



Public Interest Disclosure Gold Coast Hospital and Health Service

1 Purpose

This procedure describes the processes that the Gold Coast Hospital and Health Service (GCHHS) undertakes to create and maintain an environment that encourages disclosure of information about wrongdoing. This is achieved by:

- facilitating disclosures of information, or complaints, about wrongdoing or danger that relate to GCHHS;
- ensuring disclosures, including those made anonymously, are properly assessed and when appropriate, properly investigated or otherwise dealt with;
- affording appropriate and reasonable protection from reprisals, and support, for those who have made a public interest disclosure; and
- ensure appropriate consideration is given to the interests of those who are the subject of a public interest disclosure.

2 Scope

This procedure applies to all GCHHS employees (permanent, temporary and casual), as well as any member of the public making a public interest disclosure to GCHHS in accordance with the *Public Interest Disclosure Act 2010*.

Compliance with this procedure is mandatory.

3 Procedure for Public Interest Disclosure

GCHHS encourages any staff member who considers that they have witnessed wrongdoing to come forward and make a disclosure. GCHHS aspires to an organisational climate where all staff feel confident and comfortable about making a disclosure of wrongdoing.

Every employee has an ethical responsibility to disclose wrongdoing and any disclosure is in accordance with GCHHS ethical values and in particular, Acting with Integrity. Section 9 of the *Public Sector Ethics Act 1994*, places an obligation on all GCHHS employees to disclose fraud, corruption and maladministration.

When staff come forward with information about wrongdoing, GCHHS commits to:

- Protect the dignity, wellbeing, career interests and good name of all persons involved where possible to do so;
- Protect the discloser and others associated with the process from any adverse action taken as a result of making the disclosure (reprisal);
- Treat any bullying, harassment, unfair treatment, victimisation or discrimination that results from a disclosure being made as a breach of discipline;
- Respond to the disclosure thoroughly and impartially;
- Where some form of wrongdoing has been found, take appropriate action to deal with it;
- Keep the discloser informed of the progress and outcome;
- Maintain confidentiality.



3.1 What is a public interest disclosure?

A public interest disclosure is a disclosure of information about certain types of wrongdoing or danger.

For the information or complaint to be considered a public interest disclosure and attract the protections afforded by the *Public Interest Disclosure Act 2010* (PIDA), the information must be disclosed to a proper authority (see section 3.3).

The person disclosing the information must also have an honest belief, on reasonable grounds, that there has been wrongdoing (subjective test), or the information must tend to indicate the wrongdoing, regardless of the belief of the person disclosing the information (objective test).

3.2 Types of information that can be disclosed under the PIDA

Anyone (whether or not the person is a public officer) can disclose information under the PIDA about:

- a substantial and specific danger to the health and safety of a person with a disability
- the commission of an offence against a provision mentioned in Schedule 2 of the PIDA, or a contravention of a condition imposed under a provision, if the offence is or would be a substantial and specific danger to the environment
- the conduct of another person that could, if proved, be a reprisal.

A public officer can also disclose information under the PIDA about:

- corrupt conduct maladministration that adversely affects a person's interests in a substantial and specific way
- a substantial and specific danger to public health and safety
- a substantial misuse of public resources - other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure.

In these circumstances, and applying the objective test, the reason for disclosing the information does not limit the PIDA from being applied where legislatively required.

On occasion, information is disclosed by a person to a proper authority because of another process without the person who disclosed the information honestly believing (or knowing) the matter concerned was (alleged) wrongdoing, e.g. suspected corrupt conduct. For example, when lodging a grievance or complaint at the local level, there may be information that raises a suspicion of corrupt conduct.

Often managers, through the course of managing their employees, may disclose information as part of performing their duties. Internal auditors may disclose information as a consequence of an internal audit.

A purported disclosure is when a person explicitly requests that their information is treated as a public interest disclosure but the information does not meet the criteria of the PIDA.

3.3 Proper authorities

A disclosure of information must be made to a proper authority.

A proper authority is a person or organisation authorised to receive a public interest disclosure.

Disclosing to a proper authority ensures that the reputation of the person(s) about whom a disclosure is made is not unfairly damaged (defamed) and to encourage disclosures to appropriate proper authorities that have a responsibility or the power to take action. It also serves to maintain the integrity and confidentiality of the matter and to mitigate the risk of reprisal.

