

PUBLIC INTEREST DISCLOSURES



Parole Board | Queensland



**Queensland
Government**



Operating Guideline - Public Interest Disclosure

1. Introduction/Policy Statement

The Parole Board Queensland (the Board) is committed to fostering an ethical, transparent culture. In pursuit of this, the Board values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated. The Board will provide support to a board member or a public officer who make disclosures about matters in the public interest. This Procedure demonstrates this commitment, and ensures that practical and effective procedures are implemented which comply with the requirements of the [Public Interest Disclosure Act 2010](#) (PID Act).

2. Objective/Purpose

By complying with the PID Act, the Board will:

- promote the public interest by facilitating public interest disclosures (PIDs) of wrongdoing
- ensure that PIDs are properly assessed and, where appropriate, properly investigated and dealt with
- ensure appropriate consideration is given to the interests of persons who are the subject of a PID
- ensure protection from **reprisal** is afforded to persons making PIDs.

As required under the PID Act, the President will implement procedures to ensure that:

- any member or public services officer who makes a PID is given appropriate support
- PIDs made to the Board are properly assessed and, where appropriate, properly investigated and dealt with
- appropriate action is taken in relation to any wrongdoing which is the subject of a PID
- a management program for PIDs made to the Board, consistent with the standards issued by the Queensland Ombudsman, is developed and implemented
- board members or public officers who make PIDs are offered protection from reprisal by board members or other public officers of the Board.

The Board's Public Interest Disclosure Procedure is available for public viewing at www.pbg.qld.gov.au. The Public Interest Disclosure Procedure will be reviewed annually and updated as required to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

3. PID Management Program

The President has overall responsibility for ensuring that the Board develops, implements and maintains a PID management program in consultation with Queensland Corrective Services (QCS) Ethical Standards Unit.





The Board PID management program encompasses:

- a communication strategy to raise awareness among the Board's members and officers about the Board's PID procedure and nominated PID co-ordinator; and
- a training strategy using the Queensland Ombudsman resources to support induction and mandatory training requirements programs for members and officers (i.e., PID: Rights and Responsibilities of Employees and PID: Obligations and Responsibilities of Managers and Supervisors).

QCS Ethical Standards Unit will administer all other PIDs on behalf of the Board, including:

Role:	Responsibilities:	Officer:
PID Coordinator	<ul style="list-style-type: none"> ▪ principal contact for PID issues within the Board ▪ document and manage implementation of PID management program ▪ review and update PID procedure annually ▪ provide acknowledgment of receipt of PID to discloser ▪ undertake risk assessments in consultation with disclosers and other relevant officers ▪ provide advice and information to discloser on the Board PID procedure 	QCS Ethical Standards Unit
PID Support Officer	<ul style="list-style-type: none"> ▪ provide personal support and referral to other sources of advice or support as required ▪ facilitate updates on progress of investigation ▪ proactively contact discloser throughout PID management process 	QCS Ethical Standards Unit
Investigator	<ul style="list-style-type: none"> ▪ conduct investigation of information in PID in accordance with terms of reference ▪ prepare report for delegated decision-maker 	QCS Ethical Standards Unit





<p>Delegated decision-maker</p>	<ul style="list-style-type: none"> ▪ review investigation report and determine whether alleged wrongdoing is substantiated 	<p>President, Parole Board Queensland</p>
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4. Why make a PID?

Employees who are prepared to speak up about public sector misconduct, wastage of public funds, suspected unlawful activity or danger to health, safety or the environment can be the most important sources of information to identify and address problems in public sector administration. The Board supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of the Board
- the outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to the Board
- the community’s trust in public administration is strengthened by having strong processes in place for reporting wrongdoing.

When making a PID the discloser receives the protections provided under the PID Act, including:

- confidentiality – the discloser’s name and other identifying information will be protected to the extent possible
- protection against reprisal – the discloser is protected from unfair treatment by the Board and employees of the Board as a result of making the PID
- immunity from liability – the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing
- protection from defamation – the discloser has a defence against an accusation of defamation by any board member or public officer.

