

## MANAGEMENT OF PUBLIC INTEREST DISCLOSURES WITHIN MACKAY HOSPITAL & HEALTH SERVICE MACKAY HOSPITAL AND HEALTH SERVICE

**Custodian/Review Officer:** Director  
People and Culture

**Version no:** One

**Applicable To:** All MHHS Employees

**Approval Date:** 17/04/2013

**Effective Date:** 26/04/2013

**Next Review Date:** 12/04/2016

**Approving Officer/s:**

Kerry McGovern  
Chief Executive  
Mackay HHS

17 April 2013

Raelene Burke  
Executive Director, People & Culture  
Mackay HHS

17 April 2013

**Supersedes:** New

**Key Words:** Public, Interest, Disclosure

**Accreditation References:**  
EQulP National

### 1 Purpose

This procedure aims to assist employees and other people to understand their obligations in reporting wrongdoing that concerns staff members from Mackay Hospital and Health Service (MHHS) including official misconduct, maladministration, misuse of public funds, a substantial danger to public health, safety and environment. This document also outlines the legislative provisions and procedures in place to protect people who make public interest disclosures under the *Public Interest Disclosure Act 2010* (PID Act).

### 2 Scope

#### Indications or Contraindications:

This document covers:

- Applies to all employees of MHHS, whether full-time, part-time, temporary, or casual. It also applies to any external person (member of the public) who is making a public interest disclosure to the MHHS, in accordance with the PID Act.

This document does not cover:

- Employee complaints (grievances) if the issue you are considering disclosing involves activity that is primarily aimed at you, such as harassment or bullying, these types of issues may be employee complaints and may not be a Public Interest Disclosure (PID). This does not mean that you should not report them, as they are contrary to the policies of the MHHS. These types of issues should be reported to your manager or supervisor or a member of the MHHS Executive Management team in the first instance.

### 3 Procedure for Management of Public Interest Disclosures Mackay Hospital and Health Service

#### Appropriate Disclosure

For a report of wrongdoing to fall under the PID Act, there are two alternative tests:

1. That the discloser must have an honest belief on reasonable grounds that their information tends to show the conduct or danger. In this case, even if the information provided turns out to be incorrect, or the allegation is unable to be substantiated, the person will still receive protections under the Act provided they thought the information was true.
2. That the information tends to show the conduct or danger, regardless of whether the discloser believes the information shows the conduct or danger. This test enables the focus to be placed onto the substance of the disclosure, not necessarily the person's motivation.

#### Of Public Interest Information

What constitutes a PID depends on who is making the disclosure, with the PID Act distinguishing between disclosures made by a public officer and those made by any person.

#### MHHS Commitment

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

We believe that we have an obligation to deal with wrongdoing in MHHS. Every employee has an ethical responsibility to disclose wrongdoing and any disclosure is in accordance with MHHS's ethical culture and in particular, acting with integrity. Section 9 of the *Public Sector Ethics Act 1994*, places an obligation on all MHHS employees to disclose fraud, corruption and maladministration. Further to this, the obligation to report wrongdoing is reflected in Principle 1 of the Queensland Public Service Code of Conduct. MHHS believes staff who come forward with disclosures of wrongdoing are acting as exemplary organisational citizens by assisting us in promoting openness, accountability and good management.

We will support this policy with a communication strategy to heighten staff awareness around PIDs and PID procedures. Training opportunities for staff will also be provided to enhance the identification of wrongdoing and how to make or manage PIDs.

When staff come forward with information about wrongdoing, we commit to:

- Protecting the dignity, wellbeing, career interests and good name of all persons involved
- Protecting the discloser from any adverse action taken as a result of making the disclosure (reprisal)
- Treating any bullying, harassment, unfair treatment, victimisation or discrimination that results from a disclosure being made as a breach of discipline
- Responding to the disclosure thoroughly and impartially



## Queensland Health Procedure: Management of Public Interest Disclosures Mackay Hospital and Health Service

- Where some form of wrongdoing has been found, taking appropriate action to deal with it
- Keeping the discloser informed of the progress and outcome
- Maintaining confidentiality.