In general, a proper authority includes:

- a public sector entity if the disclosure is about the conduct of the entity or any of its officers, for example, the Gold Coast Hospital and Health Service;
- an entity the discloser believes is a proper authority that has the power to deal with or investigate the matter – for example the Crime and Corruption Commission for matters of suspected corrupt conduct ; or
- a Member of the Legislative Assembly.

Employees of GCHHS can disclose information to:

- certain officers in GCHHS (see below)
- another public sector entity that has power to investigate or remedy the matter (external)
- a Member of the Legislative Assembly (external).

Officer's within GCHHS who can receive a disclosure of information include:

- an employee's manager; or any other person in a management role within GCHHS;
- the Director, Statutory Compliance and Conduct;
- Human Resource Services Directorate;
- Members of the Executive Management Team;
- the GCHHS Chief Executive; or
- a member of the GCHHS Board.

It is preferable an employee who decides to report wrongdoing or danger reports the conduct to their manager, in the first instance.

If the discloser believes their manager is involved in the wrongdoing or danger, the disclosure should be made to an alternative manager, senior manager or other officer as listed above.

A **member of the public** can disclose information to:

- any officer within GCHHS who may receive information or a complaint that relates to GCHHS - noting the complaint or information of alleged wrongdoing or danger may be forwarded to other officers or units within GCHHS;
- another proper authority with the power to investigate or remedy the matter; or
- a member of the Legislative Assembly.

External proper authorities include:

- Office of the Health Ombudsman – for maladministration
- Queensland Ombudsman
- Crime and Corruption Commission
- Queensland Audit Office – for the misuse of public resources
- Department of Communities, Child Safety and Disability Services and the Office of the Adult Guardian – for danger to the health and safety of a person with a disability
- Department of Environment and Heritage Protection – for danger to the environment
- a Member of the Legislative Assembly (MP) – for any wrongdoing or danger. MPs do not have any authority to investigate a public interest disclosure.

If a disclosure is made to a person or an entity other than a proper authority, the person making the disclosure will not receive the protections of the PIDA.

While GCHHS strongly encourages internal reporting, a person may report to an external proper authority as a first step.

A person disclosing information should be aware when disclosing externally, it is very likely the other proper authority will discuss the matter with GCHHS, or refer the information, or complaint, to GCHHS to deal with.

A person who decides to make a disclosure of information to a proper authority other than GCHHS should contact the other entity to find out how to make the disclosure to that entity (e.g. what is that entity's procedure).

3.4 Procedure for making a disclosure – written or verbal

The PIDA states a disclosure of information to a proper authority can be made in any way including:

- in person;
- in writing (by letter, email or memo);
- by telephone; or
- anonymously.

GCHHS is an appropriate authority under the PIDA that can receive disclosures of wrongdoing that:

- relates to the conduct of Gold Coast Hospital and Health Service or any of its employees;
- anything the Gold Coast Hospital and Health Service has the power to investigate or remedy;
- the conduct of another person that could if proved be reprisal.

If there is any doubt as to whether a disclosure is in fact a PID, GCHHS will deal with the matter as if it is a PID until otherwise confirmed.

A Public Interest Disclosure may be made even where there is no proof as long as there is a reasonable ground to believe that a wrongdoing has occurred. Where possible, the following information should be provided:

- The name and job title of the persons subject of the disclosure
- Details of relevant events, dates and places
- The names of people who may be able to support the information being declared
- Any other supporting information.

Disclosures may be made to:

- The employee's manager or supervisor;
- The Director
Statutory Compliance and Conduct
Ph: 5687 9057 email: GCPID@health.qld.gov.au
Level 7, Southport Health Precinct
16-30 High Street, Southport, Q 4215
- The Chief Executive, Gold Coast Hospital and Health Services
Level 4, A Block, Gold Coast University Hospital
1 Hospital Blvd, Southport, Q 4215

Disclosures may also be made to the following external entities:

- The Crime and Corruption Commission if it concerns corruption
- The Office of the Health Ombudsman
- The Queensland Ombudsman
- A Member of Parliament

3.5 Anonymous disclosures

The PIDA allows for information to be provided anonymously. When information is received anonymously about wrongdoing, the information must still be assessed to determine if the information is a public interest disclosure.