5. What is a Public Interest Disclosure?

Under the PID Act, any person can make a disclosure about a:

- **substantial** and **specific** danger to the health or safety of a person with a **disability**
- the commission of an offence, or contravention of a condition imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment
- **reprisal** because of a belief that a person has made or intends to make a disclosure.

In addition, public sector officers can make a disclosure about the following public interest matters:





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

A discloser can have either a '**reasonable belief**' that wrongdoing has occurred or provide evidence which tends to show the wrongdoing has occurred.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- discloser reports the information as part of their duties – such as an auditor reporting a fraud or an occupational health and safety officer reporting a safety breach
- disclosure is made anonymously – the discloser is not required to give their name or any identifying information
- discloser has not identified the material as a PID – it is up to the proper authority to assess information received and decide if it is a PID (QCS Ethical Standards Unit)
- disclosure is unsubstantiated following investigation – the discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

6. Who can a PID be disclosed to?

A PID must be made to the '**proper authority**' to receive disclosures of the type being made.

Disclosers are encouraged to make a disclosure to QCS Ethical Standards Unit PID Coordinator in the first instance:

ESUComplaints@corrections.qld.gov.au or (07) 3565 7825.

Further the discloser may disclose directly to an agency that has responsibility for investigating:

- Crime and Corruption Commission (CCC) for disclosures about corrupt conduct including reprisal
- Queensland Ombudsman for disclosures about maladministration
- Queensland Audit Office for disclosures about a substantial misuse of resources
- Department of Child Safety, Youth and Women for disclosures about danger to the health and safety of a child or young person with a disability
- Department of Communities, Disability Services and Seniors for disclosures about danger to the health and safety of a person with a disability
- Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability





- Department of Environment and Science disclosures about danger to the environment
- A Member of the Legislative Assembly (MP) for any wrongdoing or danger
- The Chief Judicial Officer of a court or tribunal in relation to a disclosure about wrongdoing by a judicial officer.

A disclosure can also be made to a **journalist** if the following conditions have been met:

- a valid PID was initially made to a proper authority, and
- the proper authority:
 - decided not to investigate or deal with the disclosure, or
 - investigated the disclosure but did not recommend taking any action, or
 - failed to notify the discloser within six months of making the disclosure whether or not the disclosure was to be investigated or otherwise dealt with.

A person who makes a disclosure to a journalist in these circumstances is protected under the PID Act. However, disclosers should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

7. How to make a PID

A discloser can make a PID in any way, including anonymously, either verbally or in writing. To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to:

- provide contact details (this could be an email address that is created for the purpose of making the disclosure or a telephone number)
- provide as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are
 - any evidence that supports the PID, and where the evidence is located
 - any further information that could help investigate the PID
- provide this information in writing.

8. Deciding whether a matter is a PID

The disclosure will be assessed in accordance with the PID Act, the PID standards, Public Interest Disclosure Procedure, Code of Conduct and any other relevant procedure(s).

If there is any doubt as to whether a matter is a PID, further information may be obtained to inform the decision. If doubt still remains, the matter will be considered and managed as a PID.





Mere disagreements over policy do not meet the threshold for a PID under the PID Act.

It is an offence under the PID Act to intentionally give false or misleading information intending it be acted on as a PID. Employees may be subject to disciplinary action for intentionally giving false or misleading information in a PID, or during an investigation into a PID.

Where a discloser states they are making a PID, but it is assessed that the matter is not a PID the discloser will be advised:

- that their information has been received but was not assessed as a PID
- the reasons for the decision
- the review rights available if the discloser is dissatisfied with the decision and how to request a review
- any action proposed to be taken in relation to the matter
- any other options the discloser has in relation to the matter.

