

# Public Interest Disclosure Policy Stadiums Queensland

# 1. Purpose

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This policy is the administrative instrument to provide guidance if an employee or member of the public wishes to make a public interest disclosure (PID) under the *Public Interest Disclosure Act 2010* (PID Act).

This policy ensures that all staff of Stadiums Queensland (SQ) are aware of and have access to the support processes available to those who wish to make or are affected by a public interest disclosure. The purpose of this policy is to provide awareness to staff of their responsibilities with regard to fair treatment of employees who make a public interest disclosure or who are called upon to make a disclosure and those who may be the subject of a disclosure, and encourage staff to be accountable for their actions.

# 2. Definitions

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**Crime and Corruption Commission (CCC)** is the body which has primary responsibility for the achievement of the purpose of the *Crime and Corruption Act 2001*.

**Corrupt conduct** means conduct of a person, regardless of whether the person holds or held an SQ appointment, that:

- (a) adversely affects, or could adversely affect, directly or indirectly, the honest and impartial performance of functions or exercise of powers of:
  - (i) a unit of SQ; or
  - (ii) any person holding an appointment at SQ; and
- (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers of (a) in a way that:
  - (i) is not honest or is not impartial; or
  - (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
  - (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
- (c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and
- (d) would, if proved, be:
  - (i) a criminal offence; or
  - (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Corrupt conduct includes, without limiting the above, all conduct listed under s15 (2) of

the *Crime and Corruption Act 2001*.

**Danger to the environment** refers to any substantial and specific danger that is an offence, or the contravention of a condition mentioned in Schedule 2 of the PID Act.

**Misuse of public resources:** PIDs can also relate to a substantial misuse of public resources. A PID cannot be based on an individual disagreeing with policy that may properly be adopted about amounts, purposes or priorities of expenditure.

**Natural justice** (procedural fairness) is the right to be given a fair hearing, the opportunity to present one's case, the right to have a decision made by an unbiased decision maker and the right to have that decision based on objective evidence.

**PID Coordinator** is the Manager, Human Resources, of SQ, or the General Manager, Corporate Services in the absence of the Manager, Human Resources.

**Public health or safety means** health or safety of individuals who are under 'lawful care or control' (e.g. public or private hospital patients), using community facilities or services provided by the public or private sector, or in employment workplaces.

**Public Interest Disclosure (PID)** is a disclosure made under the PID Act, Chapter 2, and includes all information and help given by the discloser to a proper authority for the disclosure.

**Reprisal** refers to a situation where a person causes, attempts or conspires to cause, detriment to another person because, or in the belief that the person or another person has made, or may make a PID.

### 3. Roles and Responsibilities

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**PID Co-ordinator** is the central point for the management of PIDs. The PID Coordinator will work with supervisors, managers and senior management to ensure disclosers are supported and protected.

**Officer receiving a PID:** The PID Act (section 65) refers to the preservation of confidentiality of information gained in the administration of the PID Act. It is an offence for an employee who receives confidential information under the PID Act to make a record of the information or intentionally or recklessly disclose the information to someone else other than:

- (a) for the purpose of the PID Act; or
- (b) to discharge a function under another Act (e.g. to investigate a PID); or
- (c) for a proceeding in a court or tribunal; or
- (d) if authorised under a regulation or another Act; or
- (e) if the person to whom the information relates consents in writing; or

- (i) the employee cannot reasonably obtain the consent of the person to whom the confidential information relates; and
- (ii) making the record or disclosing the information would be unlikely to harm the interests of that person and would be reasonable in the circumstances; or
- (f) If the employee reasonably believes that making the record or disclosing the information is necessary to provide for the safety or welfare of the person; or
- (g) If authorised under a regulation or another Act.

**General Managers, Venue Managers and Supervisors** are to ensure employees are aware of their responsibilities regarding the making a PID and are able to advise other persons of the appropriate reporting process.

**Employees** should be able to identify potential situations where behaviour may be unethical or fraudulent and know how to report it. They are responsible for immediately referring PIDs to the PID Coordinator.

## 4. Policy

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### 4.1 Application

This policy applies to all SQ employees (permanent, temporary or casual) and persons engaged under a contract of service.

### 4.2 Employee Disclosures

An employee may make a PID, under the protections of the PID Act. Employees making a PID are encouraged to do so internally. Disclosures may be made to:

- (a) *your line manager;*
- (b) *any other person in a management position within SQ;*
- (c) *the Chief Executive;*
- (d) *the Human Resources Unit;*
- (e) *the PID Coordinator (Manager, Human Resources); or*
- (f) *the Chair of the Audit, Risk and Compliance Committee.*

Disclosures can be made in any way, including:

- (a) in person;
- (b) in writing (by letter, e-mail or memo); or
- (c) by telephoning the Human Resources Unit.

All disclosures of wrong doing will be sent to the PID Coordinator for recording and to be dealt with.

