

Public interest disclosures against commission officers

Objective

Public interest disclosures (PID) are an important source of information which help the Crime and Corruption Commission (CCC) address wrongdoing and improve our systems to reduce risk. This policy and procedure applies for Public Interest Disclosures against commission officers. The implementation of this policy and procedure will assist in meeting these goals by ensuring the CCC:

- has an effective management program to facilitate making and managing public interest disclosures under the [Public Interest Disclosure Act 2010](#) (PID Act) against commission officers
- takes appropriate action when a public interest disclosure is received
- meets its reporting obligations to the Queensland Ombudsman.

Application

This policy and procedure applies to all commission officers and also provides information to the public and those employed in other agencies about the CCC's processes for the assessment, management and reporting of all public interest disclosures received by the CCC about commission officers.

Relevant legislation

[Crime and Corruption Act 2001](#)

[Information Privacy Act 2009](#)

[Public Interest Disclosure Act 2010](#)

[Right to Information Act 2009](#)

Definitions

<i>commission officer</i>	has the same meaning as in the dictionary to the Crime and Corruption Act 2001 (CC Act), and includes a former commission officer, as follows: <ul style="list-style-type: none">• Staff• Police• Senior officers• Commissioners – including the Chairperson and Chief Executive Officer• Acting Commissioners• Sessional Commissioners.
<i>COMPASS</i>	the CCC's complaints database.

<i>detriment</i>	includes personal injury or prejudice to safety, property damage or loss, intimidation or harassment, discrimination, disadvantage or adverse treatment, financial loss, or damage to reputation.
<i>discloser</i>	a person who makes a public interest disclosure.
<i>improper conduct</i>	has the meaning conferred by section 329 of the CC Act .
<i>maladministration</i>	has the meaning conferred under Schedule 4 of the PID Act .
<i>proper authority</i>	people and organisations authorised under the PID Act to receive public interest disclosures. The Chairperson of the CCC is the proper authority for the CCC. The Chairperson has delegated this responsibility to the Chief Executive Officer.
<i>public interest disclosure</i>	has the meaning conferred by Chapter 2, Parts 1 and 2 of the PID Act .
<i>reprisal</i>	to cause, attempt to cause, or conspire to cause, detriment to another person because, or in the belief that, a public interest disclosure has been, will be or may be made (see section 40 of the PID Act).

Policy statement

In addition to its legislative obligations under the [PID Act](#), the CCC's integrity role and the expectations of the community require that the CCC adheres to high standards of ethical conduct in carrying out its functions. The CCC, in line with its values, is committed to creating and sustaining a positive and ethical climate which encourages disclosure of unethical or inappropriate behaviour. By applying the requirements of the [PID Act](#) through this policy and procedure the CCC encourages the disclosure of information about suspected wrongdoing in the CCC so that it can be properly evaluated and, if necessary, appropriately investigated.

The CCC is therefore committed to ensure that:

- all PIDs are correctly identified and treated as such
- procedures are in place to protect and support disclosers, including:
 - taking steps to minimise the risk of reprisals
 - keeping the discloser informed of the progress and the outcome of their disclosure
- the rights of both the subject officer and the discloser are protected
- all assessment, investigation and decision-making processes associated with the making of a PID are undertaken within a reasonable time
- if wrongdoing is substantiated, appropriate action is taken.

The CCC's *Code of Conduct* reinforces its commitment to an effective PID system by obliging commission officers to disclose any reasonable suspicion they may have about any breach of the *Code of Conduct* or any matter which may constitute a PID.

Procedure

What is a PID and who can make them

Any person, including members of the public and commission officers, can make a disclosure concerning the actions of a commission officer, about:

- a substantial and specific danger to the health and safety of a person with a disability
- a substantial and specific danger to the environment
- a reprisal.

In addition to the above, only public sector employees (including a commission officer) can make a disclosure concerning the actions of a commission officer, about:

- maladministration
- a substantial misuse of public resources
- a substantial and specific danger to public health and safety.

The [PID Act](#) also protects a public sector employee who discloses information concerning “corrupt conduct” as defined in section 15 of the [CC Act](#). One element of the definition of corrupt conduct (section 15(1)(a) of the [CC Act](#)) is that conduct must adversely affect or could affect, directly or indirectly, the performance or function or the exercise of powers of a unit of public administration (UPA) or a person holding an appointment in a UPA.