### **PIDS from Any Person (Members of the Public)** *Section 12 of the PID Act*

Any person can make a disclosure about:

- a) A substantial and specific danger to the health or safety of a person with a disability
- b) A substantial and specific danger to the environment
- c) The commission of an environmental offence (see Schedule 2 of the PID Act)
- d) The conduct of another person that could, if proven, be a reprisal

### **PIDS from Public Officers** *Section 13 of the PID Act*

In addition to the disclosures any person can make, a public officer can make a disclosure about:

- a) Suspected official misconduct, as defined in the *Crime and Misconduct Act 2011*
- b) Maladministration that adversely affects a person's interests in a substantial and specific way
- c) A substantial misuse of public resources
- d) A substantial and specific danger to public health or safety

### **To An Appropriate Authority**

MHHS is an appropriate authority under the PID Act that can receive disclosures of wrongdoing that:

- relates to the conduct of MHHS or any of its employees
- anything MHHS has the power to investigate or remedy
- the conduct of another person that could if proved be reprisal

If you are dissatisfied with how your disclosure has been assessed or managed you may request a review, either internally or externally (Refer to avenue of review section of this procedure).

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



### Advice and Assistance

Staff seeking information about making a public interest disclosure can contact the following areas for confidential advice:

- The Executive Director People & Culture  
Ph: 4885 6754 email: [Raelene.burkemailto:@health.qld.gov.au](mailto:Raelene.burkemailto:@health.qld.gov.au)  
The PSC Advisory Service  
Ph: 1300 038 472 email: [pscenquiries@psc.qld.gov.au](mailto:pscenquiries@psc.qld.gov.au)
- The CMC's Complaints Services (in relation to suspected official misconduct)  
Ph: 33606060 or email [complaints@cmc.qld.gov.au](mailto:complaints@cmc.qld.gov.au)
- The Queensland Ombudsman (in relation to maladministration).  
Ph: 1800 068 908

### Making a Public Interest Disclosure (Internal Reporting)

In MHHS, disclosures can be made in any way, including:

- In person
- In writing (by letter, email or memo)
- By telephone.

All disclosures of wrongdoing will be recorded and directed to the appropriate area of MHHS to be dealt with. If a disclosure is received orally, it should be immediately recorded in writing, dated and signed by the person receiving the disclosure and forwarded to the Executive Director People & Culture. If a matter received is to be referred to another appropriate authority, it will be done so according to legislative and administrative requirements of the Act.

Remember, you do not need proof, as long as you have reasonable grounds to believe that the wrongdoing has occurred. Where possible, please provide information including:

- The name and job title of the person who is the subject of your disclosure
- Details of relevant events, dates and places
- The names of people who may be able to support what you say
- Any other information that supports what you say.



### Disclosures may be made to:

- Your manager or supervisor (if you're a staff member)
- The Executive Director People & Culture

Ph: 4885 6754 email: [Raelene.burke:@health.qld.gov.au](mailto:Raelene.burke:@health.qld.gov.au)

PO Box 5580 Mackay Mail Centre

Mackay QLD 4740

### External Reporting Options

A disclosure can be made to someone external to MHHS. You can do this as a first step, or if you are not satisfied with our response to your disclosure. While we urge you to disclose to someone in the MHHS, we will respect and support you if you disclose to an appropriate external entity.

### Disclosures May Be Made To:

- The Crime and Misconduct Commission if it concerns official misconduct
- The Queensland Ombudsman if it concerns maladministration
- A Member of Parliament.

You should be aware that when you disclose to an external entity, it is very likely that the entity will discuss your case with MHHS. We will make every effort to assist and cooperate with any entity dealing with a PID about MHHS to work towards a satisfactory outcome.

Be aware that if you make a disclosure to a person or an organisation other than one that can investigate and deal with the matter, you will not receive the protections provided under the PID Act.

### Disclosure to a Journalist

In limited situations, a discloser may receive protections under the PID Act if they chose to make a disclosure to a journalist. Protections apply if:

A person has made a disclosure (PID) of substantially the same information and the organisation to which the disclosure was referred:

- Decided not to investigate or deal with the matter
- Investigated the disclosure but decided not to recommend the taking of any action in relation to the matter
- Did not notify the person within 6 months after the date of the disclosure was made, whether the matter would be investigated or not.



### Anonymous Disclosures

The likelihood of a successful outcome is increased greatly if, when making a disclosure, you make your identity known. Nonetheless, you are able to make a disclosure anonymously either in writing or by telephone. If you do decide to disclose anonymously, you will need to provide sufficient information for the matter to be dealt with, as it will not be possible for us to come back to you for clarification or more information. Also, it will not be possible for us to provide you updates regarding the progress of the disclosure or outcome advice at the conclusion of the matter.