9. Acknowledging a PID

Once the matter has been assessed as a PID, the discloser will be advised:

- that their information has been received and assessed as a PID
- the action to be taken in relation to the disclosure, which could include referring the matter to an external agency, or investigating
- the likely timeframe involved
- the name and contact details of the support officer they can contact for updates or advice
- of the discloser's obligations regarding confidentiality
- the protections the discloser has under the PID Act
- the commitment to keep appropriate records and maintain confidentiality, except where permitted under the PID Act
- how updates regarding intended actions and outcomes will be provided to the discloser
- contact details for the Employee Assistance Program.

If the PID has been made anonymously and the discloser has not provided any contact details, an acknowledgement of the PID and further updates will not be provided.

10. Referring a PID

If QCS Ethical Standards Unit decide there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:





- the PID concerns wrongdoing by that agency or an employee of that agency
- that agency has the power to investigate or remedy the matter.

Before referring the PID to another agency, a risk assessment will be conducted, and not proceed with the referral if there is an unacceptable risk of reprisal.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the Crime and Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct (as required by section 38 of the [Crime and Corruption Act 2001](#)).

The confidentiality obligations of the PID Act permit appropriate officers of the QCS Ethical Standards Unit to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contacts with any other agency.

The discloser will be advised of the action taken by the QCS Ethical Standards Unit.

11. Risk assessment and protection from reprisal

Disclosers should not suffer any form of detriment as a result of making a PID. Upon receiving a PID, the PID Co-ordinator will conduct a risk assessment to assess the likelihood of the discloser (or witnesses or affected third parties) suffering reprisal action as a result of having made the disclosure. This assessment will take into account the actual and reasonably perceived risk of the discloser (or witnesses or affected third parties) suffering **detriment** and will include consultation with the discloser.

A risk assessment will be undertaken if the discloser is anonymous on the basis of information available in the PID. The risk assessment will also take into account the risk to persons who may be suspected of making the PID.

Consistent with the assessed level of risk, a risk management plan will be developed and implemented and any reasonably necessary support or protection for the discloser (or witnesses or affected third parties) arranged.

The risk of reprisal while the PID is being managed will be regularly assessed, in consultation with the discloser, and review the risk management plan if required.

In the event of reprisal action being alleged or suspected, QCS Ethical Standards Unit will:

- attend to the safety of the discloser (or witnesses or affected third parties) as a matter of priority
- review its risk assessment, risk management plan and any protective measures needed to mitigate any further risk of reprisal
- manage any allegation of a reprisal as a PID in its own right.





12. Declining to take action on a PID

Under the PID Act, the QCS Ethical Standards Unit may decide not to investigate or deal with a PID in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process
- the information disclosed should be dealt with by another process
- the age of the information makes it impractical to investigate
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert the Board from the performance of its functions
- another agency with jurisdiction to investigate the information has informed an investigation is not warranted.

If the discloser is dissatisfied with the decision, they can request a review by writing to QCS Ethical Standards Unit within 28 days of receiving the written reasons for the decision.

13. Communication with disclosers

Under the PID Act, the PID Co-ordination must give reasonable information to a discloser.

Contact will be maintained with the discloser and regular updates provided during the management of the PID.

In accordance with the PID Act, after finalising action in response to the PID, the discloser will be advised in writing of the action taken and the results of the action.

14. Confidentiality

While every attempt to protect confidentiality will be made, a discloser's identity may need to be disclosed to:

- provide natural justice to subject officers
- respond to a court order, legal directive or court proceedings.

Communications with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

Disclosers should be aware that while every attempt to keep their details confidential will be made, it cannot guarantee that others will not try to deduce their identity.

15. Support for disclosers

Providing appropriate support to a discloser is an important feature of effective PID management.





An assessment will be undertaken to identify the support needs of the discloser. Where appropriate, a PID Support Officer will be assigned to the discloser. The PID Support Officer will assist the discloser to access information about PIDs, protections available under the PID Act and the PID management process. The PID Support Officer will proactively contact the discloser to offer support.

Information and support will be provided to the discloser until the matter is finalised.

