

P23 Public Interest Disclosure Procedure



1. Purpose

Quality Innovation Performance Certifications Pty Ltd (QIP Certifications) is committed to the highest standards of ethical behaviour and to promoting and supporting a culture of honest conduct and good corporate governance. QIP Certifications will foster a culture where wrongdoing within or by the organisation can be raised without fear of retribution. This procedure has been prepared to comply with s.28 of the *Public Interest Disclosure Act 2010* (the PID Act) and also ties in with the *Treasury Laws amendment (Enhancing Whistleblower Protection) Act 2019* and the *Corporation Act 2001*.

In addition to this procedure, QIP Certifications adheres to the Australian General Practice Accreditation Limited (AGPAL) *HR.MAN.003 Whistleblower Manual*.

2. Scope

This procedure applies to all QIP Certifications employees and contractors.

Any person may make a Public Interest Disclosure (PID) about conduct by employees that may be:

- A substantial and specific danger to the health and safety of a person with a disability;
- A substantial and specific danger to a child under 18 years (mandatory report);
- A substantial and specific danger to the environment;
- Reprisal.

Employees may also make a PID about:

- Corrupt conduct;
- Maladministration that adversely affects a person's interest in a substantial and specific way;
- A substantial misuse of public resources;
- A substantial and specific danger to public health or safety.

For a report to be considered a PID and gain the protections of the *Public Interest Disclosure Act 2010*, the discloser must have reasonable grounds for believing there is a wrongdoing (or have information that tends to indicate wrongdoing) and make a report to a proper authority (see reporting mechanisms for further guidance).

3. Referenced Documents

1	Public Interest Disclosure Act 2010
2	Ombudsman Act 2001
3	Crime and Corruption Act 2001
4	Privacy Policy
5	AGPAL Group HR.MAN.001 Human Resources Manual
6	Code of Conduct
7	AGPAL Group HR.MAN.003 Whistle-blower Manual
8	Corporation Act 2001
9	Treasury Laws amendment (Enhancing Whistleblower Protection) Act 2019

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Table 1-Referenced Documents

4. Workplace Health & Safety

1	Stressors for employees or contractors related to management of Public Interest Disclosure management
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Table 2-Referenced Documents

5. Terms and Definitions

Administrative action	Means any action about a matter of administration, including, for example: <ul style="list-style-type: none"> • A decision and an act; and • A failure to decide or do an act, including a failure to provide a written statement of reasons for a decision; and • The formulation of a proposal or intention; and • The making of a recommendation, including a recommendation made to a Board member; and • An action taken because of a recommendation made to a Board member
CCC	Crime and Corruption Commission
Detriment	Includes: <ul style="list-style-type: none"> • 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, for example, personal, professional or business reputation.
Discloser	A person who makes a public interest disclosure
EM	Executive Manager
Journalist	A person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.
Maladministration	Administrative action that: <ul style="list-style-type: none"> • Was taken contrary to law; • Was unreasonable, unjust, oppressive, or improperly discriminatory; • Was unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances even though it is within the law; • Was taken for an improper purpose, or on irrelevant grounds, or having regard to irrelevant considerations; • Was an action for which reasons should have been given, but were not given; • Was based wholly or partly on a mistake of law or fact; • Was wrong.