In order to remain anonymous, but allow MHHS ongoing communication, you may wish to create an anonymous email account that would allow MHHS to obtain further details and provide progress reports and outcome advice at the conclusion of the matter.

If you have reported anonymously and provided enough information for our organisation to act, we are committed to acting upon your request.

### False or Misleading Information

It is an offence under the PID Act to intentionally make a false or misleading statement intending it be acted upon as a public interest disclosure. It is an indictable offence which carries a maximum penalty of 2 years imprisonment or \$16,700 fine. Any employees who make a false or misleading statement will be subject to disciplinary action.

### Assessment and Notification

Upon receipt of all relevant information as required by the Executive Director People & Culture, a formal assessment of the information will be undertaken in order to determine whether the disclosure amounts to a PID. In making this assessment, the Executive Director People & Culture may obtain independent expert advice, additional information from the district or division, or consult with other internal units; ensuring confidentiality is maintained as required.

The Executive Director People & Culture will notify the discloser, where appropriate, that the disclosure of information was received and of the assessment outcome. If the disclosure is assessed as being a PID, information regarding confidentiality pursuant to the PID Act, the protections from reprisal that apply under the PID Act and employee assistance details (if applicable) will be provided to the discloser. The PID assessment notification to the discloser will be in writing (email and or letter).

Once it is determined that a PID has been made, the discloser will be considered an 'internal witness'. The contact details of the Workforce Management officer or nominated contact officer will be provided to the internal witness as the local first point of contact. The Workforce relations officer or nominated contact is to initiate discussion with the internal witness to facilitate assistance, support or protection that the internal witness may require at the local level, timeframes for resolution of the disclosure of information and how the internal witness will be advised of progress and outcomes.



### Actions MHHS Will Take

A decision on how to best deal with the disclosure received will be made in consultation with the appropriate unit. It may be that preliminary inquiries are undertaken and as a result a decision not to take the matter any further is made. It may be determined that an investigation, disciplinary process or stem review is the most appropriate way to deal with the disclosure. It may also be decided that another agency is more capable of dealing with the discloser; therefore the matter will be referred to that agency under the provisions of the PID Act. Where your disclosure is referred to another area of MHHS for investigation or other action or to an external entity such as the Crime and Misconduct Commission, the discloser will be advised of this.

MHHS will provide the discloser, in writing (letter or email) advice and assistance on the process including information on the action taken or proposed to be taken as a result of the disclosure, the estimated timeframes, confidentiality, protections under the act and details of a contact person if applicable. At the conclusion of the process, the discloser will be provided with outcome advice explaining what action was taken to address the disclosure.

### Right of Review

Under the PID Act, a discloser can appeal to the Chief Executive of MHHS in the event that the disclosure is formally assessed as a PID; however MHHS decides to take no action. Under section 30 of the Act, a person who received written reasons can apply to the Chief Executive within 28 days for a review of that decision.

In the case where a discloser provides information and after formal assessment, MHHS determines the information does not meet the threshold of the Act and therefore is assessed as not being a PID, the discloser can appeal that decision to the Queensland Ombudsman Office.

The Public Service Commission as the oversight agency does not undertake reviews of individual PID matters.

### Reprisal

The purpose of the PID Act is to promote the public interest by protecting those persons who make disclosures. This protection continues following the disclosure of information being dealt with or at the completion of any review or investigation.

Any allegation of reprisal against an internal witness will be taken seriously by MHHS. Pursuant to Section 40 of the PID Act, a person must not cause, or attempt or conspire 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 public interest disclosure, or the other person or someone else is, has been, or intends to be, involved in a proceeding under the PID Act against any person.

In addition, Section 12(1)(d) of the PID Act provides for any person who has information about the conduct of another person that could, if proved, be a reprisal, can be in itself a disclosure of information in the public interest.



Any employee who commits an act of reprisal commits an indictable offence with a punishment of up to 2 years imprisonment. The employee may also face disciplinary action.

### Assessment of Risk of Reprisal

As soon as becoming aware that a PID has been made (or will be made) and a (potential) internal witness is known to exist, the level of protection and support appropriate for the internal witness will need to be determined. An initial assessment will need to be undertaken by the relevant line manager or Patient liaison manager at the time of becoming aware of the potential PID, and prior to formal assessment by the Executive Director People & Culture, MHHS. This can be achieved by conducting a risk assessment of reprisal (utilising Risk matrix), including consideration of the likelihood of a reprisal occurring and its consequences. The information obtained during the initial assessment is to be provided to the Executive Director People & Culture for use during the formal assessment of the PID.