### 4.3 Disclosures by any person

Under the PID Act any person may make a PID, if the person has information about:

- (a) a substantial and specific danger to the health and safety of a person with a disability; or
- (b) substantial and specific danger to the environment; or
- (c) the conduct of another person that would, if proved, be a reprisal.

Any PID received from the public should immediately be noted and sent to the PID Coordinator.

## 5. Business Application

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### 5.1 Reporting of PIDs

In reporting a PID, you should consider who will be the best person to receive your disclosure. If it is a matter that can be resolved by your supervisor, make your disclosure to them. However, if you think that your supervisor or a manager or other senior person of SQ may be involved, consider disclosing to the Chief Executive, Chair of the Audit, Risk and Compliance Committee or an external body.

You may choose to make a disclosure to someone external to this organisation. You can do this as a first step, or if you are not satisfied with SQ's response to a disclosure. While SQ urges you to disclose to someone in SQ, support and respect will be afforded to you if you disclose to an external authority. However, when you disclose to an external entity, it is very likely that it will discuss your case with SQ. SQ will make every effort to assist and cooperate with any entity dealing with a PID about it in order to work towards a satisfactory outcome.

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

### 5.2 Anonymous PIDs

The likelihood of a successful outcome is increased greatly if, when making disclosure, you make your identity known. However, 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 investigated, as it will not be possible for SQ to come back to you for clarification or more information. Also, it will not be possible for SQ to keep you informed on the progress in handling your disclosure and you could experience difficulties in relying upon the protections afforded by the PID Act. If you have reported anonymously and provided enough information for SQ to act, SQ is committed to acting upon your request.

If you wish to make an anonymous written disclosure, address your correspondence to:

Private and Confidential  
Stadiums Queensland – Chief Executive

Level 11 Gabba Towers,  
411 Vulture Street,  
Woolloongabba Qld 4102

The PID Act includes a provision to permit disclosures to a journalist, but only as a last resort. A PID can be made to a journalist if the organisation to which the PID was made or referred:

- (a) decided not to investigate or deal with the disclosure; or
- (b) investigated the disclosure but did not recommend the taking of any action in relation to the disclosure; or
- (c) did not notify the discloser within six months after the date of PID was made, whether or not the disclosure was to be investigated or dealt with.

A person who makes a PID to a journalist in compliance with these requirements receives the protections of the PID Act. However, the journalist does not receive the protections of the PID Act (e.g. against liability for defamation), nor are they bound by the requirement of the PID Act to keep matters confidential.

Any PIDs received by SQ are to be noted by the receiving officer and forwarded immediately to the PID Coordinator.

Any investigations relating to the PID will be undertaken by a person independent of the PID Coordinator.

### **5.3 Separating PIDs from other matters**

SQ will distinguish a PID from any other issues and deal with each one using the appropriate mechanisms. Different types of complaints or reports may have different reporting pathways and be dealt with differently. For example, workplace conflict and employee relations complaints would be dealt with through the normal Human Resources policies such as the Employee Grievance policy.

The issue that you are considering disclosing may involve activity that is primarily aimed at you, such as harassment or bullying. These types of issues are staff-related complaints. This does not mean that you should not report them, as they are contrary to the policies of SQ. These types of issues should be reported to your supervisor or a venue or unit manager in the first instance.

### **5.4 Protections under the PID Act**

Under the PID Act, disclosers are protected in the following ways.

1. Confidentiality provisions do not apply  
A person making a PID does not, by doing so:
  - (a) commit an offence under any Act that imposes a duty to maintain confidentiality;  
or
  - (b) breach an obligation by way of oath, rule of law, practice or agreement requiring the person to maintain confidentiality.

## 2. Immunity from Liability

A person who makes a PID is not subject to any:

- (a) civil liability, e.g. for defamation;
- (b) criminal liability, e.g. for breaching confidentiality or secrecy; or
- (c) liability arising from administrative sanctions, e.g. disciplinary action.

These immunities only apply to action taken in relation to the discloser making, or intending to make, a PID. This does not include unrelated disciplinary or other work-related management action against a discloser, or the discloser's own involvement in any wrongdoing.

## 3. Protection from Defamation

A person who makes a PID may have a defence of absolute privilege for publishing the information disclosed.

## 4. Protection from reprisal:

- a) It is an indictable offence to cause detriment to a person for making a PID, with a maximum penalty of two years' imprisonment or a fine of up to 167 penalty units.
- b) disclosers have the right to apply for an injunction in the Queensland Industrial Relations Commission or Supreme Court to prevent a reprisal.
- c) in appeals or reviews of disciplinary action or unfair treatment, reprisal is a ground for appeal.
- d) disclosers who suffer reprisal have the right to make a civil claim for damages, or make a complaint under the *Anti-Discrimination Act 1991*.
- e) except in rare circumstances, the protections provided to a discloser do not cease. If it turns out that the discloser knew their PID was false or misleading, they will not receive the protections of the PID Act.

You should not suffer any form of detriment as a result of making a disclosure, including unfair treatment, harassment, intimidation, victimisation or unlawful discrimination.