Under section 20(2)(a) of the [CC Act](#) the CCC is not a UPA. Consequently, conduct of a commission officer can never constitute corrupt conduct. It follows that the protections of the [PID Act](#) in respect of corrupt conduct do not apply to the conduct of a commission officer.

For an allegation to be considered a PID and gain the protections of the [PID Act](#), the discloser must honestly believe on reasonable grounds there is wrongdoing or have information that tends to show wrongdoing, and make a disclosure to a **proper authority**.

Proper authority – who to make disclosure to

Under the [PID Act](#), the proper authority for the CCC is the Chairperson. However, and subject to this policy and procedure, the Chief Executive Officer (CEO) is responsible for managing PIDs against commission officers. Due to the Secrecy provision set out in section 213 of the [CC Act](#) the other proper authorities found in the [PID Act](#) are not available to commission officers.

Any commission officer who becomes aware of any conduct they honestly believe is wrongdoing, or which would impact adversely on the operation or reputation of the CCC, is obliged to report the matter to their supervisor or manager. However, if there is concern that the supervisor or manager is involved in the wrongdoing, the disclosure may be made to:

- the Chairperson (the proper authority)
- the CEO (responsible for managing PIDs)
- a Commissioner
- an Executive Director
- the Director, Integrity Services (responsible for assessing PIDs).

It is important to remember that the person raising the allegation is not required to know that the disclosure constitutes a PID in order to attract the protections of the [PID Act](#).

If a PID is made to the CCC which does not contain allegations of wrongdoing against a commission officer and the CCC is not the proper authority for the PID the matter is to be considered for referral to the relevant proper authority under section 31 of the [PID Act](#) (referral of disclosure) and the CCC *Receipt of corruption complaints procedure*.

How PIDs may be made

A PID may be made orally, in writing, or anonymously to the proper authority, or those additional people nominated above.

Anonymous disclosures can be problematic because:

- the CCC may be unable to seek clarification or further information
- it may not be possible to provide the protections offered by the [PID Act](#) to the discloser
- it may not be possible for the CCC to provide the discloser with information about the management and outcome of the PID.

False or misleading information

If the disclosed information is incorrect, but the discloser had an honest and reasonable belief that it tended to show wrongdoing, the matter will still be treated as a PID and the discloser will receive the protections under the [PID Act](#).

It is an offence under the [PID Act](#) for a person to knowingly provide false and misleading information with the intention that it be treated as a PID. Such behaviour can result in a significant fine or up to two years imprisonment (section 66 of the [PID Act](#)).

A commission officer who knowingly provides false or misleading information with the intention that it be treated as a PID may have committed an offence as provided in section 66 of the [PID Act](#) and may also be in breach of section 329 of the [CC Act](#) and the *Code of Conduct*, and will be dealt with as provided in this policy and procedure under “**Investigation of complaint**” (see below).

Handling the public interest disclosure

On receipt of a disclosure

Any commission officer who receives information concerning alleged improper conduct (section 329 of the [CC Act](#)) and/or conduct the subject of the [PID Act](#) must immediately refer the matter to the Director, Integrity Services.

Should the disclosure concern:

- the Director, Integrity Services – the matter is to be referred directly to the CEO.
- a Commissioner or the CEO – the matter is to be referred directly to the Chairperson.
- the Chairperson – the matter should be referred directly to the Deputy Chairperson.

Assessment of a PID

The Director, Integrity Services (or other commission officer to whom the matter has been referred as above) must promptly assess the disclosure against the following criteria:

- Whether the person making the disclosure is able to receive the protection of the [PID Act](#).
- Whether the disclosure concerns a matter about which a PID can be made.
- A risk assessment about the likelihood of reprisal (See “**Reprisal**” below).
- Whether the person making the disclosure honestly believes on reasonable grounds that the information tends to show the conduct.
- Whether the disclosure has been made in accordance with this policy and procedure.

Separate allegations must be assessed as separate PIDs unless the matters are clearly linked and it would be reasonable to assess them as a single disclosure.