Pursuant to Section 6.6 of the Public Interest Disclosure Standard No.1, implementing protective measures need only be proportionate to the risk of reprisal. If the risk is assessed as being sufficiently “High” by the MHHSt or division, a record of a protection plan is to be developed. Where feasible, this should be developed in consultation with the discloser and other relevant stakeholders, e.g. occupational health and safety.

Risk assessments are to be conducted on a regular basis to ensure the risk of reprisal is being managed appropriately. There are a number of occasions when the risk of reprisal may change including, but not limited to:

- commencement of investigation
- change in personal circumstances of parties involved
- investigation findings being delivered to parties
- discipline process undertaken
- penalty delivered to subject officer.

A review of any reprisal protection plan should occur if the risk of reprisal changes. Reprisals may occur if a disclosure of information is not managed appropriately. MHHS as the employer must demonstrate that they have taken reasonable steps to prevent reprisal occurring. Appropriate records must be maintained where the risk of reprisal was considered, assessed and managed.

Pursuant to Part 7 of the Public Interest Disclosure Standard No. 1 and MHHS’s reporting obligations to the Public Service Commission, the Executive Director People & Culture will report the actions that have been taken to assess and manage the risk of reprisal for an internal witness. Reporting should encompass the following risk mitigation strategies which are in place or have been considered at the local level:

- a) additional security
- b) discloser declined support / protection
- c) existing strategies considered sufficient
- d) monitoring / management of staff who may engage in reprisal



- e) protection of identity or existence of discloser
- f) provision of tailored support for the discloser
- g) suspension of staff who may engage in reprisal
- h) transfer of discloser
- i) transfer of staff who may engage in reprisal

### Responding to Reprisals

Once MHHS becomes aware of reprisal action against a discloser, immediate steps will be taken to investigate the concerns of reprisal. The discloser will be kept informed of the progress of the investigation or process and any relevant outcome. Where it is established that reprisal action is occurring, immediate steps will be taken to stop that activity and protect those concerned. The nature of the action that MHHS will take is dependent upon the circumstances and seriousness of the reprisals likely to be suffered.

Any employees found to have engaged in reprisals will be the subject of disciplinary action.

Be aware that making a PID does not protect you from any management, disciplinary or criminal action if you have been involved in improper conduct or your performance is unsatisfactory.

### Support and Feedback to Disclosers

MHHS will initiate and coordinate action to support you if you make a disclosure, particularly if you are suffering detriment as a result. Actions may include:

- Advising you about the resources available in our organisation to handle any concerns you may have as a result of making a disclosure
- Appointing a mentor, confidante or other support officer to assist you throughout the process
- Referring you to our Employee Assistance Program or arranging for other professional counselling
- Generating support for you in your work unit (if appropriate)
- Ensuring that any suspicions of reprisal, victimisation or harassment are dealt with
- Maintaining contact with you
- Negotiating with you and your relevant support officer and case manager a formal end to your involvement with the support program, when it is agreed that you no longer need assistance.

If you feel that you may need support as a result of making a disclosure, you are urged to speak with your supervisor (if applicable) or contact the Executive Director People & Culture of your facility.

All staff in supervisory roles in MHHS are under an obligation to notify the Executive Director People & Culture if they believe any staff member is suffering detriment as a result of reporting a wrongdoing.



### Confidentiality

Maintaining confidentiality is very important in the handling of a disclosure. Confidentiality not only protects you, the discloser against reprisals, but any other people affected by your disclosure.

When we talk about confidential information, what we mean is:

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

In protecting your confidentiality, MHHS will ensure that the details of your disclosure, the investigation and related decisions will be kept secure.

Be aware that, while every attempt to ensure confidentiality will be made, there will be occasions when the disclosure of your identity may be necessary. These include:

- Providing natural justice to the subject officer and only if the risk of reprisal is minimal
- Responding to a court order or legal directive (e.g. subpoena, notice to produce, direction by a parliamentary committee)
- In court proceedings.

We will advise you if your identity needs to be revealed for any reason listed above and seek your consent, if possible. We will attempt as far as possible to avoid a situation where your identity will need to be revealed even though you have not given consent.

While we are prepared to take all steps necessary to protect the confidentiality of the information that you have provided, you also have some obligations. The fewer people who know about your disclosure – both before and after you make it – the more likely it is that we will be able to keep your identity confidential and protect you from any detrimental action in reprisal. We encourage you not to talk about your disclosure to your work colleagues or any other unauthorised person.

