

Submission to the Public Interest Disclosure Act 2010 Review

Queensland Corrective Services



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Introduction

This document represents Queensland Corrective Services' (QCS) submission to the Public Interest Disclosure Act Review (the Review). It includes information compiled by QCS and does not represent Government policy.

QCS requests the information at **Attachment 1** of the submission is confidential and is not to be made publicly available.

QCS welcomes the review of the *Public Interest Disclosure Act 2010* (the Act) to assess the effectiveness and appropriateness of protections afforded to public interest disclosers under the Act. QCS acknowledges that the business of corrective services, in particular the closed custodial environment, creates unique corruption risks and challenges. QCS is committed to keeping the people of Queensland safe and to an ethical, accountable and transparent culture.

As a standalone agency, QCS has responded to numerous external reviews to ensure continuous improvement regarding complaints processes, including the 2018 Crime and Corruption Commission's (CCC) *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons* (Taskforce Flaxton). This included the creation of an agency-specific Public Interest Disclosure (PID) policy and enhancing existing prisoner complaint processes (recommendations 28-29).

QCS values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated.

This submission provides an overview of QCS' experience with the Act, including legislative requirements, operational challenges, and opportunities to improve efficiencies. QCS supports any changes to the Act that will improve consistency, efficiency and effectiveness of PID management processes, in particular those that impact QCS. This includes a clear definition of reprisal, who is protected from reprisal and how the Act interacts with other processes such as appeals and injunctions.



Submission

The main objects of the Act are:

- to promote the public interest by facilitating public interest disclosures of wrongdoing in the public sector; and
- to ensure that public interest disclosures are properly assessed and, when appropriate, properly investigated and dealt with; and
- to ensure that appropriate consideration is given to the interests of persons who are the subject of a public interest disclosure; and
- to afford protection from reprisals to persons making public interest disclosures.

QCS' duties and requirements under both the Act and the Standards published by the Queensland Ombudsman are sufficient to address reported wrongdoing, provide procedural fairness to stakeholders and assess and minimise the risk of reprisals. This is additionally supported by obligations under the *Public Service Act 2008*, the CCC's guide *Corruption in Focus: A guide to dealing with corrupt conduct in the Queensland public sector*, and the Queensland Ombudsman's *PID Risk Assessment and Risk Management Guide* and *PID Procedure: Self-assessment checklist*.

QCS has a PID policy, implemented by the Commissioner, and manages, investigates (where appropriate) and responds to PIDs under the PID Management Program. This work is undertaken by the Complaints Assessment Unit of the QCS Ethical Standards Group. The team case manage and assess all complaints, including confirmed PIDs. This work includes the completion of risk assessments and proactive engagement including communicating outcomes to stakeholders.

The current requirements for making, receiving and identifying PIDs allow QCS to achieve the objects of the Act. This includes the commencement of obligations and protections for stakeholders following confirmation of a PID, such as protection from reprisal.

QCS ensures thorough and ongoing consideration is given to the safety and human rights of stakeholders and that a range of support is offered to stakeholders through various avenues, including internal and external services.

With specific regard to the recommendations of the Queensland Ombudsman's 2017 review (question 39), QCS supports retaining the existing scope of protections for the PID regime for public officers (recommendation 9). QCS also supports the Act being amended to provide that it continues to apply to a public officer for up to 12 months after separation from employment, for the purpose of making a PID and receiving the protections under the Act (recommendation 10).

QCS considers that it would be helpful if consideration could be given to expanding the Queensland Ombudsman's current PID support work to support consistent and definitive whole-of-government advice on the application and interpretation of the Act and promote consistent and sound decision-making.



While the Act is sufficient to manage, investigate and resolve complaints there are efficiencies that could be made to ensure clarity throughout the management of a PID. This includes clearer guidance on how the Act interacts with reprisals, injunctions and appeals.

In addition, a clear definition or examples of reprisal and who is covered from reprisal (section 40(b)) would assist in the management of PIDs and in ensuring the safety of stakeholders.

QCS works diligently towards the fulfilment of legislative obligations under the Act however, current resourcing constraints limit QCS' capacity to meet the required expectations under the Standards. The agency looks forward to the outcome of the Review and any efficiencies and improvements made that have a positive impact for QCS and stakeholders.