Disclosing anonymously can make it difficult to seek clarification or request additional information, to inform of progress or to provide feedback on the action to be taken, or which has been taken on the public interest disclosure.

An anonymous discloser may also experience difficulties in relying upon the protections afforded by the PIDA.

3.6 Roles and responsibilities in disclosure management

An organisational culture that encourages, values and supports making public interest disclosures requires shared responsibilities for disclosure management across GCHHS.

All levels of management within GCHHS are responsible for:

- reporting information, or complaints, that may be a public interest disclosure, to the Director, Statutory Compliance and Conduct;
- maintaining confidentiality about a potential public interest disclosure and considering the risk of reprisal;
- providing or facilitating support for a person who has made a public interest disclosure;
- providing or facilitating support for a person who is the subject of a public interest disclosure and affording natural justice to them;
- monitoring the workplace for signs of reprisal against a discloser, or any other person, where a public interest disclosure has been made;
- organising or facilitating information and awareness for employees about public interest disclosures, including mandatory training, see [GCHHS Policy 1293 – Legislative and Mandatory Training](#);
- ensuring when allegations are substantiated and systemic recommendations are made, adopted recommendations are implemented;
- determining whether any other change is needed to policy, procedure, other process or control measure, and escalating and monitoring through to implementation; and
- maintaining locally held public interest disclosure records and information securely, including information on risk assessments, reprisal protection plans or other information gathered when dealing with the disclosure (e.g. investigation reports, disciplinary files).

Role overview / action*	Responsibility*
Receive a potential public interest disclosure/ complaint for assessment	Statutory Compliance and Conduct (SCC) (delegated officers)
Assess information to determine whether the information is a public interest disclosure pursuant to the PIDA	Director, SCC
Advise a discloser when information is assessed as a public interest disclosure	Director, SCC
Suggest a course of action to deal with the public interest disclosure	SCC in conjunction with the GCHHS delegate or decision maker where appropriate, and subject to any specific direction from the Crime and Corruption Commission for disclosures about suspected corrupt conduct ; and/or the QPS.
Take action on, or deal with, information and alleged conduct disclosed in a public interest disclosure	GCHHS delegate The SCC and Workplace Relations Team (WRT) may review or investigate matters that have raised a suspicion of corrupt conduct .
Take no action on a public interest disclosure	GCHHS decision maker, in conjunction with the SCC and WRT for matters raising a suspicion of corrupt conduct.

Role overview / action*	Responsibility*
Consider the risk of reprisal; and where required, implement reasonable procedures and protection plan	Manager or other nominated delegate in conjunction with local level officers where required (e.g. HR, OH&S) The SCC can provide assistance when requested.
Provide or facilitate support, or develop a support plan, where required	Manager or other nominated delegate in conjunction with local level officers where required (e.g. HR). The SCC can provide assistance when requested.
Provide updates, in general terms, or regular follow up, for a person who has made a public interest disclosure where required and safe to do so	GCHHS delegate. May include SCC and WRT if investigation of the matter involves suspected corrupt conduct.
Reasonable <u>written</u> information / outcome advice to a person who has made a public interest disclosure on the action taken, including a description of the results of the action	GCHHS decision maker or delegate. The SCC may facilitate, or review, where agreed.
Provide or facilitate awareness and training about public interest disclosures	Nominated delegate, in conjunction with local level officers where required (e.g. training officers).
Public interest disclosure coordinator role for GCHHS including: <ul style="list-style-type: none"> • central contact point for GCHHS on public interest disclosures, including for the oversight agency • reporting to the oversight agency • maintain a record of public interest disclosures for GCHHS • provide information on public interest disclosures and the PIDA where requested (adjunct to local level advice) • monitor the effectiveness of the GCHHS's policy and processes • custodian for online information for the Department, including online training. 	SCC (delegated officers)

* role overview and responsibilities may change

In compliance with the requirements of section 28 of the Public Interest Disclosure Act 2010, the Director, Statutory Compliance and Conduct will:

- have oversight over the management of PIDs
- manage the assessment and referral of PID matters according to the requirements provided in the *Public Interest Disclosure Act 2010*
- liaise with external proper authorities in the resolution of PID matters
- promptly escalate PID matters directly to the GCHHS Chief Executive where warranted.