We will ensure that all record keeping and reporting will be done in accordance with legislative and administrative requirements of the Act.

### Protection of Disclosers

You should not suffer any form of detrimental action as a result of making a disclosure, including:

- Unfair treatment
- Harassment
- Intimidation
- Victimisation
- Unlawful discrimination.



MHHS is committed to ensuring that no disciplinary or adverse action, including workplace reprisals by managers, occurs as a result of you making a disclosure.

If any of the above does occur, you have the right to request that we take positive action to protect you. Tell the person who is handling your disclosure immediately. All managers or supervisors must notify the Executive Director People & Culture of any allegations of reprisal action against a discloser, or if they themselves suspect that reprisal action against a discloser is occurring.

### Reasonable Management Action

The PID Act recognises the need for supervisors and managers to be able to manage their staff, including those staff that have made a disclosure under the act. The taking of reasonable management action is not prevented by the Act and ensures the relationship between the discloser (employee) and MHHS will continue. For the action to be regarded as reasonable management action, the reason for taking the action cannot include the fact that a public interest disclosure was made. Existing HR policies and procedures must be considered when taking reasonable management action. It is suggested managers consult with their local Manager Workforce Management or Executive Director People & Culture, MHHS before the proposed action is to be undertaken.

The act outlines a number of examples of reasonable management action:

- appraisal of the employee's work performance and development, e.g. performance and development (PaD) process, or however so named
- a requirement of the employee to undertake/participate in a performance improvement processes (PIP), or however so named
- an action that requires the employee to respond to matters raised in relation to or against them, e.g. complaints or grievance matters, or when the discloser becomes the subject of a disclosure made by another person
- an action or decision made about task allocation, workloads or access to training
- an action or decision made about matters of operational requirement or need
- a requirement that the employee undertake counselling
- a requirement that an employee participates in a rehabilitation / return to work process
- suspension of the employee from the employment workplace
- disciplinary action
- an action to transfer or deploy the employee
- action to end the employees employment by way of redundancy or retrenchment
- action in relation to the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the employee's employment.

Management, when contemplating taking action against an internal witness, must be able to demonstrate that:

- there are sufficient grounds (for taking the action)
- the action is reasonable, as well as proportionate, and consistent with similar cases (where known)
- they consider the action to be reasonable in the circumstances
- it has taken into account the particular circumstances.



### Rights of the Subject Officer

MHHS is committed, and required, to take action to address information that has been disclosed in the public interest to determine the substance of the disclosure. Any information provided will be managed impartially, objectively and reasonably.

In most circumstances preliminary inquiries will be undertaken to test the veracity of the complaint and ensure the preservation of evidence. In the case where the information provided is incorrect, the subject officer may not be advised the allegations were received at all. Once the information is assessed and determined to amount to a PID, the subject officer will receive notification that allegations have been received that could amount to a PID and provided advice regarding the process and their rights and obligations.

Subject officers may seek assistance from their union, or engage their own legal representative at their own expense, during the process of the disclosure being dealt with or when allegations are raised.

A subject officer may, in certain circumstances be provided with information that will identify a discloser. These circumstances include to provide natural justice to the subject officer and it is unlikely that reprisal action would be taken (Section 65(4) of the PIDA; and refer to Section 16 of this policy).

Subject officers are to remain cognisant of their own behaviour and obligations under the Code of Conduct for the Queensland Public Service. A person who has made a disclosure of information, or participated in the process of dealing with a disclosure, are doing so to meet their own obligations and duty, and therefore are not to be treated adversely because of their involvement in any process. A subject officer is not to act in any manner, towards a person who is a discloser or a person who has participated in the process of dealing with a disclosure, in which that manner could be misconduct, unacceptable, disgraceful or improper conduct or workplace behaviour (also refer to Section 17 of this policy).

### Finalisation of PID Matters

Once a decision is made regarding the action to be taken to deal with the PID, the Executive Director People & Culture will maintain contact with you and provide regular updates as they become available. The Executive Director People & Culture may also provide updates to you as the discloser. Once the matter is concluded outcome advice will be provided to you, identifying the following:

- What action was taken
- If the matter was substantiated or not
- If disciplinary action or managerial action is taken against a subject officer
- Any systemic issues identified and proposed action to be taken to rectify.