Making a PID does not prevent **reasonable management action**. That means that the discloser will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

16. Investigating a PID

If a decision is made to investigate a PID, this will be done with consideration for the:

- principles of **natural justice**
- obligation under the PID Act to protect **confidential information**
- obligation under the PID Act to protect officers from reprisal
- interests of subject officers.

If as a result of investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken.

Where the investigation does not substantiate wrongdoing, the Board will be reviewed systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

17. Rights of subject officers

It is acknowledged that for officers who are the subject of a PID, the experience may be stressful. Disclosure rights will be protected by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice
- confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation
- referring them to the Employee Assistance Program for support.

Information and support will be provided to a subject officer until the matter is finalised.





18. Record-keeping

In accordance with its obligations under the PID Act and the [Public Records Act 2002](#), the QCS Ethical Standards Unit will ensure that:

- accurate data is collected about the receipt and management of PIDs
- anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID.

19. Definitions (meanings of words and acronyms used in this Procedure)

Term	Definition
Administrative action	<p>(a) means any action about a matter of administration, including, for example:</p> <ul style="list-style-type: none">(i) a decision and an act; and(ii) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and(iii) the formulation of a proposal or intention; and(iv) the making of a recommendation, including a recommendation made to a Minister; and(v) an action taken because of a recommendation made to a Minister; and <p>(b) does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.</p>
Confidential information	<p>(a) includes —</p> <ul style="list-style-type: none">(i) information about the identity, occupation, residential or work address or whereabouts of a person —<ul style="list-style-type: none">(A) who makes a public interest disclosure; or(B) against whom a public interest disclosure has been made; and(ii) information disclosed by a public interest disclosure; and(iii) information about an individual's personal affairs; and(iv) information that, if disclosed, may cause detriment to a person; and <p>(b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.</p>





Corrupt conduct	<p>As defined in section 15 of the Crime and Corruption Act 2001</p> <p>(1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—</p> <ul style="list-style-type: none">(i) a unit of public administration; or(ii) a person holding an appointment; and <p>(b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—</p> <ul style="list-style-type: none">(i) is not honest or is not impartial; or(ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or(iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and <p>(c) would, if proved, be—</p> <ul style="list-style-type: none">(i) a criminal offence; or(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment. <p>(2) Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) impairs, or could impair, public confidence in public administration; and</p> <p>(b) involves, or could involve, any of the following—</p> <ul style="list-style-type: none">(i) collusive tendering;(ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—<ul style="list-style-type: none">(A) protecting health or safety of persons;(B) protecting the environment;(C) protecting or managing the use of the State's natural, cultural, mining or energy resources;(iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;(iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;(v) fraudulently obtaining or retaining an appointment; and <p>(c) would, if proved, be—</p> <ul style="list-style-type: none">(i) a criminal offence; or(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.
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Detriment	Includes – (a) personal injury or prejudice to safety; and (b) property damage or loss; and (c) intimidation or harassment; and (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and (e) financial loss; and (f) damage to reputation, including, for example, personal, professional or business reputation.
Disability	As defined in section 11 of the Disability Services Act 2006 , for the purposes of this procedure: (1) A disability is a person’s condition that— (a) is attributable to— (i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or (ii) a combination of impairments mentioned in subparagraph (i); and (b) results in— (i) a substantial reduction of the person’s capacity for communication, social interaction, learning, mobility or self care or management; and (ii) the person needing support. (2) For subsection (1), the impairment may result from an acquired brain injury. (3) The disability must be permanent or likely to be permanent. (4) The disability may be, but need not be, of a chronic episodic nature.
Discloser	A person who makes a disclosure in accordance with the Public Interest Disclosure Act 2010 .
Employee	of an entity, includes a person engaged by the entity under a contract of service.
Investigation	For the purposes of this procedure, investigation includes any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.