The Director, Integrity Services will make a recommendation to the CEO after assessing the disclosure. Additionally, the CEO may also seek advice from other commission officers or external advisers in order to make the final assessment about how to deal with the PID.

Referral of a PID involving an allegation of improper conduct

If the disclosure involves possible improper conduct under section 329 of the [CC Act](#), it must be notified to the Parliamentary Crime and Corruption Committee (PCCC) and the Parliamentary Commissioner in

accordance with the *Protocols governing the reporting of improper conduct complaints against officers of the Crime and Corruption Commission*.

No further action can be taken by the CCC until such time as a response is received from the PCCC or the Parliamentary Commissioner unless steps must be taken to protect the discloser, preserve evidence, or preserve the integrity of the CCC's operations.

Action to be taken where matter assessed to be a PID

Take no action

Section 30 of the [PID Act](#) provides reasons for taking no action in respect of a PID:

- The substance of the disclosure has already been investigated or dealt with through another process.
- The disclosure should be dealt with through another process.
- The age of the information makes it impracticable to investigate.
- The matter is too trivial and would unreasonably divert resources.
- Another entity with jurisdiction to investigate has advised that an investigation is not warranted.

If the CEO decides to take no action in relation to the disclosure written reasons for the decision will be provided to the discloser (if known). The discloser may apply to the Chairperson for a review of the decision to take no action within 28 days of receiving the written advice.

Even if no action is taken the safeguards of the [PID Act](#) will continue to indefinitely apply after the matter is closed (e.g. protection from reprisal, confidentiality).

Investigation of complaint

Based on the advice received, and subject to any direction from the PCCC or Parliamentary Commissioner where the disclosure involves possible improper conduct, the CEO will consider what action is to be taken, and where appropriate, direct an investigation be undertaken. The CEO will provide written authority to conduct the investigation. The CEO's written authority will also state any conditions associated with the conduct of the investigation if stipulated by the PCCC, Parliamentary Commissioner or the CEO. Any investigation must:

- Be fair, unbiased and conducted in a timely manner
- Apply the principles of natural justice
- Document the steps taken, the decisions made and the reasons for those decisions.

For an investigation commenced by the CCC, the investigation will be closed once the investigation is concluded and an outcome has been determined to the satisfaction of the CEO. Where the investigation is directed by the PCCC or the Parliamentary Commissioner the investigation will be closed once the investigation is concluded and an outcome has been determined to the satisfaction of the directing authority. The safeguards of the [PID Act](#) will continue to indefinitely apply after the investigation is closed (e.g. protection from reprisal, confidentiality).

The facts and other circumstances disclosed during the investigation and any other relevant matters will be the basis for determining the steps to be taken once the investigation is closed. These steps will be guided by:

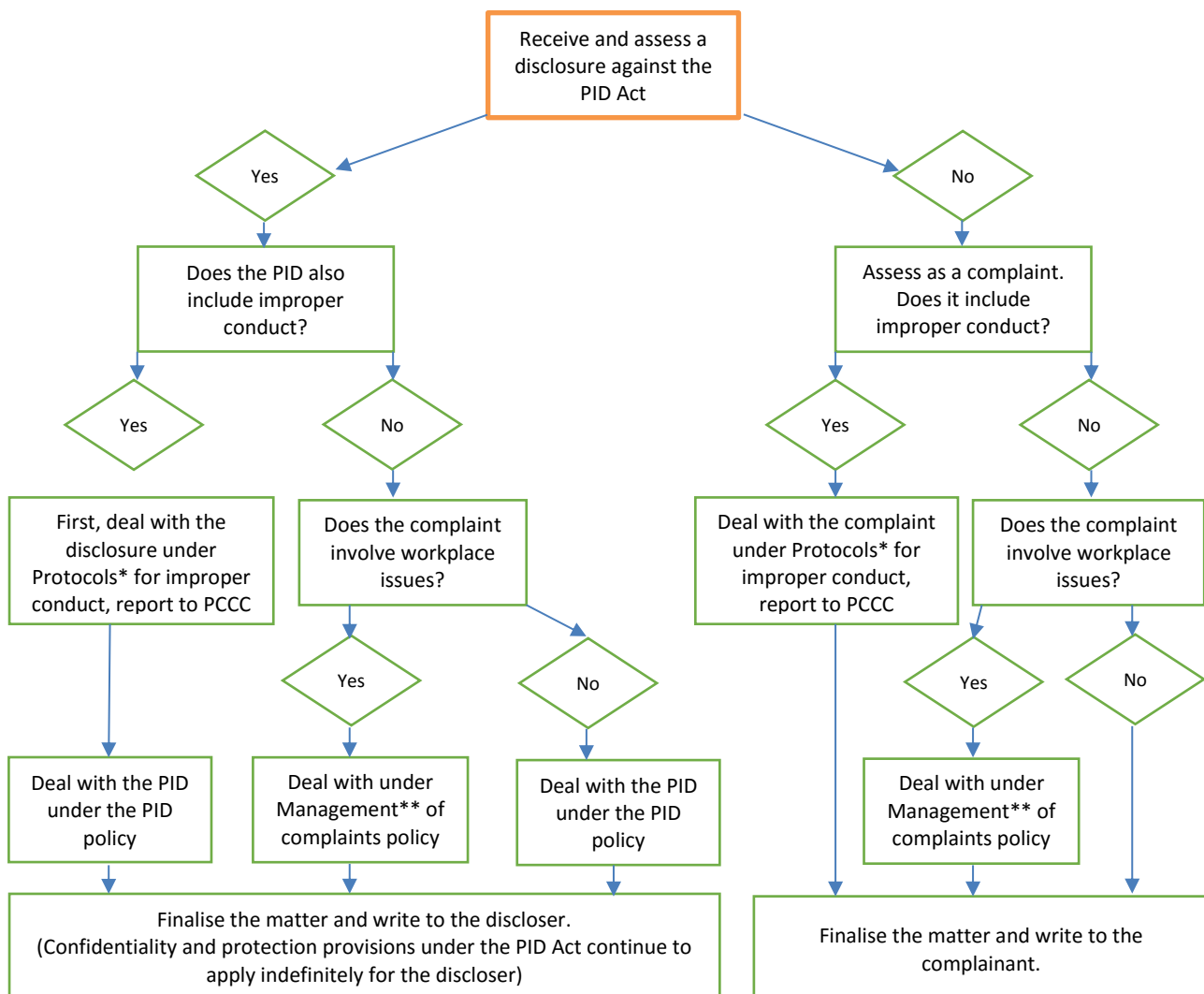
- The [Code of Conduct](#)
- The *Protocols governing the reporting of improper conduct complaints against officers of the Crime and Corruption Commission*
- The *Management and resolution of complaints made by Commission officers policy and procedure*
- The [CC Act](#)
- Any other relevant Act (including the [Criminal Code Act 1899](#)) if applicable.

Other complaints

Not all disclosures are able to meet the definitions of a PID, however, the disclosure may contain information indicating possible improper conduct or a breach of the [Code of Conduct](#). Not all PIDs will involve improper conduct. If a complaint received against a commission officer:

- involves, or may involve, improper conduct – it must be dealt with under the *Protocols governing the reporting of improper conduct complaints against officers of the Crime and Corruption Commission*.*
- is not a PID, does not involve improper conduct, but does involve workplace issues – it must be dealt with under the *Management and resolution of complaints made by Commission officers policy and procedure***.

If a PID raises a suspicion of improper conduct, both this policy and procedure and the *Protocols governing the reporting of improper conduct complaints against officers of the Crime and Corruption Commission** will apply, with the protocols taking precedence. The diagram below will assist in deciding how to categorise the disclosure.



Other legal considerations

Although disclosers must not be subject to reprisal, making a PID does not indemnify the discloser from being subject to any reasonable management, disciplinary or criminal action if their performance is unsatisfactory or they were involved in improper conduct. Reasonable management action, such as performance appraisals, recommending counselling or disciplinary action, is not a reprisal if the manager's reasons for taking the action do not include the fact that the person has made a PID (see sections 39 and 45 of the [PID Act](#)).

Keeping the discloser informed

On receipt of the disclosure

The CEO must advise the discloser in writing, within a reasonable timeframe, about:

- the likely timeframes for dealing with the matter
- the involvement of the discloser in the investigations process
- whether the matter must be referred to the PCCC and Parliamentary Commissioner
- the protections available to the discloser under the [PID Act](#)
- the importance of maintaining confidentiality
- how the discloser will be kept informed of progress and outcomes, including regular updates
- their rights of review
- who to contact for further information
- how to report any concern about reprisals.

