

Policy

CHHHS-POL-nonclin-HR-22-V1-0517 (I5)



Public Interest Disclosures (Previously Department of Health HR Policy I5)

Custodian/Review Officer: Human Resources Manager

Version no: 1

Applicable To: All employees of Cairns and Hinterland Hospital and Health Services and members of the public

Approval Date: 16/12/2014

Effective Date: 16/12/2014

Next Review Date: 16/12/2017

Authority:

Caroline Wagner Executive Director

Supersedes: Department of Health HR Policy I5 Public Interest disclosures (QH-POL-202)

Key Words: Public Interest Disclosures

Accreditation References:

National Standards and EQulPNational
 – *specify the particular standards by number – click link here*
<http://qheps.health.qld.gov.au/cairns/html/quality-standards.htm>

Policy Statement

Intent of this policy

To ensure that Cairns and Hinterland Hospital and Health Service (CHHHS) complies with the Public Interest Disclosure Act 2010 and the Public Interest Disclosure Standard No 1. This Procedure also explains the procedure for making a public interest disclosure or when a public interest disclosure has been made.

Scope

This document covers:

- All employees of CHHHS (full-time, part-time, temporary, or casual)
- Members of the public who make a public interest disclosure to the CHHHS, in accordance with the Public Interest Disclosure Act 2010 (PIDA)

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 not a Public Interest Disclosure (PID). This does not mean that you should not report them, as they are contrary to the policies of CHHHS. These issues should be reported to your manager or supervisor in the first instance.

Principles

Cairns and Hinterland Hospital and Health Service's Commitment

CHHHS has a zero tolerance approach to wrongdoing or danger, including fraud, misconduct and corruption. To eliminate such conduct, the CHHHS is committed to creating and maintaining an environment that encourages disclosure of information about wrongdoing or danger.

When a disclosure of information about a wrongdoing/danger is raised, there is a commitment to:

- Protect the dignity, wellbeing, career interests and good name of all persons involved
- Protect the discloser 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
- Take appropriate action to address any form of wrongdoing
- Keeping the discloser informed of the progress and outcome
- Maintaining confidentiality

Knowledge of legislation

This policy does not replace the need to read or refer to the Public Interest Disclosure Act 2010 (PIDA).

What is a public interest disclosure (PID)

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 PIDA, the information must be disclosed to a proper authority.

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

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 or 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 proven, be a reprisal

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

- Official misconduct
- Maladministration that adversely affects a person's interests in a substantial and specific way
- A substantial and specific danger to public health or safety
- A substantial misuse of public resources

In the following circumstances, the objective test can be applied and PIDA assessment can occur –

- Information disclosed by a person to a proper authority because of another process without the person honestly believing (or knowing) the matter was (alleged) wrongdoing or danger eg the complaint may raise a suspicion of corrupt conduct; or
- Managers, through managing employees may disclose information as part of performing their duties
- Internal auditors may disclose information as a consequence of an internal audit

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.

CHHHS is an appropriate authority under the PID act that can receive disclosures of wrongdoing that:

- Relates to the conduct of CHHHS or any of its employees
- Anything CHHHS 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 policy). If there is any doubt to whether a disclosure is in fact a PID, CHHHS will deal with the matter as if it is a PID until otherwise confirmed.

CHHHS Employees can disclose to –

Internal –

- Any person in a management role within the CHHHS
- Chief Executive of CHHHS
- Human Resource Unit

It is preferable that an employee reports any wrongdoing to their manager. If the discloser believes that their manager is involved in the wrongdoing, the disclosure should be made to an alternative manager, senior manager, or other officer listed above.

External proper authority can include –

- Crime and Corruption Commission – for corrupt conduct including reprisal
- Queensland Ombudsman – for maladministration
- Department of Environment and Heritage Protection – for danger to the environment
- A Member of the Legislative Assembly (MP) – for any wrongdoing or danger.

A disclosure can be made to someone external to CHHHS either as a first step or if you are not satisfied with the response to your disclosure. While you are encouraged to disclose internally first, your right to make an external disclosure will be respected and supported.

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

Be aware that any disclosure made to a person or an entity other than a proper authority will not receive the protections provided under the PIDA.

