

Making and managing a Public Interest Disclosure under the *Public Interest Disclosure Act 2010 (Qld)*

Purpose

The Queensland College of Teachers (QCT) is committed to creating and maintaining a work environment that encourages and facilitates the disclosure of information that relates to:

- unlawful, corrupt, negligent or improper conduct that could amount to corrupt conduct
- maladministration
- substantial misuse of public resources
- substantial and specific danger to public health and safety
- substantial or specific danger to the health and safety of a person with a disability
- danger to public health and safety and the environment.

The QCT aspires to an organisational climate where all public officers (employees and Board members) feel comfortable and confident enough to report wrongdoing. The QCT also ensures appropriate consideration is given to the interests of officers who are the subject of a Public Interest Disclosure (PID). The QCT is committed to ensuring PID outcomes inform improvements in the way the QCT operates.

The purpose of this policy is to establish and maintain a reporting framework within the QCT to ensure an effective and efficient system of reporting and management of disclosures of wrongdoing in accordance with the Act and to provide protection to officers who make disclosures about suspected wrongdoing to a proper authority within the QCT and in accordance with the Code of Conduct for the Queensland Public Service (<http://www.psc.qld.gov.au/includes/assets/qps-code-conduct.pdf>).

The policy outlines the process to follow when making a PID and the responsibilities of all officers within the QCT when a PID is reported.

This policy applies to all suspected wrongdoing assessed as a PID and is supported by the attached Guidelines for making and managing a Public Interest Disclosure.

Overview

The QCT is dedicated to promoting the public interest by

facilitating disclosures of wrongdoing and ensuring that PIDs are correctly assessed and, when appropriate, thoroughly investigated and dealt with in accordance with the Act, ensuring suitable protection from reprisal action against the person making the PID.

A PID is a report of a suspected wrongdoing or danger. For a report to be considered a PID and attract the protections outlined in the Act, it must be an appropriate disclosure about public interest information. The disclosure must be made to a proper authority.

Any person can disclose information if they honestly believe the information they have is about substantial and specific danger to the health and/or safety of a person with a disability; the commission of an offence if the offence is or would be of a substantial and specific danger to the environment; or the conduct of any other person which could, if proved, be a reprisal.

A public officer may also make a disclosure about the conduct of another person that if proven could be corrupt conduct, maladministration, misuse of public resources, or danger to public health and/or safety.

Prior to making a disclosure a person should be aware of the responsibilities they have when making a disclosure and after making the disclosure. When making a disclosure a person has the responsibility to provide honest and accurate information and provide all the information they have in their possession and make the disclosure to the proper authority.

When a PID is reported the QCT is committed to managing the disclosure thoroughly, impartially and in a timely manner. The management of the PID includes initial evaluation, including a risk assessment and the determination of appropriate action, which may include investigation. If an investigation is conducted the discloser will be kept informed of its progress and outcome.

Responsibilities

Director

- Communicating the expectation that it is essential for all QCT officers to carry out their role and responsibilities to a high professional and ethical standard and always act in the public

interest.

- Ensuring appropriate training and awareness strategies and control systems are implemented to effectively prevent and efficiently respond to suspected wrongdoing, including matters of suspected corrupt conduct.
- Establishing realistic procedures to protect officers who make a PID from reprisal which may be taken against an officer in accordance with the *Public Interest Disclosure Act 2010*.

PID Management Officer

- Monitoring, reviewing and providing advice on legislative, policy and procedural obligations relevant to the disclosure of PIDs, corrupt conduct matters and corrupt conduct prevention strategies.
- Providing advice to managers and officers regarding the disclosure of PIDs and corrupt conduct matters.
- Overseeing matters disclosed pertaining to suspected corrupt conduct, maladministration or other wrongdoing within the QCT and ensure these are assessed and dealt with in accordance with specified timeframes.
- Overseeing the development and delivery of officer training and awareness about PIDs.
- Notifying the Crime and Corruption Commission (CCC) in accordance with the *Crime and Corruption Act 2001* (<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/CrimeandCorruptionA01.pdf>) of complaints or information that may represent corrupt conduct within the QCT as the CCC Liaison Officer.
- Establishing a mechanism for the collection, reporting and reviewing of data pertaining to the disclosure of information that meets the threshold for a PID.
- Reporting on PID data to the Queensland Ombudsman, as the oversight agency, when required.
- Assessing disclosures to determine if the information meets the threshold of a PID.
- Assessing risks involved and determining how identified risks will be managed.
- Determining what action is to be taken if the information is assessed as a PID. For example, whether the matter should be referred to another entity, or managed or investigated by the QCT.
- Referring the matter to an investigation agency if matter is of a corrupt conduct nature.
- Ensuring that advice is provided to the discloser of the PID and appropriate support and protection is afforded to them.
- Ensuring appropriate ongoing support and protection to officers who report suspected wrongdoing.
- Overseeing the collection and recording of pertinent information into the relevant database.
- Ensuring the PID is managed in a timely manner and in accordance with the legislative requirements.
- Ensuring that appropriate advice on the outcome of the matter is provided to the discloser.

Managers

- Maintaining a workplace culture that values professionalism, integrity and diligence.
- Demonstrating positive ethical standards through their own conduct and communications at work.
- Creating a supportive reporting environment that encourages officers to report any concerns about wrongdoing.
- Providing appropriate confidential support to officers who report suspected wrongdoing.
- Referring reports of suspected wrongdoing to the PID Management Officer.
- Implementing appropriate controls to prevent harm to the QCT's assets and resources.
- Assisting officers to resolve ethical dilemmas as required.
- Taking all reasonable steps to minimise the risk of reprisal and monitor the workplace for any signs of detrimental action towards the discloser.