At the conclusion of the investigation

The CEO must write to the discloser and provider information about the action taken or proposed action to be taken.

Provide support and protection from reprisal

Reprisals

A reprisal is to cause, attempt to cause, or conspire to cause, detriment to another person because, or in the belief that, a PID has been, will be or may be made. Actions are considered reprisals regardless of whether the target of that reprisal was the person who made, intends to or may make a PID, was involved in a PID investigation or other proceeding under the [PID Act](#), or is otherwise an innocent party.

If proven, a reprisal is a criminal offence (sections 40 and 41 of the [PID Act](#)). Consequently, all allegations of reprisal will be assessed and, if reprisal is suspected, will be investigated by the CCC (See “**Investigation of complaint**” above).

Support

The CCC is committed to ensuring its officers will be reasonably protected from reprisal because a PID has been made. Where the discloser is a commission officer, support and protection is to be provided, which may include:

- providing moral and emotional support
- advice about the resources available within the CCC to manage the discloser's concerns
- appointing a mentor, confidante or other support officer to assist the discloser throughout the process
- referring the discloser to the Employee Assistance Program
- possible relocation/reassignment of duties (depending on the PID risk management plan endorsed by the CEO – see “**PID risk management plan**” below).

Where the manager or supervisor of the discloser are aware of the PID they are to provide support and protection where necessary. However, the disclosure obligations set out above at “**Proper authority – who to make disclosure to**” may mean that the discloser’s immediate manager or supervisor may not know that a PID has been made because of those confidentiality requirements.

Furthermore, such reasonable support and protection will be provided to officers who report improper conduct which is not a PID.

Where the discloser’s immediate manager or supervisor do not know that a PID has been accepted the person appointed by the CEO to manage the PID is to discuss with the discloser, and record in the PID risk management plan, agreed arrangements for ongoing support and protection for the discloser (see “**PID risk management plan**” below).

PID risk management plan

Some PIDs will be made anonymously, however, all PIDs are to be kept confidential. Despite this, the subject officer may, by process of elimination, deduce the identity of the person, people or work area from which the PID may have originated.

Therefore, the CEO or Director, Integrity Services will assess the risk of reprisal against the discloser and any other person or group who may be subject to reprisal and, where appropriate, inform the Director Human Resources that a PID has been made and that a PID risk management plan is required for the CEO’s approval.

Where the discloser’s identity is known that person will be provided with the opportunity to discuss any risks of reprisal and to work with management to develop strategies to mitigate this risk.

A PID risk management plan will have regard to the:

- nature of the information disclosed
- interests and wishes of the discloser
- duties and working environment of the discloser
- potential for reprisals
- medical, psychological, emotional and other needs of the discloser
- interests of the work group in which the discloser works
- time it takes to conclude an investigation, the phases of the investigation, and cater for changes in risk associated with the conduct and phase of the investigation.

In addition to a reprisal being a criminal offence it is also a tort, which means that a discloser has a right to make a civil claim for damages against the person taking the reprisal. Further, vicarious liability attaches to a manager or other commission officer who is aware of, and fails to take actions to prevent, reprisal. Therefore, any commission officer who believes, or has been informed, that a staff member is suffering reprisal must immediately notify the Director, Integrity Services or the CEO.

Any commission officer who believes that he or she has been subject to a reprisal should report this immediately in accordance with the “**Proper authority – who to make disclosure to**” section above.

Rights of subject officers

The rights of any person who is the subject of, or is in some way associated with, a PID or allegation of improper conduct are important. A person against whom a PID is made is entitled to confidentiality and the presumption of innocence.

Commission officers who are the subject of a PID may seek advice from their legal representative, union or other support body. Subject officers must ensure that appropriate confidentiality of information in respect of CCC matters is maintained when seeking advice. Subject officers may also use the services of the Employee Assistance Program.

Subject officers have the right to:

- be informed, at a time considered appropriate by the CEO, of the PID made against them
- make a response to the allegation(s) and be given reasonable time to respond
- be treated fairly and in accordance with the principles of natural justice
- have the matter handled confidentially
- have the matter assessed by an impartial person.