Journalist	a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.
Maladministration	As defined in schedule 4 of the Public Interest Disclosure Act 2010 , maladministration is administrative action that— (a) was taken contrary to law; or (b) was unreasonable, unjust, oppressive, or improperly discriminatory; or (c) was in accordance with a rule of law or a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; or (d) was taken— (i) for an improper purpose; or (ii) on irrelevant grounds; or (iii) having regard to irrelevant considerations; or (e) was an action for which reasons should have been given, but were not given; or (f) was based wholly or partly on a mistake of law or fact; or (g) was wrong.
Natural justice	Natural justice, also referred to as ‘procedural fairness’, applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law a safeguard applying to an individual whose rights or interests are being affected. The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, are: <ul style="list-style-type: none"> • avoid bias; • give a fair hearing; and • act only on the basis of logically probative evidence.
Organisational support	For the purposes of this procedure, organisational support means actions such as, but not limited to: <ul style="list-style-type: none"> • providing moral and emotional support • advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure • appointing a mentor, confidante or other Support Officer to assist the discloser through the process • referring the discloser to the agency’s Employee Assistance Program or arranging for other professional counselling • generating support for the discloser in their work unit where appropriate • ensuring that any suspicions of victimisation or harassment are dealt with • maintaining contact with the discloser.





Proper authority	A person or organisation that is authorised under the Public Interest Disclosure Act 2010 to receive disclosures.
Public officer	A public officer, of a public sector entity, is an employee, member or officer of the entity.
Reasonable belief	A view which is objectively fair or sensible.
Reasonable management action	Action taken by a manager in relation to an employee, includes any of the following taken by the manager— (a) a reasonable appraisal of the employee’s work performance; (b) a reasonable requirement that the employee undertake counselling; (c) a reasonable suspension of the employee from the employment workplace; (d) a reasonable disciplinary action; (e) a reasonable action to transfer or deploy the employee; (f) a reasonable action to end the employee’s employment by way of redundancy or retrenchment; (g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f); (h) a reasonable action in relation to the employee’s failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the employee’s employment.
Reprisal	The term ‘reprisal’ is defined under the Public Interest Disclosure Act 2010 as causing, attempting to cause or conspiring to cause detriment to another person in the belief that they or someone else: <ul style="list-style-type: none"> • has made or intends to make a disclosure; or • has been or intends to be involved in a proceeding under the <i>Public Interest Disclosure Act 2010</i> against any person. <p>Reprisal under the Public Interest Disclosure Act 2010 is a criminal offence and investigations may be undertaken by the Queensland Police Service.</p>
Subject officer	An officer who is the subject of allegations of wrongdoing made in a disclosure.
Substantial and specific	Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance. Specific means “precise or particular”. This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.





20. Relevant Legislation

- [Crime and Corruption Act 2001](#)
- [Local Government Act 2009](#)
- [Ombudsman Act 2001](#)
- [Public Interest Disclosure Act 2010](#)
- [Public Records Act 2002](#)
- [Public Sector Ethics Act 1994](#)

21. Related Policies and Procedures

- Parole Board Queensland Code of Conduct
- Queensland Corrective Services Complaints Management
- Queensland Corrective Services Procedure – General - Risk Management

22. Supporting information

- [Public Interest Disclosure Standard No. 1/2019](#)
- [Public Interest Disclosure Standard No. 2/2019](#)
- [Public Interest Disclosure Standard No. 3/2019](#)
- [Disclosure Fact sheet 1: What is a disclosure](#)
- [Disclosure Fact sheet 2: Checklist for making a disclosure](#)
- [Disclosure Fact sheet 3: Discloser information and support](#)

23. Version Control

Version	Amendments	Approved	Date
1.	Not applicable.	Michael Byrne QC President, Parole Board Queensland	12 March 2019
2.	Section 3 – PID Management Program amended to represent nature, size and geographic spread of entity and acknowledge the Board is corporately supported through Queensland Corrective Services (QCS), Sections 3, 8, 10, 11, 12 and 17 - amended to identify QCS Ethical Standards functions in the administration of PID made by members and officers of the Board.	Michael Byrne QC President, Parole Board Queensland in consultation with QCS Ethical Standards Unit	6 October 2020