Public officers (QCT employees, Board and committee members)

- Conducting their duties to a high professional and ethical standard.
- Seeking appropriate guidance if they have an ethical dilemma.
- Immediately reporting a matter, to a proper authority, if they honestly believe that some wrongdoing has occurred.
- Maintaining confidentiality about the fact that a PID has been made, the information that has been disclosed and the identity of those referred to in the PID.
- Being prepared to assist in an investigation of the PID if requested by the investigator to provide information.
- Advising the nominated internal witness support officer or manager if it is believed that reprisal action is being taken against the discloser.

Process

The process for making a public interest disclosure is contained in the attached Guidelines for making and managing a Public Interest Disclosure.

Online Resources

Supporting documents

- Guidelines for making and managing a Public Interest Disclosure
- http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/pid_factsheets/Issues_paper_review_of_the_PID_Act_amended_FINAL_08122015.pdf

Review Date

This policy will be reviewed annually. Date of last review: April 2016



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Definitions

Any person: Any person irrespective of whether that person is a public officer or not.

QCT: The Queensland College of Teachers.

Detriment: Includes:

- personal injury or prejudice to safety
- property damage or loss
- intimidation or harassment
- adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business
- financial loss
- damage to reputation, including personal, professional or business reputation.

Discloser: A person who makes a public interest disclosure.

Employee: A person employed by the QCT on a full time, part time, temporary, casual or on contract of service basis, but for the purposes of the PID Act contractors, consultants and volunteers are not considered employees.

Maladministration: Administrative action that was:

- taken contrary to law
- unreasonable, unjust, oppressive, or improperly discriminatory
- 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
- taken for an improper purpose, on irrelevant grounds or having regard to irrelevant considerations
- an action for which reasons should have been given, but were not given
- based wholly or partly on a mistake of law or fact
- wrong.

Corrupt conduct: As defined in the *Crime and Corruption Act 2001* sections 14-15, means conduct of a person, regardless of whether the person holds or held an appointment, that—

(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—

- (i) a unit of public administration; or
- (ii) a person holding an appointment; and

(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—

- (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

(c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and

(d) would, if proved, be—

- (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.

Proper Authority (*Public Interest Disclosure Act 2010*, section 5): A proper authority is:

- a public sector entity; or
- a member of the Legislative Assembly.

Public Health and Safety: Includes the health and safety of persons:

- under lawful care or control
- using community facilities or services provided by the public or private sector
- in employment workplaces.

Public Interest Disclosure (PID): A PID is a disclosure of information about certain types of wrongdoing or danger. For the information or complaint to be considered a PID and attract the protections afforded by the PID Act, the information must be disclosed to a proper authority. The person disclosing the information must also have an honest belief, on reasonable grounds, that there is wrongdoing or danger (subjective test), or the information must tend to indicate the wrongdoing or danger, regardless of the belief of the person disclosing the information (objective test). The disclosure may be made by:

1. an officer about:
 - the conduct of another person that could, if proved, be corrupt conduct or maladministration that adversely affects a person's interest in a substantial and specific way
 - a substantial misuse of public resources (other than an alleged misuse based on a mere disagreement over policy that may properly be adopted about amounts, purposes and priorities of expenditure)
 - a substantial and specific danger to public health or safety
 - a substantial and specific danger to the environment.
2. by any person (including an officer) about:
 - a substantial and specific danger to the health or safety of a person with a disability
 - the commission of an offence against the provision mentioned in Schedule 2 of the Act if the commission of the offence is or would be substantial and specific danger to

the environment

- a contravention of a condition imposed under a provision mentioned in Schedule 2 of the Act if the contravention is or would be a substantial and specific danger to the environment
- the conduct of another person that could, if proved, be a reprisal.

In certain circumstances a PID may be made to a journalist (defined as a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media). These circumstances are where a person has made a PID and the entity to whom the PID was made or referred has decided not to investigate or deal with it, or investigated it but did not recommend any action, or did not notify the person, within 6 months after the date the disclosure was made, whether or not the disclosure was to be investigated or dealt with.

Public Officer: A public officer is an employee of the QCT or a member of the QCT Board or a QCT committee.

Public Sector Entity (*Public Interest Disclosure Act 2010*, section 6): A public sector entity is any of the following:

- a committee of the Legislative Assembly, whether or not a statutory committee
- the parliamentary service
- a court or tribunal
- the administrative office attached to a court or tribunal
- the Executive Council
- a department
- a local government
- a university, university college, TAFE institute or statutory TAFE institute
- the agricultural college
- an entity established under an Act or under State or local government authorisation for a public, State or local government process
- an entity, prescribed under a regulation, that is assisted by public funds.

Reprisal: Causing or attempting or conspiring to cause detriment to another person because or in the belief that:

- the other person or someone else has made or intends to make a PID
- the other person or someone else is, has been or intends to be involved in a proceeding under the Act against any person.

An attempt to cause detriment includes an attempt to induce a person to cause detriment.

Authority

- *Public Interest Disclosure Act 2010 (Qld)* (<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PublntDisA10.pdf>)

Related Policy Instruments

- *Crime and Corruption Act 2001 (Qld)* (<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/CrimeandCorruptionA01.pdf>)
- *Public Service Act 2008 (Qld)* (<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PublicServA08.pdf>)
- *Public Interest Disclosure Standard No.1* (http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/WWTW/Public%20Interest%20Disclosure%20Standard%20No%201_V1.pdf)
- *Code of Conduct for the Queensland Public Service* (<http://www.PSC.qld.gov.au/library/document/catalogue/equity-ethics-grievance/qps-code-conduct.pdf>)

Contact

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