The principles of natural justice should not be inhibited by confidentiality (see “**Confidentiality**” below). Appropriate ways to ensure the facilitation of natural justice must be put in place where confidentiality requirements may otherwise restrict the provision of information.

Confidentiality

The CCC will take all steps necessary to protect the confidentiality of the information that has been disclosed. Once the disclosure has been made all parts involved must keep the discloser’s identity and the disclosed information confidential, including:

- the fact a disclosure has been made
- any information that may identify the discloser or any person who may be the subject of a disclosure
- the actual information that has been disclosed
- information relating to the disclosure that, if known, may cause detriment.

The unauthorised disclosure of information is a criminal offence (section 65 of the [PID Act](#)), however, authorised disclosures of information concerning PIDs can be made, including:

- the requirement to report matters which involve, or may involve, improper conduct to the PCCC or Parliamentary Commissioner
- the assignment of the matter to an authorised person for investigation
- making a record for the purposes of assessing, investigating or reporting a disclosure under this policy and procedure
- providing natural justice to the subject officer
- where a commission officer is required to give evidence before a court or tribunal
- responses to requests made pursuant to another Act, for example, responding to a court order or legal directive (e.g. subpoena, notice to produce, direction by a parliamentary committee).

Recordkeeping, reporting and responsibilities

Public sector organisations have a duty under the [Public Records Act 2002](#) to make, keep, manage and dispose of public records. A PID is a public record for the purposes of the [Public Records Act 2002](#). Also, the [PID Act](#) (section 29) provides that the Chairperson must ensure that a proper record is kept about PIDs received by the CCC (this responsibility is carried out by the CEO of the CCC).

Internal recordkeeping

Internal complaints are registered on COMPASS. Once a decision has been made that the complaint is a PID, this is to be noted in COMPASS.

Information on COMPASS relating to internal PIDs can only be accessed by approved staff. No details will be placed on personnel files. If an employee is transferred to another department or agency, the PID file remains the property of the CCC.

CCC responsibilities to the Queensland Ombudsman

The CCC is responsible to the Office of the Ombudsman under the [PID Act](#) and the [Queensland Ombudsman Public Interest Disclosure Standard No.1](#) to monitor the management of PIDs, provide mandatory data, and implement a management program for PIDs which must address:

1. Organisational commitment to encouraging the internal reporting of wrongdoing.
2. Senior management endorsement of the value to the entity of PIDs and the proper management of PIDs and disclosers.
3. A communication strategy for raising staff awareness about PIDs and the entity's PID procedures
4. A training strategy to ensure:
 - a. staff are given access to training on the identification of wrongdoing, how to make a PID, the support and protection afforded to disclosers, and how PIDs will be managed (this training can be included in the entity's training on ethics)
 - b. the provision of specialist training and awareness about PIDs to senior managers and other staff involved in PIDs, disclosers or workplace issues relating to a PID.
5. The appointment of a specialist ethics unit (or nominated officer) responsible for issues related to managing PIDs. The unit or officer should have the following characteristics:
 - a. direct access to the CEO in relation to PID matters
 - b. delegated authority to appropriately manage PIDs
 - c. access to resources to properly manage PIDs.
6. Ensuring effective systems and procedures are in place for issues arising from PIDs to inform improvements to service delivery, business processes and internal controls.
7. Providing a mechanism for regular evaluation and monitoring of the effectiveness of PID policies and procedures.

In addition to the above requirements section 28(2) of the [PID Act](#) requires the CEO to publish the entity's procedures on its website so that this information is readily accessible to the public.

Mandatory reporting data to the Queensland Ombudsman

The CCC is required to report information about PIDs to the Queensland Ombudsman. A PID database has been developed into which the CCC can directly lodge the required data.

Report on receipt of the disclosure

The CCC is to provide the following information to the Queensland Ombudsman:

- the date the disclosure was received, and from where it was received
- the status of the discloser (e.g. staff, member of the public, anonymous)
- the gender and status of the subject officer
- the relationship between the discloser and the subject officer
- the location of the subject officer (geographical region)
- a summary of the allegation or information received
- the involvement of any external agency or party
- the action taken to minimise any risk of reprisal
- the date the inquiry or investigation commenced.

