proposed and, if action is taken, the results of that action.

Reprisal against a discloser is an offence. The PID Act also makes the public sector entity vicariously liable if any of the entity's employees attempt or cause reprisal against a discloser (whether the discloser is a public officer or a member of the public). Public sector entity chief executive officers have specific obligations to ensure public officers who make a disclosure are supported and offered protection from reprisal.

If you are a public sector officer, you cannot be disciplined for the action of making a public interest disclosure. However, a discloser's liability for their own conduct is not affected by the action of making a disclosure. Making a disclosure does not prevent reasonable management action.

The PID Act also provides that appropriate consideration be given to the interests of the person subject to a public interest disclosure. Sometimes a disclosure is the result of an honest but mistaken claim and it is important that all public sector officers are treated fairly.

Are public interest disclosures confidential?

Under the PID Act, identifying information about a person making a disclosure, the person/s alleged to have engaged in wrongdoing and details of the disclosure are all confidential. It is an offence to reveal confidential information except in certain circumstances, such as:

- if it is required under the PID Act
- if it is required under another Act
- for a proceeding in a court or tribunal
- to protect the health or safety of a person
- if the person to whom the confidential information relates agrees in writing
- if it is essential under the principles of natural justice and reprisal is unlikely.

Can I make a public interest disclosure to a journalist?

Under the PID Act, a discloser may make a disclosure to a journalist if they have already made the same disclosure to a public sector entity that is a 'proper authority' and:

- the entity has decided not to investigate or deal with the disclosure
- the entity investigated the disclosure but did not recommend taking any action
- the discloser was not notified within six months of making the disclosure whether or not the disclosure was to be investigated or dealt with.

An error occurred.

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