



# Public interest disclosures against commission officers

## Objective

The Crime and Corruption Commission (CCC) is committed to fostering an ethical, transparent culture. In pursuit of this, the CCC encourages disclosure of suspected wrongdoing by commission officers. The CCC will provide support to commission officers or others who make public interest disclosures about commission officers.

This policy and 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).

## Application

The policy and procedure applies to anyone, including commission officers, wishing to make a public interest disclosure about a commission officer.

## Relevant legislation

[Crime and Corruption Act 2001](#) (CC Act)

[Ombudsman Act 2001](#)

[Public Interest Disclosure Act 2010](#) (PID Act)

[Public Records Act 2002](#)

[Public Sector Ethics Act 1994](#)

## Definitions

Administrative action	As defined in <a href="#">schedule 4 of the PID Act</a> .
Confidential information	As defined in <a href="#">section 65 of the PID Act</a> .
Corrupt conduct	As defined in <a href="#">section 15 of the CC Act</a> .
Detriment	As defined in <a href="#">schedule 4 of the PID Act</a> .
Disability	As defined in <a href="#">section 11 of the Disability Services Act 2006</a> .
Discloser	A person who makes a disclosure in accordance with the <a href="#">PID Act</a> .
Improper conduct	As defined in <a href="#">section 329 of the CC Act</a> .
Investigation	Any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.

Maladministration	Maladministration
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. The rules of natural justice ensure that decision-making: <ul style="list-style-type: none"> <li>• is fair and reasonable</li> <li>• avoids bias</li> <li>• gives a fair hearing</li> </ul> only acts on the basis of logically probative evidence.
Proper authority	A person or organisation that is authorised under the PID Act 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.
Reprisal	As defined in <a href="#">schedule 4 of the PID Act</a> .
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.

## Policy statement

By complying with the PID Act, the CCC 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 subject officers
- ensure protection from reprisal is afforded to disclosers.

Disclosers should be aware that the CCC has a legal obligation to refer disclosures containing possible improper conduct by a commission officer to the Parliamentary Crime and Corruption Committee (PCCC) and the Parliamentary Commissioner.

## PID Management Program

The Chief Executive Officer (CEO) has overall responsibility for ensuring that the CCC develops, implements and maintains a PID management program. The CCC’s PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- senior management endorsement of the value of PIDs and the proper management of PIDs
- a communication strategy to raise awareness among employees about PIDs and this procedure



- a training strategy to give employees access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed
- specialist training and awareness about PIDs for senior management and other staff who may receive or manage PIDs, disclosers or workplace issues relating to PIDs
- senior officers maintaining responsibility for issues relating to the management of PIDs
- ensuring effective systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls
- regular review of this procedure and evaluation of the effectiveness of the PID management program.

### **Why make a PID?**

People who are prepared to speak up about wrongdoing can be the most important sources of information to identify and address problems in public sector administration. The CCC supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of the CCC
- the outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to the CCC
- 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 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 CCC and employees of the CCC 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 subject officer.

### **What is a PID about a commission officer?**

Under s.12 of 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.

Under s.13 of the PID Act, public sector officers (including commission officers) can also make a disclosure about the following public interest matters:

- corrupt conduct (not relevant to commission officers, see point 1 below)
- 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 CCC to assess information received and decide if it is a PID
- 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.

Importantly, due to the CCC’s legislative provisions, PIDs about commission officers are different in three respects:

- While the PID Act extends to reporting ‘corrupt conduct’, the conduct of a commission officer generally cannot constitute corrupt conduct based on the provisions outlined in ss.15(1)(a) and 20(2)(a) of the CC Act (CCC is not a unit of public administration for the purposes of the definition of corrupt conduct).
- Due to the CCC’s secrecy provisions under s.213 of the CC Act, a commission officer cannot disclose information obtained in the course of their duties, except in the limited circumstances outlined within s.213(3). Therefore, commission officers acting in their official capacity must not disclose information to other agencies or journalists.
- Under s.329 of the CC Act, suspected improper conduct by commission officers must be reported to the PCCC and the Parliamentary Commissioner. If a disclosure is both a PID and suspected improper conduct, it will be managed in accordance with both this policy and Reporting improper conduct (procedure).