You will not be provided with the penalty imposed against a subject officer due to privacy consideration. If requested the Executive Director People & Culture can meet with you and explain the outcome further.



## Queensland Health Procedure: Management of Public Interest Disclosures Mackay Hospital and Health Service

We are committed to treating disclosures fairly. The rights of any person who is the subject of, or is associated with a disclosure, are important. If a PID is made against you, you are entitled to confidentiality and the presumption of innocence.

Employees who are the subject of a PID may seek assistance from their legal representative or union and may also wish to contact the Employee Assistance Service for advice and support.

All employees should remember their responsibilities under the Code of Conduct. Employees who participate in any investigation are performing their duty as required under the Code. They should not be treated adversely because of their involvement and any employees found to have engaged in reprisals will be the subject of disciplinary action.

### Maintaining Appropriate Records and Fulfilling Reporting Requirements to the Oversight Agency

The Public Interest Disclosure Standard No1 places an obligation on MHHS to ensure there is a secure and confidential reporting system to receive and manage a disclosure of information is in place. In this regard, the Executive Director People & Culture will record particular details of public interest disclosures in accordance with Section 7.2 of the Public Interest Disclosure Standard No. 1 and may request certain information in relation to a disclosure of information from relevant parties involved in the PID.

MHHS will provide relevant information to the oversight agency through completion of the Public Interest Disclosure database which is managed by the oversight agency.

### Further Information for Potential Disclosers

For more information on how to make a PID:

*Thinking about blowing the whistle? (A guide for individuals)*, Public Service Commission/Crime and Misconduct Commission/Queensland Ombudsman, available at [www.ethics.qld.gov.au](http://www.ethics.qld.gov.au)

### Further Information for Managers Or Supervisors:

*Has one of your staff blown the whistle? (A guide for managers or supervisors)*, Public Service Commission/Crime and Misconduct Commission/Queensland Ombudsman, available at [www.ethics.qld.gov.au](http://www.ethics.qld.gov.au)

### HYPERLINKS

A copy of the *Public Interest Disclosure Act 2010* can be viewed at:  
<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PubIntDisA10.pdf>

A copy of the Code of conduct for the Queensland Public Service can be viewed at  
<http://www.ethics.qld.gov.au/CodeofConduct.aspx>

A copy of the Queensland Health Policy E9 Requirements for reporting Official Misconduct <http://www.health.qld.gov.au/ghpolicy/docs/pol/gh-pol-218.pdf>



## 4 Supporting Documents

### Legislative references

- *Public Interest Disclosure Act 2010*
- *Public Sector Ethics Act 1994*
- *Crime and Misconduct Act 2001*
- *Financial Accountability Act 2009*
- *Disability Services Act 2006*
- *Information Privacy Act 2009*
- *Right to Information Act 2009*
- *Industrial Relations Act 1999*
- *Anti-Discrimination Act 1991*
- *Environmental Protection Act 1994*
- Requirements for Reporting Official Misconduct HR Policy E9 (QH-POL-218)
- Integrated Risk Management – Risk Analysis Matrix – Implementation Standard 3 (QH-IMP-070-3)
- Queensland Public Service Code of Conduct
- Public Interest Disclosure Standard No.1, Public Service Commission
- Directive 19/10 – Appeals
- Directive 8/10 – Managing Employee Complaints

## 5 Definition of Terms

### What is a public interest disclosure (PID)?

Is a category of complaint consisting of an **appropriate disclosure of public interest information** made to either the **Health service or other appropriate authority** that result in the discloser receiving protection and support under the *Public Interest Disclosure Act 2010*.

### Delegation

The legislated obligations under the *Public Interest Disclosure Act 2010* have been delegated to the Executive Director People & Culture in the MHHS Human Resources Sub-Delegations manual. This position is responsible for the assessment of and provision of information relating to Public Interest Disclosures within MHHS.

**Administrative Action** means any action about a matter of administration, including, for example—

- a) a decision and an act; and
- b) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and
- c) the formulation of a proposal or intention; and
- d) the making of a recommendation, including a recommendation made to a Minister; and
- e) an action taken because of a recommendation made to a Minister.



**Detriment** includes –

- a) personal injury or prejudice to safety; and
- b) property damage or loss; and
- c) intimidation or harassment; and
- d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and
- e) financial loss; and
- f) damage to reputation, including, for example, personal, professional or business reputation.

