

Review of the *Public Interest Disclosure Act 2010* (Qld)

Submission to the Honourable Alan Wilson KC and
the Queensland Government's Department of
Justice and Attorney-General

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Contents

Who we are	4
Introduction	5
The importance of strong whistleblower protections	5
Establishing a Whistleblower Protection Authority or Commissioner.....	7
Conclusion	7

Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input into the Department of Justice and Attorney-General's review ('the/this Review') of Queensland's *Public Interest Disclosure Act 2010* ('the PID Act'), led by the Honourable Alan Wilson KC.
2. Comprehensive protections for whistleblowers are essential to support whistleblowers, keep them safe, and honour their right to freedom of expression, as enshrined in international human rights law through both the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*,² and also in Queensland's own legislative framework through the *Human Rights Act 2019* (Qld).³
3. However, the ALA contends that the current whistleblower protections framework in Queensland, including the PID Act, is largely insecure and inconsistent. As a result, whistleblowers are not adequately protected and the Queensland public's interest in having misconduct revealed is not being met.
4. The ALA thus welcomes this Review and calls for significant reform of Queensland's whistleblower protections. Our submission focuses on:
 - the importance of strong whistleblower protections; and
 - the ALA's support for establishing an independent Whistleblower Protection Authority or Commissioner in Queensland.

The importance of strong whistleblower protections

5. The ALA strongly believes that the protection of whistleblowers is essential for promoting integrity, accountability and trust in both public and non-public institutions. Public sector whistleblowers perform an important function for the community, ensuring that public officials can truly be held to account if they are not operating within the confines of the law. Private sector and not-for-profit sector whistleblowers perform similarly significant functions in those respective domains.

² See: *Universal Declaration of Human Rights*, article 19; *International Covenant on Civil and Political Rights*, article 19(2).

³ *Human Rights Act 2019* (Qld) s 21.

6. Despite that, the victimisation of whistleblowers – including but not limited to the termination of their employment, reputational damage and even prosecution – too often follows the disclosures those whistleblowers have made.⁴
7. The harrowing impact on whistleblowers of the disclosure process has been identified in consecutive reviews and reports, including by Professor Peter Coaldrake AO in his Review of culture and accountability in the Queensland public sector.⁵ As a result of submissions from whistleblowers and their supporters about their experiences of the disclosure process in Queensland, Professor Coaldrake recommended that this Review take place “as a matter of urgency” given “the urgent need for reform of the PID Act”.⁶
8. The ALA contends that providing ample support and protections to whistleblowers must, therefore, remain priority when reforming the relevant framework of laws and regulations, including the PID Act. This framework should provide whistleblowers with assistance, clarity and confidence.
9. The ALA, therefore, recommends that the PID Act be amended to strengthen whistleblower protections, including but not limited to:
 - expanding the scope of who can make a disclosure and what can be disclosed under the PID Act;
 - strong offences for any retaliatory behaviours or actions against whistleblowers;
 - ensuring that those handling disclosures made under the PID Act receive ongoing training and education about the PID Act and the functions and duties conferred on them to safely manage whistleblower disclosures; and
 - resolving inconsistencies between the PID Act and other pieces of legislation which apply to whistleblowers.

⁴ A well-publicised example is the experience of whistleblower Sharon Kelsey, who made disclosures about misconduct within Brisbane’s Logan City Council: A J Brown, ‘Queensland’s lax whistleblower laws pose a danger to the federal integrity commission’, *The Guardian* (online, 15 August 2022) <<https://www.theguardian.com/australia-news/commentisfree/2022/aug/15/queenslands-lax-whistleblower-laws-pose-a-danger-to-the-federal-integrity-commission>>.

⁵ Professor Peter Coaldrake AO, *Let the sunshine in: Review of culture and accountability in the Queensland public sector* (Final Report, 28 June 2022) 67–68 <<https://www.coaldrakereview.qld.gov.au/assets/custom/docs/coaldrake-review-final-report-28-june-2022.pdf?refresh>>.

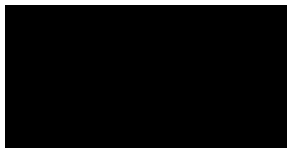
⁶ *Ibid.*

Establishing a Whistleblower Protection Authority or Commissioner

10. The ALA also supports further reform through the establishment of a Whistleblower Protection Authority or Commissioner in Queensland.
11. When internal processes within Queensland's agencies and institutions fail to protect whistleblowers, or when whistleblowers fall through the cracks of the insecure whistleblower protections framework, there is currently no independent source focused on the welfare of whistleblowers to whom whistleblowers can turn for support and protection.
12. The ALA believes that, given the aforementioned negative experiences of whistleblowers in Queensland, the establishment of an independent body whose sole focus is the welfare of whistleblowers has significant merit.
13. The ALA contends that additional reform to establish a Whistleblower Protection Authority or Commissioner also has the potential to significantly bolster transparency and accountability within federal institutions, aiding the restoration of Queenslanders' trust in those institutions.
14. The ALA thus supports calls for this Review to recommend the establishment by the Queensland Government of a Whistleblower Protection Authority or Commissioner.

Conclusion

15. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the Review of the *Public Interest Disclosure Act 2010* (Qld).
16. The ALA is available to provide further assistance to the Honourable Alan Wilson KC and the Queensland Government's Department of Justice and Attorney-General on the issues raised in this submission.



Sarah Grace
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