Procedure for making a Public Interest Disclosure (Internal reporting)

In CHHHS, 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 CHHHS to be dealt with. If a disclosure is received orally, the CHHHS may request the information in writing.

If the discloser declines to forward the information in writing then the information should be immediately documented, dated and signed by the person receiving the disclosure.

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 PIDA.

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

Anonymous Disclosures

The PIDA allows for information to be provided anonymously. If you do decide to disclose anonymously, you will need to provide sufficient information for the matter to be dealt with. Disclosing anonymously can make it difficult to seek clarification or more 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.

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

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

Roles and responsibilities within the CHHHS

Chief Executive

Under the Public Interest Disclosure Act –

- 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
- Ensuring that PIDs are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any wrongdoing in a PID
- Ensuring that employees making a PID receive support and protection from reprisal
- Ensuring that all legislative obligations in relating to reporting and investigation are met

Under the Code of Conduct for the Queensland Public Service -

- Creating an ethical workplace culture where employees report suspected wrongdoing when they become aware of it and are supported when they do so

Under the Crime and Corruption Act 2001 -

- Ensuring that all matters involving suspected corrupt conduct are referred to the Crime and Corruption Commission

Executive Directors, Divisional Directors, Managers and supervisors

- Ensuring employees in their area are aware of their obligations in relation to the requirements of this policy and procedure.
- Ensuring reports of wrong doing and potential PIDs are referred to the Human Resources Manager for assessment and action.
- Ensuring employees are aware of the protection offered to members of the public as a protected discloser when making a PID to the CHHHS under the PIDA

- Ensuring all employees are trained in ethical decision-making, Code of Conduct for the Queensland Public Service, misconduct prevention, and relevant CHHS policies
- Monitoring the workplace for any signs of reprisal or increased risk of reprisal against an employee who has made a PID and take reasonable action to protect them
- Ensuring an employee, who is the subject of a PID, receives fair treatment and has access to support and assistance
- 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

Human Resources Manager

- Ensuring any reports of wrongdoing that could amount to Crime and Corruption and/or Public Interest Disclosures are processed for formal assessment
- Impartially assesses information to determine whether it is a PID
- Provides advice about PIDs and the PIDA
- Managing and dealing with matters assessed as PID's through appropriate strategies which may include an investigation or system review
- Assisting with the initial risk of reprisal assessment and the ongoing risk management and mitigation of PID matters in consultation with relevant supervisors and disclosers
- Consulting with relevant parties including the discloser and supervisors regarding ongoing risk management of potential reprisal within the work unit and implementing appropriate mitigation strategies to address that risk
- 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
- Ensuring outcome advice is provided to the discloser at the conclusion of the matter

PID Support Person

- Advising the discloser about what making a PID means
- Assessing the immediate protection needs of the discloser
- Listening and responding to any concerns of harassment, intimidation or victimisation in reprisal for making a PID
- Coordinates and provides support to the discloser
- Working with management to foster a supportive work environment
- Advising the discloser of progress
- Keeping records of all aspects of case management of the discloser, including all contact and follow-up action
- Endeavours to ensure that the expectations of the discloser are realistic

Patient Liaison or Patient Complaints Units

- Ensuring any complaints received from patients or their advocates that relate 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 Human Resources Manager for formal assessment
- 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 Human Resources Unit or other relevant area

- Providing outcome advice to the discloser and a copy to the Human Resources Manager at the conclusion of the matter

Employees

- Being aware of and complying with all relevant whole-of-Government and CHHS policies and procedures, including the Code of Conduct for the Queensland Public Service, reporting corrupt conduct and PIDs.
- Attending mandatory training with CHHS relating to, ethical decision-making, Code of Conduct for the Queensland Public Service and corrupt conduct prevention when offered.
- 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.
- 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.

Advice and Assistance

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

- Human Resources Unit – HRCairns@health.qld.gov.au
- The Queensland Ombudsman (in relation to PIDs generally and maladministration), Phone: 1800 068 908

The Crime and Corruption Commission's Complaints Services (in relation to suspected official misconduct), Phone: 3360 6060 or email complaints@ccc.qld.gov.au

False or misleading information

Section 66 of the PIDA states that a person who gives information to a proper authority, knowing it to be false or misleading, and intending it to 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 Human Resources Manager for assessment. In the event that the Human Resources Manager receives such information that raises reasonable suspicion, the matter will be referred to the Queensland Police Service and the Crime and Corruption Commission.