3.7 False or misleading information

Section 66 of the PIDA states that a person who gives information to a proper authority, knowing it is false or misleading, and intending it be acted upon as a public interest disclosure, commits a criminal offence.

The protections of the PIDA do not extend to those who intentionally make a disclosure of information known to be false or misleading.

Internal proper authorities who receive a disclosure of information and have concerns the information is false or misleading must refer the information to the SCC for assessment.

In the event the SCC obtains information raising a reasonable suspicion a disclosure of information is false or misleading, the matter will be referred to the Queensland Police Service (QPS) and the Crime and Corruption Commission.

An employee making a false or misleading disclosure may also face disciplinary action.

3.8 When a disclosure may be made to a journalist

The PIDA provides a disclosure of information may be made to a journalist in certain circumstances. However, a journalist is not considered a 'proper authority' under the PIDA.

A disclosure of information to a journalist can only occur after certain pre-conditions of the PIDA have been met, including:

- the disclosure was initially made to a proper authority and the information was determined to be a public interest disclosure under the PIDA;
- and
- the proper authority decided not to investigate or deal with the public interest disclosure;
- or
- investigated the public interest disclosure but did not recommend the taking of any action;
- or
- did not notify the person, within six months after the date the public interest disclosure was made, whether or not the public interest disclosure was to be investigated or dealt with.

An employee may place themselves at risk of breaching other legal requirements when disclosing information to an unauthorised person. Disclosers are strongly encouraged to seek advice, including legal advice, before reporting information to the media.

A journalist is not bound by the preservation of confidentiality under Section 65 of the PIDA.

3.9 Reasonable management action

The PIDA recognises taking reasonable management action is not prevented because a public interest disclosure has been, or may be, made. The employment relationship between an employee who makes a public interest disclosure and GCHHS continues when a disclosure has been, or may be, made.

The PIDA confirms taking reasonable management action in relation to a person who has, or may make, a public interest disclosure is not reprisal action.

Reasonable management action is defined in the PIDA. It includes actions such as:

- an appraisal of an employee's work performance;
- suspension of an employee from the workplace;
- disciplinary action;
- management decisions regarding transfer, deployment, redundancy or retrenchment; or

- any reasonable action in relation to any of the above.

When it is confirmed for an employee they have made a public interest disclosure under the PIDA, the employee remains responsible for:

- achieving the performance expectations of their position;
- their own behaviour; and
- observing all workplace policy and procedures.

3.10 Conduct of a discloser and liability for own conduct

Under the PIDA a person is still liable for their own conduct even if the conduct forms part of, or is the basis, for the public interest disclosure. The person who made the public interest disclosure is not protected civilly, criminally or from any liability, including by way of an administrative process, including disciplinary action, for their own conduct.

An employee who has made a public interest disclosure must ensure their conduct is at all times appropriate and in accordance with the Code of Conduct for the Queensland Public Service. In particular, a discloser must ensure their conduct towards a person who is the subject of a public interest disclosure, or who has participated in the process of dealing with a disclosure, is proper and appropriate.

3.11 Protections under the PIDA

3.11.1 Assessing and managing the risks of reprisal

A purpose of the PIDA is to provide protections for a person who makes a public interest disclosure (PID). As Section 40 of the PIDA states, a person must not reprise against another person by causing a detriment, because a public interest disclosure has been made, it is incumbent upon the GCHHS to minimise where possible, the incidents of reprisal action by considering (where practicable) the following actions:

- Identify the overall risks associated with the PID
- Conduct a risk analysis and consider the effectiveness of control measures
- Risk evaluation – level of risk and actions needed
- Consultation (where applicable).

3.11.2 Immunity from liability

A person who makes a public interest disclosure under the PIDA is not subject to any civil or criminal liability or any liability arising by way of administrative process, including disciplinary action, for making the public interest disclosure.