**Disability** means a permanent disability or one likely to be permanent –

- a) that is attributable to an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment or a combination of impairments; and
- b) that results in -
  - (i) a substantial reduction of the person's capacity for communication, social interaction, learning or mobility; and
  - (ii) the person needing support.

**Discloser** means a person who makes a public interest disclosure.

**Environment** includes –

- a) ecosystems and their constituent parts, including people and communities; and
- b) all natural and physical resources; and
- c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c). (*Environmental Protection Act 1994*)

**Journalist** means a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.

**Maladministration** is administrative action that:

- a) was taken contrary to law; or
- b) was unreasonable, unjust, oppressive, or improperly discriminatory; or
- c) was unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances even though it is within the law; or
- d) was taken for an improper purpose, or on irrelevant grounds, or 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.

**Misconduct** is inappropriate or improper conduct in an official capacity or inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the public service.

**Official misconduct** is conduct concerned with the performance of an officer's duties that is not honest or impartial, a breach of the trust placed in the person, or a misuse of information or material acquired through the officer's position and that could, if proved, be –

- a) a criminal offence; or
- b) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.



## Queensland Health Procedure: Management of Public Interest Disclosures Mackay Hospital and Health Service

**Protected Discloser** means a person who makes a PID in accordance with provisions contained within the *Public Interest Disclosure Act 2010* and who is granted protected status (previously known as “whistleblower protection status”).

**Public Funds** are funds available to, or under the control of, a public sector entity and include, for example, public moneys within the meaning of the *Financial Accountability Act 2009*.

**Public Health or Safety** includes the health or safety of persons:

- 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.

**Public Interest Disclosure** means 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.

**Reprisal** means causing, attempting to or conspiring to cause, detriment to another because, or in the belief that, they have made, or intend to make, a PID.

**Substantial and specific** (e.g. describing danger to the environment) 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.



## 6 Consultation

Date	Key Stakeholder /s	Position	Status Tracking
14/3/13	Marg Ryan	Clinical Support Officer	
14/3/13	Robyn Cathcart	District Solicitor	

## 7 Procedure Revision and Approval History

Date	Amendment	Authorised by
February 2013	Reviewed to meet the National Standards for request from and specimen identification.	

## 8 Audit Strategy

<b>Level of risk</b>	Low
<b>Audit strategy</b>	Numbers of incidents reported Number of complaints if process is not followed
<b>Audit tool attached</b>	No
<b>Audit date</b>	Continuous each event will be examined for issues
<b>Audit responsibility</b>	All staff of the MHHS
<b>Key Elements / Indicators / Outcomes</b>	MHHS welcomes comments that can improve this policy. Feedback should be addressed to the Executive Director People & Culture, MHHS.