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

Disclosure 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 6 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. Disclosures are strongly encouraged to seek advice, including legal advice, before reporting information to the media.

Reasonable Management Action

The PIDA recognises the need for supervisors and managers to be able to manage their staff, including staff who have made a disclosure. The taking of reasonable management action is not prevented by the PIDA and ensures the relationship between the discloser (employee) and CHHHS 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 Human Resource Business Partner before the proposed action is to be undertaken.

The PIDA defines reasonable management action and includes actions such as:

- Appraisal of the employee's work performance
- 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
- Suspension of the employee from the workplace
- Disciplinary action
- Management decisions regarding transfers, deployment, redundancy or retrenchment

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
- They consider the action to be reasonable in the circumstances
- It has taken into account the particular circumstances

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

- Achieving the performance expectation of their position
- Their own behaviour
- Observing all workplace policy and procedures

Conduct of a disclosure 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.

Assessment and Notification

Upon receipt of all relevant information, as required by the Human Resources Manager, a formal assessment will be undertaken to determine whether the disclosure amounts to a PID. In making this assessment, the Human Resources Manager may obtain independent expert advice, additional information from CHHHS, or consult with other Department of Health units.

The Human Resources Manager will notify the discloser, where appropriate, that the disclosure was received and of the assessment outcome. If the disclosure is assessed as being a PID, the following will be provided to the discloser –

- information regarding confidentiality pursuant to the PIDA; and
- the contact details of the nominated contact officer
- the protections from reprisal that apply under the PIDA; and
- employee assistance details (if applicable)

The PID assessment notification to the discloser will be in writing (email and/or letter).

On determination that a PID has been made, the discloser will be considered an ‘internal witness’.

The 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; and
- timeframes for resolution of the disclosure of information; and
- how the internal witness will be advised of progress and outcomes

Actions CHHHS will take

A decision on how to best deal with the disclosure received will be made in consultation with the appropriate unit and may include the Human Resources Manager, Patient Safety and/or clinical governance.

Actions that may be taken include -

- A preliminary inquiry is undertaken and as a result a decision not to take the matter any further is made
- An investigation, disciplinary process or review is the most appropriate way to deal with the disclosure
- That another agency is more capable of dealing with the disclosure and the matter will be referred to that agency under the provisions of the PIDA such as the Crime and Corruption Commission. In this instance, the discloser will be advised of the referral

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 PIDA, a discloser can appeal to the Chief Executive, CHHHS when CHHHS decides to take no action for a disclosure that has been formally assessed as a PID. Under Section 30 of the PIDA, a person who received written reasons can apply to the Chief Executive within 28 days after receiving the written reasons for a review of that decision.

Where a discloser provides information and, after formal assessment, CHHHS determines the information does not meet the threshold of the PIDA and therefore is assessed as not being a PID, the discloser can appeal that decision to the Queensland Ombudsman Office.

Reprisal

CHHHS is committed to ensuring employees will be reasonably protected from detriment, such as harassment or discrimination, because a public interest disclosure has been made.

Pursuant to Section 40 of the PIDA, a person must not reprise against another person, by causing detriment, because a public interest disclosure has been made. This protection continues following the disclosure of information being dealt with or at the completion of any review or investigation.

Schedule 4 of the PIDA defines 'detriment'. It includes action such as intimidation or harassment; or adverse discrimination, disadvantage or treatment about a person's career. In order to be considered a reprisal, there must be a causal link between the detriment and a public interest disclosure. The reprisal must be in retaliation for the public interest disclosure. Additionally, the reprisal is done with the intention of causing harm.

Any employee who commits an act of reprisal may also face disciplinary action.

Assessment of risk of reprisal

As soon as becoming aware that a PID has been made and an 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 of risk of reprisal will need to be undertaken by the Human Resource Business Partner/Patient Liaison Officer when the PID is made.