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Natural justice-also referred to as procedural fairness	The rules of natural justice require that a decision-maker is not biased in any way, gives all parties a fair hearing, ensures all parties are informed and allowed to comment, and considers a person’s point of view on any matter that adversely affects them.
Corrupt conduct	<p>Conduct by anyone that adversely affects a public agency or public official so that the performance of their functions or the exercise of their powers:</p> <ul style="list-style-type: none"> • Is not honest or impartial; • Knowingly or recklessly breaches public trust; • Involves the misuse of agency-related information or material. <p>Corrupt conduct is engaged in for the purpose of providing a benefit to the person or another person, causing a detriment to another person. In addition, the conduct must be serious enough that, if proved, would constitute a criminal offence or a disciplinary breach providing grounds for dismissal.</p>
Proper authority	<p>Persons and organisations authorised under the PID Act to receive public interest disclosures.</p> <p>Examples of proper authorities are:</p> <ul style="list-style-type: none"> • A public sector organisation that is the subject of the PID. A public sector entity is a proper authority if the disclosure is about the conduct of that entity or its employees; • An entity that has authority to investigate the matter. For example, the Crime and Corruption Commission is a proper authority for disclosures about corrupt conduct; • The Chief Judicial Officer of a court or tribunal when the report is about suspected corrupt conduct or reprisal by judicial officers; • A Member of the Legislative Assembly (an MP).
Public Interest Disclosure (PID)	A disclosure of information specified in the Public Interest Disclosure Act 2010 (sections 12 and 13) and made to an appropriate public sector entity that has the responsibility or power to take appropriate action about the information disclosed or to provide an appropriate remedy.
QIP Certifications	Quality Innovation Performance Certifications Pty Ltd
QPS	Queensland Police Service
Reprisal	Causing, attempting to or conspiring to cause detriment to another person because, or in the belief that, they have made, or intend to make, a PID.
Subject officer	The person about whom a PID is made.
Substantial and specific	While not defined in the Act, 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.

Table 3-Terms and Definitions

1. Procedure

1.1. Encourage the Reporting of Wrongdoing

The Executive of QIP Certifications encourage reporting of PIDs through:

- A stated commitment to encouraging internal reporting of wrongdoing;
- Endorsement of the value of PIDs and the proper management of PIDs and disclosers;
- The implementation of an effective and efficient reporting system;
- The implementation of an effective communication strategy;
- The implementation of an effective training program;
- Providing appropriate support to the discloser;
- Ensuring that disclosures are properly assessed and investigated as quickly as possible;
- Maintaining confidentiality where necessary;
- Keeping the discloser informed;
- Making changes to the Office's policies and procedures or internal controls where appropriate as a result of a PID investigation.

1.2. Establish a Clear Reporting System

1.2.1. Reporting mechanisms for members of the public and employees

To be treated as a PID, a disclosure must be made to a 'proper authority' as defined in s.5 of the *PID Act*.

A member of the public can make a disclosure to:

- the Deputy Ombudsman by way of:
 - Email: PIDCoordinator@ombudsman.qld.gov.au
 - Letter:
Attn: PID Coordinator
Deputy Ombudsman
GPO Box 3314
Brisbane Qld 4001
Phone: 3005 7000 (and ask to speak to the Deputy Ombudsman in their role as PID Coordinator)
- A public sector entity that has power to investigate or remedy the matter;
- A member of the Legislative Assembly;

1.2.2. Reporting Mechanisms for Employee or Contractor

An employee or contractor can make a disclosure about the conduct of another employee or the company by making the disclosure to:

- Someone in the QIP Certifications office, the EM or Board Chair (internal);
- A public sector entity that has power to investigate or remedy the matter (external);

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- A member of the Legislative Assembly.

A disclosure by a member of the public or an employee may be made in any way (verbally or in writing) and/or anonymously. An anonymous disclosure will be treated in the same way as disclosures made by employees who identify themselves when making the disclosure. It should be noted, however, that anonymous disclosures are sometimes more difficult to investigate.

1.2.3. Internal reporting by employees

The PID Act provides that if an entity (the company) has a reasonable procedure for making a PID, the discloser must use the procedure.

- An employee who decides to report wrongdoing internally should report to their supervisor. If the discloser believes their supervisor is involved in the wrongdoing, the disclosure should be made to that person's supervisor or the CEO or to the board;
- A supervisor who receives information that the supervisor suspects may constitute a PID must immediately refer the disclosure to the CEO for consideration;
- If the CEO is alleged to be involved in the wrongdoing, the information must be referred by the supervisor to the Board Chairperson for consideration.