## 9 Appendix One Roles and Responsibilities

<p><b>The Chief Executive of MHHS</b></p>	<ul style="list-style-type: none"> <li>• Creating an ethical workplace culture where employees report suspected wrongdoing when they become aware of it and are supported when they do so. (<i>Code of Conduct for the Queensland Public Service</i>);</li> <li>• Ensuring reasonable procedures are in place to deal with a PID and that those procedures are published to enable members of the public and employees to access them (<i>Public Interest Disclosure Act 2010</i>);</li> <li>• Ensuring that PIDs are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any wrongdoing in a PID (<i>Public Interest Disclosure Act 2010</i>);</li> <li>• Ensuring that employees making a PID receive support and protection from reprisal (<i>Public Interest Disclosure Act 2010</i>);</li> <li>• Ensuring that all legislative obligations in relation to reporting and investigation are met (<i>Public Interest Disclosure Act 2010</i>);</li> <li>• Ensuring that all matters involving suspected official misconduct are referred to the Crime and Misconduct Commission. (<i>Crime and Misconduct Act 2001</i>).</li> </ul>
<p><b>Executive Directors, Operations Directors, Facility Managers, line Managers and all staff members holding supervisory roles within the MHHS.</b></p>	<ul style="list-style-type: none"> <li>• Ensuring employees in their area are aware of their obligations in relation to the requirements of this policy and procedure including:</li> <li>• employees reporting official misconduct and making PIDs within their business areas about any matters which may be disclosed (under sections 12 and 13 of the PID Act 2010); and</li> <li>• members of the public making a PID to MHHS about: <ul style="list-style-type: none"> <li>- a substantial and specific danger to the environment;</li> <li>- a substantial and specific danger to the health or safety of a person with a disability; or</li> <li>- a reprisal because of a belief that a person has made or intends to make a PID.</li> </ul> </li> <li>• Ensuring reports of wrong doing and potential PIDs are referred in the first instance to the Operations Director/Facility Manager (of your particular facility or Division) and the Executive Director People &amp; Culture (MHHS PID Coordinator) for assessment and action.</li> <li>• Ensuring employees are aware of the protection offered to members of the public as a protected discloser when making a PID to the MHHS under the <i>Public Interest Disclosure Act 2010</i>;</li> <li>• Ensuring employees, managers and supervisors are trained in ethical decision-making, Code of Conduct for the Queensland Public Service, misconduct prevention, and relevant MHHS policies;</li> <li>• Monitoring the workplace for any signs of reprisal or increased risk of reprisal against an employee making a PID and taking reasonable action to protect them, and ensuring an employee, who is the subject of a PID, receives fair treatment and has access to support and assistance;.</li> <li>• Ensuring that where allegations made in a PID are substantiated, recommendations from the investigation are implemented as soon as practicable, with effective systems and processes put in place to reduce the likelihood of recurrence.</li> </ul>
<p><b>Executive Director People &amp; Culture, MHHS (PID Co-ordinator):</b></p>	<p><i>The legislated obligations under the Public Interest Disclosure Act 2010 have been delegated in the MHHS, Human Resources Sub-Delegation manual to the Executive Director People &amp; Culture. )</i></p> <ul style="list-style-type: none"> <li>• Overall co-ordination of the MHHS PID process;</li> <li>• Upon receipt of the information, ensuring it is assessed according to the current procedure and the outcome of that assessment communicated to the discloser.</li> <li>• Undertaking an initial risk assessment taking into consideration the information received at the time of assessment and if necessary in consultation with appropriate positions (Low Risk matters).</li> <li>• Development, maintenance and communication of the MHHS PID Policy and Procedure;</li> <li>• Providing advice in relation to the obligations under the <i>Public Interest Disclosure Act 2010</i>;</li> <li>• In certain circumstances, arranging for investigations of matters alleged through a PID to be undertaken;</li> <li>• Advising line managers and supervisors with regard to case management of employees making a PID and employees who are the subject of a PID to ensure they receive fair treatment, have access to support and assistance and protected disclosers are safeguarded from reprisal;</li> <li>• Ensuring legislative reporting obligations on PID issues are met (including reporting to the Public Service Commission as Oversight Agency); and</li> <li>• Providing information concerning PIDs to the Chief Executive MHHS, relevant senior executives and the Board as required and authorised by the <i>Public Interest Disclosure Act 2010</i>.</li> </ul>



## Queensland Health Procedure: Management of Public Interest Disclosures Mackay Hospital and Health Service

<p><b>Executive Directors, Operations Directors, Facility Managers, line Managers and all staff members holding supervisory roles within the MHHS</b></p>	<ul style="list-style-type: none"> <li>Ensuring any reports of wrongdoing that could amount to suspected Official Misconduct and/or Public Interest Disclosures are referred to the Executive Director People &amp; Culture for formal assessment.</li> </ul>
<p><b>Patient Liaison or Patient complaints Units</b></p>	<ul style="list-style-type: none"> <li>Ensuring any complaints received from patients or their advocates that relates to a substantial and specific danger to the health or safety of a person with a disability; or a substantial and specific danger to the environment; or the conduct of another person that could, if proven, be a reprisal, is referred to the Executive Director People &amp; Culture for formal assessment.</li> <li>Managing and dealing with matters assessed as PID's through appropriate strategies including but not limited to investigation, discipline processes, system reviews or other relevant processes to deal with the PID in consultation with the Executive Director People &amp; Culture.</li> <li>Providing outcome advice to the discloser and a copy to the Executive Director People &amp; Culture at the conclusion of the matter.</li> </ul>
<p><b>Employees</b></p>	<ul style="list-style-type: none"> <li>Being aware of and complying with all relevant whole-of-Government and MHHS policies and procedures, including the Code of Conduct for the Queensland Public Service, reporting official misconduct and PIDs.</li> <li>Attending mandatory training within MHHS relating to, ethical decision-making, Code of Conduct for the Queensland Public Service and misconduct prevention when offered;</li> <li>Being aware of the possibility that wrongdoing may exist in the workplace and reporting any concerns to their manager or supervisor or an appropriate official.</li> <li>Being aware of what reprisal is and ensuring their actions towards a discloser or any person associated with a disclosure does not amount to a reprisal.</li> </ul>