This can be achieved by conducting a risk assessment of reprisal 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 Human Resources Manager 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 CHHHS, a record of a protection plan is to be developed. Where feasible, this should be developed in consultation with the discloser and the 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 where 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. CHHHS 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 CHHHS reporting obligations to the Queensland Ombudsman, the Human Resources Manager will report the actions that have been taken to assess and manage the risk or reprisal for an internal witness. Human Resources and the relevant Line Manager is to consider the following risk mitigation strategies and are to advise the Human Resources Manager as per of the above reporting requirements, which strategies are in place or have been considered at the local level:

- Additional security
- Discloser declined support/protection
- Existing strategies considered sufficient
- Monitoring/management of staff who may engage in reprisal
- Protection of identity or existence of discloser
- Provision of tailored support for the discloser
- Suspension of staff who may engage in reprisal
- Transfer of discloser
- Transfer of staff who may engage in reprisal

Responding to reprisals

Once CHHHS 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 CHHHS 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

CHHHS 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
- Appoint 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 Human Resource Unit on 07 422 65033 or [HRCairns@health.qld.gov.au](mailto:HR Cairns@health.qld.gov.au).

All staff in supervisory roles at CHHHS are under an obligation to notify their Human Resources Business Partner 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, CHHHS 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 of legal directive (e.g. subpoena, notice to produce, direction by a parliamentary committee)
- In court proceedings

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

While CHHHS 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.

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

Rights of the Subject Officer

CHHHS 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 to ensure the preservation of evidence. In the case where all information provided is incorrect, the subject officer may not be advised the allegations were received at all. Once the information has been assessed and determined that the allegations are a PID, the subject officer will receive notification that allegations have been received and that it could amount to a PID. The subject officer will be then be 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 participate in the process of dealing with a disclosure, are doing so to meet with 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 Human Resource Business Partner and/or PID Support Officer will maintain contact and provide regular updates as they become available. The Human Resources Manager may also provide updates to you as the discloser. Once the matter is concluded, outcome advice will be provided 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 Human Resources Manager can meet with you and explain the outcome further.

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 Program for advice and support.

All employees should remember their responsibilities under the Queensland Public Service Code of Conduct ('Code'). 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 No. 1 places an obligation on CHHHS 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 Human Resources Manager 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.

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

Evaluation Method

CHHHS welcomes comments that can improve this policy. Feedback should be addressed to the Human Resources Manager at: HRCairns@health.qld.gov.au.

Further information for potential disclosers

For more information on how to make a PID:

- *Making a public interest disclosure: A guide for individuals working in the public sector*, Queensland Ombudsman, available at <http://www.ombudsman.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 Corruption Commission/Queensland Ombudsman, available at <http://www.ombudsman.qld.gov.au>

Delegation

The delegate is as listed in the CHHHS HR Sub-Delegations manual, as amended from time to time.

Legislative or other Authority

- *Public Interest Disclosure Act 2010*
- *Crime and Corruption Act 2001*
- *Disability Services Act 2006*
- *Environmental Protection Act 1994*
- *Public Service Act 2008*
- *Public Sector Ethics Act 1994*

Related policy or documents

- Public Interest Disclosure Standard No 1
- Requirements for reporting corrupt conduct HR Policy E9 (CHHHS)
- Integrated Risk Management – implementation Standard for the Use of the Risk Analysis Matrix (QH-IMP-070-2:2011)
- Queensland Public Service Code of Conduct

Business area contact

Human Resources 4226 5033

Review

This policy will be reviewed at least every three years.

Date of last review: 02/05/2014

Supersedes: Department of Health HR Policy I5 Public Interest Disclosure (QH-POL-202)

Approval and Implementation

Policy Custodian:

Human Resources Manager – Cairns and Hinterland Hospital and Health Service

EMT Approval: 11 July 2014

Approval date: 16 December 2014

Effective from: 16 December 2014

Definitions of terms used in this policy and supporting documents

Definition:

Administrative Action	Means any action about a matter of administration, including, for example – <ul style="list-style-type: none"> 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
Allegation/Alleged Conduct	A stated belief or claim that is yet to be substantiated on the balance of probabilities
Anonymous	Where the person disclosing information does not identify themselves at any stage, to anyone
Danger	A threat or event that would cause harm or damage to both persons and/or property
Delegate	A delegate holds power and/or responsibility in relation to a particular person within CHHHS for the effective and efficient operation of policy, function or activity
Disability	As defined in the Disability Services Act 2006