Despite the above procedure, an employee may make a disclosure at any time direct to the Ombudsman or to any member of the management.

1.2.4. External reporting by employees

An employee can make an external disclosure to the Ombudsman, a Member of Parliament or to another public sector entity that has the power to investigate or remedy the matter e.g. Queensland Police Service (QPS).

An employee who decides to make a disclosure to another public sector entity should contact the appropriate entity and find out how to make the disclosure.

Another public sector entity will be regarded as a 'proper authority' for the purpose of receiving the disclosure if the information relates to:

- The conduct of that entity or any of its public officers;
- Anything the entity has a power to investigate or remedy;
- The conduct of another person that could be a reprisal relating to a previous disclosure made by the person to a proper authority.

The table below is a guide to the appropriate external entities for receiving PIDs about the conduct of the Office or one of its employees. If a discloser's information relates to more than one category (for example, a danger to public health and a misuse of public resources), one of the appropriate agencies should be contacted for advice.

Conduct	Appropriate Entity
Corrupt conduct	Crime and Corruption Commission
Danger to public health or safety	Queensland Health; Health Ombudsman; Workplace Health and Safety Queensland; Queensland Police Service; or the relevant local council
Danger to health and safety of a person with a disability or seniors	NDIS Safeguarding and Quality Commission; Department of Communities; Disability Services and Seniors; Public Guardian; QPS; Elder Abuse Line.
Danger to the health and safety of a child	QPS; Department of Child Safety, Youth and Women, Public Guardian.
Danger to environment	Department of Environment and Science or the relevant local council.
Substantial loss of public funds	Queensland Audit Office.
Reprisal	Crime and Corruption Commission (a reprisal would normally constitute corrupt conduct), Anti-Discrimination Commission Queensland.

1.3. Disclosure to a Journalist

In limited situations, a person may receive protections under the *PID Act* if they choose to make a disclosure to a journalist. This protection may apply where a person has made a PID of substantially the same information and the organisation to which the disclosure was referred:

- Decided not to investigate or deal with the disclosure;
- Investigated the disclosure but decided not to recommend the taking of any action in relation to the disclosure;
- Did not notify the person within six months after the date the disclosure was made, whether the disclosure would be investigated or dealt with.

2. Assessment of the Risks

2.1. Protection for Employees Making a PID

QIP Certifications aims to ensure that employees will be protected from harassment, discrimination or any other form of detriment as a result of reporting wrongdoing.

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The risk of reprisal will be considered by the Board Chair or the Executive Manager (EM) when a disclosure is first made. In consultation with the discloser, a program of support will be developed, and an appropriate plan put in place to minimise the risk of reprisal.

Any employee who takes a reprisal commits an indictable offence and is also liable to disciplinary action.

Any employee who believes that he or she has been subjected to a reprisal should report the matter immediately to the CEO or the EM who will consider, and where necessary investigate, all reports.

Upon being advised of the alleged reprisal to the CEO or the EM will decide whether there is an obligation to refer the matter to the Ombudsman, Crime and Corruption Commission (CCC) under s.38 of the Crime and Corruption Act 2001.

2.2. Reasonable Management Action

Making a PID does not protect the discloser from disciplinary or criminal action if the discloser has been involved in improper conduct. A discloser who is an employee remains subject to reasonable management action in relation to their work conduct.

Reasonable management action includes a reasonable appraisal of work performance, a reasonable requirement to undertake counselling, and a reasonable suspension from the workplace or a reasonable disciplinary action.

2.3. Supporting the Discloser

The Board Chair or the EM will:

- Assess the support and protection requirements of the discloser;
- Provide on-going management of the PID and support for the discloser;
- Where appropriate, develop a case management plan for the discloser, having regard to the nature of the information disclosed, their duties and working environment, the potential for reprisals against them and their medical, psychological, emotional and other needs;
- Have regard to whether or not the discloser, or the subject employee, should be relocated or given a change in duties;
- Take such reasonable steps as are necessary to ensure that the discloser is not subjected to a reprisal by employees of the Office.