## Procedure

### 1. Making a PID

#### 1.1. Who can a PID be disclosed to?

A PID must be made to the “proper authority” to receive disclosures of the type being made. The CCC is the proper authority for complaints about commission officers.

Disclosers are encouraged to make a PID to:

- Email: [ImproperConductNotificationReport@ccc.qld.gov.au](mailto:ImproperConductNotificationReport@ccc.qld.gov.au)
- Post: GPO Box 3123, Brisbane QLD 4001, Australia

Disclosures about commission officers should be made to the CEO, unless the disclosure is about:

- the CEO or a commissioner – the disclosure must be referred to the Chairperson
- the Chairperson – the disclosure must be referred to the Deputy Chairperson.

However as noted above, the secrecy provisions in s.213 of the CC Act mean that other proper authorities in the PID Act and journalists are not available to commission officers.

For disclosers other than commission officers, a member of the Legislative Assembly or other agency may also be a proper authority to receive a PID (ss. 14, 15 PID Act).

#### 1.2. How to make a PID

A discloser can make a PID in any way, including anonymously, either verbally or in writing. However, disclosers should note that anonymous disclosures may make it difficult for the CCC to:

- seek clarification or further information if needed



- provide the discloser with protection under the PID Act
- provide the discloser with information about the management and outcome of the PID.

To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to provide the following information in writing:

- their contact details (this could be an email address that is created for the purpose of making the disclosure or a telephone number)
- 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.

## 2. Assessing a disclosure

On receipt, the CEO will ensure they are the appropriate person to assess and manage the disclosure. The CEO will refer the disclosure to:

- the Chairperson, if the disclosure is about the CEO or a commissioner
- the Deputy Chairperson, if the disclosure is about the Chairperson.

### 2.1. Determine whether the disclosure is a PID

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.

The disclosure will be assessed in accordance with the PID Act, the PID standards, this policy and procedure, and any other relevant procedure(s).

It is an offence under s.66 of 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.

### 2.2. Determine whether the disclosure contains possible improper conduct

The CCC has a legislative obligation under s.329 of the CC Act to report conduct of a commission officer that it suspects involves, or may involve, improper conduct.

If the CCC determines the disclosure involves possible improper conduct by a commission officer, the CCC must:

- refer the disclosure to the PCCC and the Parliamentary Commissioner, and comply with the *Protocols for reporting suspected improper conduct of officers of the Crime and Corruption Commission (the Protocols)*. The PCCC and the Parliamentary Commissioner should be advised if the CCC has already assessed the disclosure as a PID.
- not take further action until advice is received from the PCCC or Parliamentary Commissioner, unless to protect the discloser, preserve evidence, or preserve the integrity of the CCC.



### 2.3. If the disclosure is not assessed as a PID

Where a discloser states they are making a PID, but it is assessed not to be a PID, the CCC will advise the discloser:

- 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 review
- any action the CCC proposes to take in relation to the matter
- any other options the discloser has in relation to the matter.

If a disclosure does not meet the definition of a PID, but the disclosure was made by a commission officer and involves workplace issues, it will be dealt with under the *Complaints against commission officers - policy and procedure*.

## 3. Action to be taken after the disclosure is assessed as a PID

### 3.1. Risk assessment and protection from reprisal

Disclosers should not suffer detriment as a result of making a PID. Upon receiving a PID, the CCC will conduct a risk assessment to determine the likelihood of the discloser, witnesses or affected third parties (including persons who may be suspected of making the PID) suffering reprisal.

Where the discloser has provided their contact details, the CCC will consult with the discloser. If the disclosure is anonymous, the CCC will consider the information available.

Consistent with the assessed level of risk, the CCC will develop and implement a risk management plan and arrange any reasonably necessary support or protection. The risk management plan will have regard to:

- 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.

The CCC will regularly reassess the risk of reprisal while the PID is being managed and review the risk management plan if required.

Reprisal is an offence under ss. 40-41 of the PID Act. In the event of reprisal action being alleged or suspected, the CCC will:

- attend to the safety of the affected person 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
- investigate the alleged or suspected reprisal.

### 3.2. Appoint a PID Support Officer

Where appropriate, the CCC will assign a PID Support Officer 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.