Discloser	Means a person who makes a public interest disclosure
Environment	As defined in the <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
Maladministration	<p>Schedule 4 of the PIDA defines maladministration as administrative action that:</p> <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 Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory in the particular circumstances; or d) was taken – <ol style="list-style-type: none"> a. for an improper purpose; or b. on irrelevant grounds; or c. having regards 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
Corrupt Conduct	<p>Section 15 of the <i>Crime and Corruption Act 2001</i> defines corrupt conduct as conduct of a person, regardless of whether the person holds or held an appointment, that -</p> <ul style="list-style-type: none"> • adversely affects, or could adversely affect, directly or indirectly, the performance of functions (official duties) or exercise of power of a unit of public administration or person holding an appointment; <u>and</u> • the conduct must be of a kind that could result, directly or indirectly, in the improper performance of those duties in a way that is not honest or impartial, or a knowing or reckless breach of trust, or involves a misuse of information; <u>and</u> • must be engaged in for the purpose of providing a benefit, or causing a detriment, to a person; <u>and</u> • must be such that it would, if proved, be a criminal offence or a disciplinary breach providing reasonable grounds for dismissal <p>Examples include:</p> <ul style="list-style-type: none"> • theft of departmental property, including medication and medical supplies • fraudulently obtaining a financial gain through the misuse of government funds or assets • unauthorised release or disclosure of confidential information • timesheet fraud, claiming for duties not performed • misuse of departmental assets and equipment e.g. vehicles, mobile telephones, computers etc

	<ul style="list-style-type: none"> maladministration and misappropriation including misuse of fuel cards and corporate credit cards utilising departmental resources and/or conducting a private business during working hours not declaring conflicts of interest assault in the workplace of employees, patients or other persons utilising the Queensland Health computer network for accessing or transmitting pornographic images or images which may depict child exploitation causing, attempting to cause or conspiring to cause, detriment to another person because (or in the belief that) another person has made a public interest disclosure pursuant to the <i>Public Interest Disclosure Act 2010</i> wilful neglect which may be defined as malicious or reckless conduct <p>involves an allegation of 'professional misconduct (see definition below)</p>
Professional Misconduct	<p>Professional misconduct is conduct connected with exercising the skill of a professional or engaging in the performance of the specified duties or activities of a position.</p> <p>Professional misconduct can also be corrupt conduct if it meets the four elements under section 15 of the <i>Crime and Corruption Act 2001</i>.</p> <p>While professional misconduct only rarely amounts to corrupt conduct, it can do so even when there is no criminal offence involved.</p> <p>In such cases, the conduct must involve repeated behaviour (including neglect, failure and inaction) that undermines the trust placed in the person by virtue of their position; or be a single incident of behaviour indicating a callous or reckless disregard for, or indifference to, the skills required for the proper discharge of the duties of the position</p>
Public Health or Safety	<p>Includes the health or safety of persons:</p> <ol style="list-style-type: none"> Under lawful care or control; or Using community facilities or services provided by the public or private sector; or In employment workplaces <p>For example, a patients under the care or control of a doctor, nurse or other health professional at a public health facility</p>
Substantial and specific	<p>Substantial means "of a significant or considerable degree". It must be more than trivial or minimal and have some weight or important</p> <p>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.</p>

Version Control

History:

May 2014	Operationalised for CHHHS from QH HR Policy I5
December 2013	Updated as part of the HR policy simplification project

Version	Date	Prepared by	Comments
1	13.11.2014	Senior Human Resources Advisor	Operationalised for CHHHS

Audit Strategy

Level of risk	<i>All documents are to be assessed according to the Queensland Health Integrated Risk Management Analysis Matrix. This will assist in determining the audit strategy required . Click here:</i> http://qheps.health.qld.gov.au/governance/risk/docs/risk-matrix.pdf
Audit strategy	Alignment with Department of Health HR Circulars
Audit tool attached	
Audit date	
Audit responsibility	
Key elements / indicators / outcomes	Feedback from Divisional Meetings and Consultative Forums