SQ 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 SQ takes positive action to protect you. Tell the person who is handling your disclosure immediately. All managers must notify the PID Coordinator of any allegations of reprisal action against a discloser, or if they themselves suspect that reprisal action against a discloser is occurring. Managers must not conduct an inquiry or gather information first, as a criminal offence may have been committed and their actions may compromise a subsequent investigation.

Where SQ becomes aware of reprisal action against you, it will take immediate steps to ensure a senior and experienced officer who has not been involved in dealing with your initial disclosure will investigate your concerns of reprisal. You will be kept informed of the progress of the investigation and the outcome.

Where SQ establishes reprisal action is occurring, it will take all steps possible to stop that activity and protect you. The nature of the action that SQ will take is dependent upon the circumstances and seriousness of the reprisals that you are likely to suffer.

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

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.

### **5.5 How will a PID be dealt with by SQ**

SQ will make a decision on how to best deal with your disclosure and will advise you of this. Where your disclosure is referred to another area of SQ for investigation or other action, or to an external entity such as the CCC, SQ will also inform you of this.

Whenever a manager in SQ receives a disclosure, that person is under an obligation to consider the likelihood of the discloser suffering some form of reprisal as a result. It is the responsibility of the manager receiving the disclosure to assess the actual and reasonably perceived risk of victimisation or unlawful discrimination. The process of risk assessment must include input from the discloser. Having assessed the risk, the manager is responsible for notifying the PID Coordinator. Consistent with the level of assessed risk, SQ will put in place arrangements to protect the discloser and, where practicable, their anonymity.

Where the Chief Executive reasonably suspects the conduct in question is corrupt, it must be reported to the CCC.

The principle of natural justice will apply to all investigations.

If you have made a disclosure, we undertake to provide you with advice and assistance on the process and to inform you of the outcome. This will include information on the action taken or proposed to be taken as a result of your disclosure, and the reasons for this decision. Your notification will not contain any information likely to adversely affect any person's safety or their personal privacy.

Appropriate action is taken in relation to any wrong doing that is the subject of a PID made to SQ.

### **5.6 False or Misleading Information**

Protection under the PID Act is not extended to those who intentionally make a PID they know is false. This is different from information that turns out to be incorrect or unable to be substantiated.

A person who gives information to a proper authority, knowing that it is false or misleading, and intending that it be acted upon as a PID, commits a criminal offence with a maximum penalty of two years' imprisonment or 167 penalty units (PID Act, section 66). The employee may also face disciplinary action.

### **5.7 Support**

SQ will initiate and coordinate action to support you if you make a disclosure, particularly if you are suffering detriment as a result.

If you feel that you may need support as a result of making a disclosure, you are urged to contact PID coordinator. This person is separate to any investigator of your matter.

All supervisors and managers in SQ are under an obligation to notify the PID Coordinator if they believe any staff member is suffering detriment as a result of reporting a wrongdoing.

## **5.8 Confidentiality**

All SQ records of disclosures will be held in secured files in the Human Resources Unit. 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. Confidential information means:

- the fact a disclosure has been made;
- any information that may identify you or any person who may be the subject of a disclosure;
- information about an individual's personal affairs;
- the actual information that has been disclosed;
- information relating to the disclosure that, if known, may cause detriment.

In protecting your confidentiality, SQ will ensure that the details of your disclosure, the investigation and related decisions will be kept secure. Be aware that, while every attempt to protect confidentiality will be made, there will be occasions when disclosure of your identity may be necessary. These include:

- providing natural justice to the person the subject of the disclosure;
- responding to a court order or legal directive (e.g. subpoena, notice to produce, direction by a parliamentary committee);
- in court proceedings.

SQ will advise you if your identity needs to be revealed for any reason listed above and seek your consent, if possible. SQ 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 SQ is 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 SQ will be able to keep your identity confidential and protect you from any detriment or reprisal. SQ encourages you not to talk about your disclosure to your work colleagues or any other unauthorised person.

Employees who are the subject of an allegation may seek assistance from their legal representative (at their cost) or union and may utilise the services of the Employee Assistance Service for advice and counselling.

## 5.9 Further Information

Enquiries regarding the operation of this policy and information on protection available under the *Public Interest Disclosure Act 2010* should be directed to the PID Coordinator.

## 6. References

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- *Crime and Corruption Act 2001*
- *Public Sector Ethics Act 1994*
- *Industrial Relations Act 1999 (Queensland)*
- *Industrial Relations Regulation 2014*
- *Public Interest Disclosure Act 2010*
- Queensland Ombudsman: Public Interest Disclosure Standard No. 1
- Stadiums Queensland Code of Conduct
- Stadiums Queensland Employee Handbook and Induction for New Staff
- Stadiums Queensland Write-off and Losses of Assets Policy
- CCC – “*Corruption in focus: a guide to dealing with corrupt conduct in the Queensland public sector*”
- CCC – “Managing a Public Interest Disclosure Program – A guide for public sector organisations” 2011

Approved 25 November 2014