

## Employees to notify supervisor if charged with or convicted of an indictable offence

**Policy Number:** E4 (QH-POL-127)

**Publication date:** June 2022

**Purpose:** To outline the requirement for employees to notify Queensland Health if charged or convicted of an indictable offence.

Under the *Human Rights Act 2019*, decision makers have an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this HR policy, to give proper consideration to human rights.

**Application:** This policy applies to all employees working for Queensland Health.

This policy does not apply to employees of Queensland Ambulance Service. Instead, Queensland Ambulance Service employees are to refer to their local policy/procedures.

**Delegation:** The 'delegate' is as listed in the relevant Department of Health Human Resource (HR) Delegations Manual, or Hospital and Health Services Human Resource (HR) Delegations Manual, as amended from time to time.

### Legislative or other authority:

- *Criminal Code Act 1899*
- *Human Rights Act 2019*
- *Public Service Act 2008*
- Public Service Regulation 2018
- PSC Directive 07/11: Employment Screening

### Related policy or documents:

- Code of Conduct for the Queensland Public Service

### Policy subject:

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## 1 Legislation

The requirement for an employee to give notice of charge or conviction for an indictable offence is legislated in section 181 of the *Public Service Act 2008*. The provisions are applied to health service employees under schedule 3 of the *Public Service Regulation 2018*.

## 2 Requirement to notify

An employee charged with or convicted of an indictable offence is to immediately notify their manager in writing, but not later than 48 hours after the charge or conviction.

The requirement to notify exists while a person is an employee of Queensland Health, including when the employee is on leave with or without pay, or on secondment to another agency.

Notification of a charge or conviction is required irrespective of whether the offence was committed in Australia or in another country.

Refer to the definitions section of this policy for information regarding what constitutes 'charged' or 'convicted', and for the definition of 'indictable offence'.

In addition to an action which may be considered an indictable offence under an Act, an omission to do something required under an Act may also be an indictable offence.

### 2.1 Requirement to provide written notification

If an employee is charged with an indictable offence the following information must be included in their written notification:

- that they have been charged
- the details of the alleged offence (which would include the specific charge being laid).

If an employee is convicted of an indictable offence the following information must be included in their written notification:

- the fact they were convicted
- the details of the offence
- the penalty imposed on the employee.

### 2.2 Manager to notify local human resources

The manager who is notified by an employee of a charge or conviction must report the details to the local human resources unit immediately (no later than two working days after the notification by the employee).

## Definitions:

Charged	For the purpose of this policy, 'charged' includes: <ul style="list-style-type: none"> <li>• being charged with an offence</li> <li>• being served with a 'Notice to Appear' or</li> <li>• served a 'Summons' to appear in a court to answer an alleged offence'.</li> </ul>
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Convicted	For the purpose of this policy, 'convicted' includes a finding of guilt, whether or not a conviction is recorded.
Indictable offence	<p>An offence for which a charge may be laid by indictment or an equivalent process, whether that is the only or an optional way to lay a charge of the offence.</p> <p>The <i>Criminal Code Act 1899</i> specifies that offences may be criminal offences or regulatory offences. Criminal offences comprise crimes, misdemeanours and simple offences. Only offences designated as crimes and misdemeanours are indictable offences.</p> <p>With the exception of convictions under the <i>Drugs Misuse Act 1986</i> when a person has been summarily convicted of an indictable offence, the conviction is deemed a conviction of a simple offence only, and not an indictable offence.</p>

### History:

June 2022	<ul style="list-style-type: none"> <li>• Policy formatted as part of the HR Policy review</li> <li>• Policy updated to include reference to the <i>Human Rights Act 2019</i>.</li> </ul>
June 2020	<ul style="list-style-type: none"> <li>• Policy application amended as a result of changes outlined in the Hospital and Health Boards (Changes to Prescribed Services) Amendment Regulation 2019.</li> </ul>
January 2020	<ul style="list-style-type: none"> <li>• Policy formatted as part of the HR Policy review and updated to include reference to the <i>Human Rights Act 2019</i>.</li> </ul>
August 2017	<ul style="list-style-type: none"> <li>• Policy: <ul style="list-style-type: none"> <li>– formatted as part of the HR Policy review</li> <li>– amended to update references and naming conventions</li> <li>– application excludes employees of Queensland Ambulance Service.</li> </ul> </li> </ul>
January 2014	<ul style="list-style-type: none"> <li>• Policy formatted as part of the HR Policy Simplification project.</li> <li>• Policy amended to: <ul style="list-style-type: none"> <li>– clarify information required in written notifications (section 2)</li> <li>– add section 3 (Manager to notify local human resources)</li> <li>– update definition section to include definitions for 'charged' and 'indictable offence', and remove the definition for 'misdemeanours'</li> <li>– update references and naming conventions.</li> </ul> </li> </ul>
January 2010	<ul style="list-style-type: none"> <li>• Amended to clarify notification requirements in section 7.1.</li> </ul>
July 2008	<ul style="list-style-type: none"> <li>• Amended to reflect Public Service Regulation 2008.</li> </ul>
April 2008	<ul style="list-style-type: none"> <li>• Developed as a result of the HR Policy framework consolidation project as an introduction document.</li> </ul>
Previous	<ul style="list-style-type: none"> <li>• IRM 9.4 - Officers or Employees Charged with an Indictable Offence</li> </ul>