Report on completion of investigation

The CCC is to provide the following information to the Queensland Ombudsman:

- the date the inquiry or investigation completed
- the outcome of the assessment, inquiry or investigation
- the date the PID was resolved or closed
- when the outcome was advised to the discloser
- if no action was taken, the reason for the decision

- other legal processes associated with the disclosure.

Responsibilities

The Chairperson maintains overall responsibility for the obligations imposed on the CCC by the [PID Act](#) and the [Queensland Ombudsman Public Interest Disclosure Standard No.1](#). The Chairperson has delegated these responsibilities to the CEO.

The CEO has implemented management arrangements to ensure that:

- consistent and appropriate assessment procedures are applied to ascertain if the information provided meets the disclosure requirements of the [PID Act](#)
- the investigation and resolution of PIDs are appropriately monitored
- as far as reasonably possible, the matter is kept confidential
- support and protection are provided to disclosers
- natural justice and due process are afforded the subject officer(s)
- data about PIDs is collected, reported and reviewed
- training is provided and on-going guidance is available to commission officers about PIDs and how to make a PID
- the outcomes of PIDs inform improvements in the CCC.

The CEO has delegated the following specific functions shown in Table 1.

Table 1 – Delegated Responsibilities

Function	Delegate/s
Recording internal complaints on COMPASS	The Director, Integrity Services
Authority to access records (HPE Records Manager and COMPASS)	The Director, Integrity Services
A communication strategy for raising staff awareness about PIDs and the entity's PID procedures	Director, Human Resources
A training strategy	Director, Human Resources
Specialist ethics unit (or a nominated officer) to be responsible for issues related to the management of PIDs	CEO Director, Human Resources
Ensuring effective systems and procedures are in place for issues arising from PIDs to inform improvements to service delivery, business processes and internal controls	Executive Director, Strategy and Corporate Services in consultation with the Director, Integrity Services and Director, Human Resources
Regular evaluation and monitoring of the effectiveness of PID policies and procedures	Executive Director, Strategy and Corporate Services in consultation with the Director, Integrity Services and Director, Human Resources
Publication on the CCC website of the procedures (this policy and procedure)	Director, Corporate Communications
Maintenance of a PID database and reporting information about PIDs to the Queensland Ombudsman	CEO Executive Manager, Corruption
Reporting on completed investigations	CEO

Disclosures to journalists

The [PID Act](#) (s. 20) includes a provision to permit disclosures to journalists in certain circumstances. Due to the operation of s. 213 of the CC Act s. 20 of the PID Act does not apply to commission officers acting in their official capacity and therefore commission officers must not disclose information obtained in the course of their duties even if grounds for making a PID are suspected.

The CCC's *Communications policy and procedure* provides guidance to commission officers about "communication" outside the CCC or with the media and restricts who is authorised to undertake communications on behalf of the CCC. Failure to adhere to the *Communications policy and procedure* may result in disciplinary action against the commission officer.

Disclosures to other Proper authorities

If a commission officer comes into possession of information during the course of their duties which gives rise to a suspicion that a PID could be made, the commission officer is to raise this suspicion with their manager or supervisor.

If a manager or supervisor considers that the information may constitute a PID this information is to be referred to the CEO to be considered for release to the proper authority determined by the CEO to be most appropriate to deal with the suspected PID.

Related documents and further assistance

The Queensland Ombudsman's website has a range of Fact Sheets and other materials. Three Guides have been co-authored by the Crime and Corruption Commission, Queensland Ombudsman and the Public Service Commission to provide information and guidance to those involved in the reporting and management of PIDs:

[Managing a public interest disclosure program: A guide for public sector organisations](#)

[Making a public interest disclosure: A guide for individuals working in the public sector](#)

[Handling a public interest disclosure: A guide for public sector managers and supervisors](#)

Other references

[Complaint service reviews policy and procedure](#)

Financial management delegations register

Management and resolution of complaints made by CCC officers

Management of internal public interest disclosures policy and procedure

Procurement complaints procedure

Protocols governing the reporting of improper conduct complaints against officers of the CCC

Records management framework