3.11.3 Confidentiality provisions do not apply

A person who makes a public interest disclosure will have immunity from prosecution or other legal proceedings for a breach of any confidentiality requirements under another Act.

This means a person who makes a public interest disclosure, does not breach an obligation by way of oath, or a rule of law (e.g. another Act), restricting or requiring the person to maintain confidentiality, provided the disclosure is *made to a proper authority*.

3.11.4 Protection from defamation action

A person who makes a public interest disclosure will have absolute privilege in defamation proceedings from the making of the disclosure, provided the disclosure is *made to a proper authority*.

3.11.5 Confidentiality

The identity of a person who has made a public interest disclosure will be protected, where possible.

3.12 Employees who are subject of a public interest disclosure (subject officer)

GCHHS is committed to taking action to address information about wrongdoing to determine the substance.

A public interest disclosure will be managed impartially and objectively. It is only an allegation until the information is dealt with, and a finding made.

Subject officers must be afforded natural justice. The right to natural justice includes being provided with an opportunity to respond to an allegation prior to any adverse decision being made. Affording natural justice does not mean a subject officer must be advised of the allegation as soon as the information, or complaint, has been received.

Subject officers are entitled to:

- a presumption of innocence and to be treated fairly
- have the matter handled confidentially
- have the matter dealt with, reviewed or investigated impartially (procedural fairness)
- be informed, where necessary, and at a time considered appropriate by the delegate or decision maker, of the alleged wrongdoing or danger.

Management, or the delegate, should advise a subject officer who to contact with any questions, or of support available such as the Employee Assistance Service. Subject officers may also seek assistance from their union or other support person during the process of the public interest disclosure being dealt with.

A subject officer must ensure their conduct or workplace behaviour is not improper or detrimental towards a person who has, or is believed to have, made a public interest disclosure, or a person who has participated in a process of dealing with a disclosure (e.g. a witness). To do so may be a reprisal under the PIDA and constitute a criminal offence.

A subject officer may not be advised about an allegation if it is misleading or of no substance and the decision maker intends to take no action in relation to it.

3.13 Referral to other entities

The PIDA allows a receiving public sector entity to refer a disclosure of information to another public sector entity. This may be done, for example, when the disclosure relates to the conduct of the other entity or the other entity has the necessary jurisdiction, expertise and technical skills or knowledge to investigate. GCHHS will consider the risk of reprisal before referring the disclosure to another entity to deal with.

In some instances, public sector entities may need to work together and share confidential information to manage a public interest disclosure.

3.14 Awareness, training and other resources

Information on corrupt conduct is incorporated into the Welcome to Gold Coast Health Orientation. Training opportunities for staff is also provided to enhance the identification of wrongdoing and how to make or manage PIDs.

3.15 Evaluation and monitoring

Through SCC, GCHHS will conduct periodic reviews to ensure its policy and processes are consistent with best practice, current legislation and any Standard in force.

Reviews will be consultative in nature and aim to include a range of stakeholders. They will seek to improve internal procedures for overall public interest disclosure management including reporting, record keeping, risk management, confidentiality and awareness. Reviews will also consider GCHHS's effectiveness in dealing with public interest disclosures, the experience of officers involved in making or managing public interest disclosures and actions taken to deal with public interest disclosures.

Reviews will also aim to identify ongoing risks to GCHHS and its officers by identifying any trends of information disclosed and substantiated and developing measures to prevent a reoccurrence of improper or inappropriate conduct, process or practice.

4 Supporting /Relating Documents

Authorising Policy and Standard/s

- Public Interest Disclosure Standard No.1
- Code of Conduct for the Queensland Public Service
- [POL1274 Risk Management Policy](#)
- Public Service Commission Directive 102/14 – Appeals

Procedures, Guidelines, Protocols

- [PRO1275 Risk Management Procedure](#)