Further information about support for, and communication with, disclosers can be found under section 5 of this procedure.

### **3.3. Decline to take action on a PID**

Under s.30 of the PID Act, the CCC 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 CCC from the performance of its functions
- another agency with jurisdiction to investigate the information has informed the CCC that an investigation is not warranted.

If the discloser can be contacted, the CCC must provide the discloser with written reasons for their decision not to take further action.

If the discloser is dissatisfied with the decision they can request a review by writing to the CEO within 28 days of receiving the written reasons for decision. The review will be conducted by an appropriately senior commission officer who was not the decision maker.

### **3.4. Investigate the PID**

The CCC may direct appropriate commission officers to commence an investigation. The direction must be in writing. If the PCCC and/or the Parliamentary Commissioner requests an investigation following a notification of improper conduct, the direction must outline any conditions stipulated by the PCCC and/or the Parliamentary Commissioner, and all other procedures in the *Protocols* must be complied with.

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.

### **3.5. Finalise the investigation**

If wrongdoing is substantiated, appropriate action will be taken. Where the investigation has been conducted at the request of the PCCC, advice should be provided to the PCCC and/or Parliamentary Commissioner as set out in the *Protocols*.

Regardless of whether wrongdoing is substantiated, the CCC will consider any issues highlighted during the investigation, such as the need to review systems, policies and procedures, or train staff.

## **4. Support for, and communication with, disclosers**

### **4.1. Communication with disclosers**

Under s.32 of the PID Act, the CCC must give reasonable information to a discloser.



Subject to any restrictions imposed by the PCCC or the Parliamentary Commissioner, or an exemption under s. 32(4) of the PID Act applying, the discloser will be provided with information that meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

The CCC will acknowledge the disclosure as soon as practicable and outline:

- the action that will be taken in response to the PID
- the protections under the PID Act
- confidentiality obligations of the discloser and the CCC
- support arrangements
- regular updates during management of the PID.

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

If the PID has been made anonymously and the discloser has not provided any contact details, the CCC will not be able to acknowledge the PID or provide any updates.

In the exceptional case that the PID raises an allegation of corrupt conduct against a commission officer, the CCC is only obliged to provide information to the discloser in accordance with the provisions of the CC Act.

#### **4.2. Confidentiality**

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

- the PCCC or the Parliamentary Commissioner where the disclosure contains possible improper conduct
- an authorised person for investigation
- make a record for the purpose of assessing, investigating or reporting a disclosure under this policy and procedure
- provide natural justice to subject officers
- respond to a court order, legal directive or court proceedings.

The CCC will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

Unauthorised disclosure of information is a criminal offence under s.65 of the PID Act.

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

#### **4.3. Support for disclosers**

The CCC recognises that providing appropriate support to a discloser is an important feature of effective PID management.

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

As outlined under s.45 of the PID Act, 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.

### **5. Rights of subject officers**

The CCC acknowledges that PIDs may be stressful for subject officers. The CCC will protect their rights 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.

## 6. Record-keeping

In accordance with its obligations under the *Public Records Act 2002* and the PID Act, the CCC will ensure that:

- accurate data is collected about the receipt and management of PIDs and other complaints against commission officers
- 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. No details will be placed on personnel files. If a commission officer is transferred to another department or agency, the PID file will remain the property of the CCC.

## Related documents

*CCC Code of Conduct*

*CCC Risk Management Framework*

[Public Interest Disclosure Standard No. 1/2019](#)

[Public Interest Disclosure Standard No. 2/2019](#)

[Public Interest Disclosure Standard No. 3/2019](#)

[Queensland Ombudsman's PID resources](#), including:

- [PID assessment guide](#)
- [PID risk assessment and risk management guide](#)

## Review triggers

This policy and procedure will be reviewed three years from the date of approval, unless changes in legislation or government policy affecting its operation occur before the three year period has expired. This policy will remain in effect until updated, superseded or declared obsolete.

This policy and procedure should be reviewed in conjunction with:

- *Complaints against commissioner officers – policy and procedure*
- *Protocols for reporting suspected improper conduct of officers of the Crime and Corruption Commission*

The following stakeholders should be consulted in any review of this policy and procedure:

- CEO
- Director, Human Resources
- Director, Legal Services.

