

## TERMS OF REFERENCE

### REVIEW OF THE PUBLIC INTEREST DISCLOSURE ACT 2010

I, Shannon Fentiman, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, ask the Honourable Alan Wilson KC to conduct a review of the *Public Interest Disclosure Act 2010*.

### BACKGROUND

The Public Interest Disclosure Act 2010 (PID Act) facilitates the disclosure of information in the public interest about wrongdoing in the public sector and provides protections for those who make disclosures. The Office of the Queensland Ombudsman is the oversight agency for the PID Act.

Making a protected public interest disclosure ('whistleblowing') plays an important role in modern democratic government. It contributes to open, transparent and accountable government and public administration.

The Final Report delivered by Professor Peter Coaldrake AO on 28 June 2022 *Let the sunshine in: Review of culture and accountability in the Queensland public sector* (Coaldrake Review Report) noted that the Queensland Government had supported recommendation 1 of the Parliamentary Crime and Corruption Committee (PCCC) report: *Inquiry into the Crime and Corruption Commission's Investigation of former councillors of Logan City Council: and related matters* (PCCC Inquiry Report), that Government review the effectiveness and appropriateness of protections afforded to public interest disclosers under the PID Act, including the roles of the Crime and Corruption Commission (CCC) and other relevant entities.

The Coaldrake Review Report saw this as an opportunity to consider recent developments in other jurisdictions which represent good practice (including the regime under the Corporations Act and the new whistleblower legislation soon to take effect in New Zealand (the *Protected Disclosures (Protection of Whistleblowers) Act 2022* (NZ)). That legislation includes an expanded definition of the types of matters that can be disclosed, clear sanctions against retaliation or detriment to whistleblowers and an expanded role for the Ombudsman.

The Coaldrake Review Report also considered that the review of the PID Act would be an opportunity to give due consideration to the review of the PID Act conducted by the Queensland Ombudsman in January 2017 - *the Report on the Review of the Public Interest Disclosure Act 2010* (PID Act review report). The PID Act review report includes 40 recommendations (both legislative and non-legislative) aimed at addressing technical, operational and implementation issues relating to the PID Act.

The Coaldrake Review Report recommended that the Government proceed with its promised review of the PID legislation as a matter of urgency, and at least within the next six months.

The Government has also supported in-principle recommendations made by the PCCC for consideration of legislative amendments to enable CCC officers to make lawful disclosures and be afforded the same protections as those engaged in a unit of public administration (UPA) under the PID framework. The Government has noted that, due to the definition of "corrupt conduct" in the *Crime and Corruption Act 2001*, there is a gap in protection for CCC officers and is giving consideration to the most appropriate form of amendments to address the underlying policy intent of these PCCC recommendations.

The review of the PID Act will be undertaken by an appointed Reviewer.



## SCOPE

The review of the PID Act should consider:

- a) whether the objects of the PID Act remain valid;
- b) whether the PID Act is achieving its main objects;
- c) whether the provisions of the PID Act are appropriate for achieving its main objects;
- d) whether the PID Act and its provisions are consistent with and complement the aims and provisions of the *Human Rights Act 2019*;
- e) the type of matters and information that can be disclosed under the PID Act and whether this remains appropriate;
- f) who may make a disclosure under the PID Act and whether the range of disclosers should be extended to also include all persons performing duties in and for a public sector entity (including volunteers, contracted service providers, trainees, students) and former public officers;
- g) the definition of 'public sector entity in the PID Act';
- h) pathways and processes for public interest disclosures;
- i) the effectiveness and appropriateness of protections afforded to public interest disclosers and the roles of the Ombudsman and other Queensland integrity bodies and entities, including the CCC, in relation to public interest disclosures;
- j) arrangements for education, training and awareness raising about the PID Act in public sector agencies;
- k) relevant issues raised in, and recommendations of, the Coaldrake Report, the PCCC Inquiry Report and the PID Act review report;
- l) recent whistleblowing reviews and developments in other jurisdictions which represent good practice;
- m) reports of research and academic bodies and institutions including the Australian Research Council into public integrity and anti-corruption systems matters;
- n) any other matter the reviewer considers appropriate and relevant.

## MATTERS BEYOND THE SCOPE OF THE REVIEW

This review will not consider, undertake enquires or research, or make recommendations in respect of the definition of 'corrupt conduct' in section 15 of the *Crime and Corruption Act 2001* and the implementation of PCCC recommendations relating to public interest disclosures by CCC officers.



## **CONSULTATION**

Should the reviewer consider consultation is required to inform the review, the reviewer may invite (for example, by public notice/advertisement) submissions in writing from interested persons rather than by holding public hearings.

The Reviewer will also consult with key stakeholders including the Ombudsman, the CCC, the Human Rights Commissioner, the Information Commissioner, the Integrity Commissioner, Professor Peter Coaldrake AO and any other person or organisation the Reviewer considers appropriate and relevant.

## **ASSISTANCE FOR THE REVIEWER**

The Reviewer will be provided with research and administrative assistance.

## **REPORT OF REVIEWER**

The review should be completed within five months from the commencement of the review and a final report provided to the Attorney General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence by 30 April 2023