Forms and templates

- N/A

5 Definition of terms

Term	Definition	Source
Danger	A threat or event that would cause harm or damage to both persons and/or property	
Delegate	A delegate holds a power and/or responsibility in relation to a particular position within GCHHS for the effective and efficient operation of policy, function or activity	
Disability	<p>A disability is a person's condition that—</p> <p>(a) is attributable to—</p> <p style="padding-left: 20px;">(i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p style="padding-left: 20px;">(ii) a combination of impairments mentioned in subparagraph (i); and</p> <p>(b) results in—</p> <p style="padding-left: 20px;">(i) a substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self care or management; and</p> <p style="padding-left: 20px;">(ii) the person needing support.</p> <p>For the above, the impairment may result from an acquired brain injury.</p> <p>The disability must be permanent or likely to be permanent.</p> <p>The disability may be, but need not be, of a chronic episodic nature.</p>	<i>s11, Disability Services Act 2006</i>
Environment	<p>Includes:</p> <ul style="list-style-type: none"> - ecosystems and their constituent parts, including people and communities; - the social, economic, aesthetic and cultural conditions of a location, places and areas, however large or small. 	<i>Environmental Protection Act 1994</i>
Journalist	Pursuant to Section 20(4) of the PIDA - a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.	<i>Public Interest Disclosure Act 2010</i>

Term	Definition	Source
Maladministration	Schedule 4 of the PIDA defines maladministration as administrative action that: <ol style="list-style-type: none"> a. was taken contrary to law; or b. was unreasonable, unjust, oppressive; or improperly discriminatory; or c. was in accordance with a rule or a provision of an: <p>Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; or</p> d. was taken – <ol style="list-style-type: none"> i. for an improper purpose; or ii. on irrelevant grounds; or iii. having regard to irrelevant considerations; or e. was an action for which reasons should have been given but were not given; or f. was based wholly or partly on a mistake of law or fact; or g. was wrong. 	<i>Public Interest Disclosure Act 2010</i>
Public health or safety	Includes the health or safety of persons: <ol style="list-style-type: none"> a. under lawful care or control; or b. using community facilities or services provided by the public or private sector; or c. in employment workplaces. <p>For example - a patient under the care or control of a doctor, nurse or other health professional at a public health facility.</p>	
Substantial and specific	Substantial - means 'of a significant or considerable degree (or great)'. It must be more than trivial or minimal and have some weight or importance (e.g. conduct that is moderately or somewhat serious). 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	

6 References and Suggested Reading

- N/A

7 Consultation

Key stakeholders who developed/reviewed this version are:

- A/Executive Director, People and Engagement
- Director, Statutory Compliance and Conduct
- Manager, Workplace Relations
- A/Manager, Workforce Policy and Performance
- Governance Risk and Commercial Services

8 Committee Endorsement

- N/A

9 Procedure Development/Revision and Approval History

Version No	Developed/Modified by	Content authorised by	Approving Officer	Date of Effect	Last Reviewed
1	Ben Reyes – Senior Workforce Policy and Standards Advisor	Bettina Tracey – Manager, Workforce Policy and Performance Ron Potts – Director, Statutory Compliance and Conduct	Damian Green – Executive Director, People Systems and Performance	11/06/2015	01/12/2016
2	Ben Reyes – A/Manager, Workforce Policy and Performance	Ben Reyes – A/Manager, Workforce Policy and Performance	Hannah Bloch – Executive Director, People and Engagement	01/02/2017	

10 Audit Strategy (mandatory)

Level of risk	<i>High</i> – This policy attracts a moderate consequence. Possible incidences of PID may attract brief adverse media attention.
Audit strategy	Review of complaints assessed as PIDs as well as actions taken to resolve.
Audit tool attached	No
Audit date	Annual
Audit responsibility	Director, Statutory Compliance and Conduct
Key Elements / Indicators / Outcomes	Adherence to PIDA legislative and reporting requirements for Qld Ombudsman audits.

11 Approval and Implementation

Delegated Lead: Director, Statutory Compliance and Conduct

Responsible Authority: Director, Statutory Compliance and Conduct

Approving Officer: Executive Director, People and Engagement

Approval date: 24/01/2017

Effective from: 01/02/2017

Next Review Date: 24/01/2020

Version No.: 2

Supersedes: PRO1379v1

Keywords: *Complaints, complaint management, public interest disclosure, official misconduct, corrupt conduct, natural justice*

Accreditation References: NSQHS, EQulP and other criteria and standards

- EQulP Standard 13 – Workforce Planning and Management
- EQulP Standard 15 – Corporate Systems and Safety

12 Appendices

- N/A