3. Handling of PIDs

3.1. The Assessment and Investigation Process

All PIDs received will be treated seriously and confidentially and referred to the CEO for assessment to determine the action required. The EM will assess the matter in accordance with AGPAL Group HR.MAN.001 Human Resources Manual. This includes determining if the matter should be referred to another entity.

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If a PID is likely to result in a disciplinary action, the HR Manager which is outsource through the AGPAL Group of Companies, will consult with the Board Chair of QIP Certifications and determine the appropriate course of action.

The Board Chair or an officer nominated by the Board Chair will contact the discloser and advise how the disclosure will be handled, including arrangements for support and protection from reprisal. The allegations will be handled in accordance with the requirements of the PID Act; AGPAL Group HR.MAN.001 Human Resources Manual, this procedure, and QIP Certifications complaints management processes.

3.2. Process for PID Referral

The company has a statutory obligation under the *Crime and Corruption Act* to refer suspected corrupt conduct to the CCC. If a PID relates to alleged corrupt conduct by employees of either this office or of a public sector entity, the matter will be referred to the CCC.

PIDs about the following matters may be referred to the appropriate public sector entity:

- Danger to public health or safety;
- Danger to the health and safety of a person with a disability, a child or a senior;
- Substantial misuse of public resources;
- Environmental harm matters.

The company will assess if there is an unacceptable risk of reprisal, prior to referring a PID to another entity. Before making any referral, where practicable, the discloser will be consulted to determine the risk of reprisal.

3.3. Appropriate Action

The CEO will determine whether an investigation is required. If a decision to investigate the matter internally is made, one or more officers will be authorised to undertake an investigation.

3.3.1. Where No Action is Taken

The CEO may decide to take no further action on a PID under s.30 of the Act when any of the following apply:

- The substance of the PID has already been investigated or dealt with by another appropriate process;
- The matter should be dealt with by another appropriate process;
- The age of the information makes it impractical to investigate the matter;
- The information is considered too trivial to warrant investigation;
- The entity that has jurisdiction to investigate the matter has notified the company that investigation is not warranted.

Written reasons for not taking any further action must be provided to the discloser. The discloser may apply to the Ombudsman for a review of the decision not to take further action within 28 days of receiving the written reasons.

3.3.2. After the Investigation

At the conclusion of the investigation, the investigator must prepare a report for the CEO and board. The report should include the investigator's opinions as to whether on the balance of probabilities the disclosure (or each allegation) has been substantiated or not.

The Board will consider the report, and determine what further action is required.

The discloser will be provided with reasonable information in writing about the action taken on their disclosure and the results as per the AGPAL Group of Companies HR.MAN.001 Human Resources Manual.

Before information is released consideration must be given whether releasing the information is likely to adversely affect:

- The safety of any individuals party to the complaint;
- The investigation of an offence or possible offence;
- Necessary confidentiality about an informant's existence or identity.

The discloser will be advised of the conclusion of any organised support arrangements following completion of the investigation and the finalisation of action taken. This will signal the end of the reporting process and the finalisation of the matter.

3.3.3. False or Misleading Information

It is an offence under s.66 of the *PID Act*, punishable by up to two years imprisonment, to intentionally make a false or misleading statement intending it to be acted upon as a PID. Employees who make false declarations may also be in breach of the Code of Conduct. Where the Board Chair reasonably suspects that the discloser has not acted in good faith, or that he or she has intentionally made a false report (including where the allegation has been made maliciously, vexatiously or without any basis), a disciplinary action may be instigated against the discloser. False allegations of corrupt conduct may be investigated by the QPS.

3.3.4. Confidentiality Requirements

QIP Certifications is committed to maintaining confidentiality in respect of the management of disclosures/PIDs in order to:

- Minimise the likelihood that a discloser will suffer a reprisal;
- Ensure that the effectiveness of an investigation into a disclosure will not be compromised;
- Protect the reputation of any employee whose conduct is the subject of an unsubstantiated disclosure.

An employee who obtains confidential information, because of their involvement in the administration of the *PID Act*, must not make a record of such information, or intentionally or recklessly disclose it, except as permitted by the *PID Act*. Examples of authorised disclosures include:

- For the purposes of the *PID Act*;
- To discharge a function under another *Act*;
- For a proceeding in a court or tribunal;
- If the person to whom the confidential information relates consents;

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- If the person reasonably believes that making the record or disclosing the information is necessary to provide for the safety and welfare of a person;
- If it is essential under the principles of natural justice and it is unlikely that a reprisal will be taken against the person because of the disclosure.

4. Rights of Review

4.1. Internal

Where the Board has not been involved in the assessment or investigation of a PID, the Board may, upon written application by an affected employee or other discloser, conduct a review of the decision made or action taken at the conclusion of a PID investigation, or otherwise take action to respond to the application.

If it is decided not to investigate or deal with a PID, the discloser must be given written reasons for that decision. The discloser may then apply to the Board for a review of the decision within 28 days after receiving the written reasons.

4.2. External

A right of review to the Supreme Court under the *Judicial Review Act 1991* may lie in respect of a question of law arising out of a decision made under an enactment.

Where an employee or member of the public may, under an Act, appeal against or apply for a review of:

- Disciplinary action taken against the employee;
- The appointment or transfer of the employee to another position;
- Unfair treatment of the employee;
- The employee may also appeal the action or have the action set aside (whether or not the Act specifies grounds for the appeal or review) because it was the taking of a reprisal against the employee.

There may also be a right to apply to the Queensland Industrial Relations Commission or the Supreme Court for an injunction about a reprisal in certain circumstances.

5. Roles and responsibilities

The EM is the nominated officer with overall responsibility for issues related to the management of PIDs within the company.

ACTION	Responsibility
Referral of PID by supervisor to CEO/EM	Supervisor
Assessment by CEO/EM as to: <ul style="list-style-type: none"> • Whether the disclosure constitutes a PID; • Whether or not an investigation will be conducted if the disclosure is a PID. 	CEO/EM
Discloser advised of assessment outcome	CEO/EM

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Develop support plan for the discloser if necessary	CEO/EM or other officer appointed to conduct the investigation
Draft investigation plan and commence investigation	CEO/EM or other officer appointed to conduct the investigation
Update discloser on progress of investigation	CEO/EM or other officer appointed to conduct the investigation
Complete investigation	CEO/EM or other officer appointed to conduct the investigation
Advise the discloser of final decision	CEO/EM or other officer appointed to conduct the investigation
Provide information about any PID received to the Ombudsman under this procedure as required by the <i>Public Interest Disclosure Act</i> (for annual reporting by the PID oversight body)	CEO/EM
Report to the Board whether any change is needed to the company's policies and procedures or internal controls	EM
Conduct annual review of the effectiveness of the company's PID procedures	EM/QMR

The CEO, EM and Board will take reasonable and timely action to assess, and deal with, reprisal or significant risk of a reprisal being taken because of the disclosure.

6. Rights of Employees or Officers

The requirement to maintain confidentiality does not affect the obligation to provide natural justice to disclose information to the subject employee if their rights would otherwise be detrimentally affected.

However, the information given to the subject employee must not reveal, or be likely to reveal, the identity of the discloser unless:

- It is necessary to afford natural justice;
- It is unlikely a reprisal will be taken against the discloser.

Subject employees or officers have the right to:

- Be informed at a time considered appropriate by the Ombudsman or Deputy Ombudsman of the alleged wrongdoing;
- Make a response;
- Be treated fairly;

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- Have the matter handled confidentially;
- Have the matter considered and investigated by an impartial person.

7. Revision History

Revision	Effective Date	Section	Change Description
1	19/11/2018	All	Initial document release.
2	15/08/2019	All	Reviewed no changes-footer update only