

Date: 24 February 2023
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Public Interest Disclosure Review Secretariat
 Strategic policy and Legal Services
 Department of Justice and Attorney-General
 GPO Box 149
 BRISBANE QLD 4001

Dear Sir/Madam [REDACTED] [REDACTED]

Review of the Public Interest Disclosure Act 2010 – Issues Paper

Thank you for the opportunity to provide comment on the proposed review of the *Public Interest Disclosure Act 2010* (the Act).

We understand the intent of the review is to consider the purpose and function of the Act within the following terms of reference:

- Whether the objects of the Act are valid and are being achieved.
- The scope of public interest disclosures (PIDs) and persons who may make a PID, protections for disclosers and processes for dealing with PIDs.
- The roles of the Queensland Ombudsman and other integrity bodies for PIDs, including the Crime and Corruption Commission (CCC) [REDACTED] [REDACTED]
- Arrangements for education and training about the Act in the public sector.
- Recent whistleblowing reviews and developments in other jurisdictions, which represent good practice and recent research about public integrity.
- Whether the Act is consistent with the *Human Rights Act 2019*.

Officers of the City of Gold Coast support the proposed review of the Act and have compiled detailed responses to the questions posed in the recently released Issues Paper in the attached table, "*Review Public Interest Disclosure Act 2010 Officers from the City of Gold Coast Response - February 2023*", for your consideration and action. Please note these are officer comments only and do not represent endorsed policy of the Council of the City of Gold Coast.

Should you have any questions or would like to discuss further the comments identified in the attached table, do not hesitate to make contact with Nick Randall, Executive Coordinator Integrity and Ethics via email: [REDACTED] or ph: [REDACTED].

Yours faithfully

[REDACTED]

Luke Connery
Chief Risk and Compliance Officer
For the Chief Executive Officer
 Council of the City of Gold Coast

Review Public Disclosure Act 2010 (PID)

Officers from the City of Gold Coast Response – February 2023

Section	Question	Comment & Suggested Response
Policy Objectives of the PID Act	<p>Are the objects of the PID Act valid and is the Act achieving these objects? Has the PID Act been effective in uncovering wrongdoing in the public sector?</p>	<p>At a high level, the objects of the PID Act, as detailed at section 3 of the Act, are valid. However, the objects of the Act may not be achieved as fully as desired, due to a lack of understanding of the legislation and Standards.</p> <p>The Act has most success in disclosures made by public officers. They do not appear to be very effective in uncovering wrongdoing in areas where members of the public may make a disclosure (i.e. environmental harm, harm to the health or safety of a person with a disability).</p> <p>It is recommended: that this review contemplate the effectiveness and appropriateness of the PID categories (both by public officers and any person).</p>
	<p>Is the title of the legislation suitable? Should any other terms, such as 'whistle-blower' or 'wrongdoing', be included in the title or used in the legislation?</p>	<p>While the reasons for contemplating including a term such as 'whistle-blower' or 'wrongdoing' in the title of the legislation are understood, it is not presently supported. This is because:</p> <ul style="list-style-type: none"> • The legislation previously contained the term 'whistle-blower' but this was removed. • In particular, the term 'whistle-blower' has negative connotations and may not result in greater reporting. • An amendment to the legislation's title would be inconsistent with all other public interest disclosure legislation in Australia. • The term 'wrongdoing' is already incorporated into the Act (refer to s 3(a)). • Changing the title is unlikely to achieve the intended goal of greater understanding of what a PID is as either term do not fully describe all the PID categories. <p>It is recommended: that the title of the Act remain the <i>Public Interest Disclosures Act</i>. It is believed that there would be a better outcome through education and awareness.</p>

	<p>Are changes needed to ensure public confidence in the integrity of the PID regime?</p>	<p>Yes. Specifically, there needs to be improved understanding (and more clarity) of the Act, rationalised processes (including the Standards) that are both easier to understand/apply and ensure consistency in the Act's application and provide more guidance on how and to whom PIDs should be made to.</p> <p>It is recommended: that the Act and other governing documents be reviewed to ensure they are user-friendly, fit for purpose and provide clarity to agencies and disclosers.</p>
	<p>Are any changes needed to the PID Act to make it more compatible with the <i>Human Rights Act 2019</i>?</p>	<p>The Act does not need to be changed to reflect the application of the HRA. However, this guidance may be helpful in other documents (i.e. the Standards).</p> <p>It is recommended: that the Standards, or any future version of those documents, provide guidance on the application of the HRA in PID processes.</p>
<p>What is Public Interest Disclosure?</p>	<p>What types of wrongdoing should the PID regime apply to? Should the scope be narrowed or broadened? Why and how?</p>	<p>The scope of the Act should be narrowed to exclude complaints made by any person, or to remove general industrial relations complaints. This is because:</p> <ul style="list-style-type: none"> • With the exception of reprisal (s 12(1)(d)), disclosures by any person have processes (other than this legislation) that are more commonly understood and applied (i.e. complaints about environmental harm are actioned under the <i>Environmental Protection Act 1994</i>; complaints about the health or safety of a person with a disability can be actioned under the <i>Anti-Discrimination Act 1994</i> and/or the <i>Human Rights Act 2019</i>). • The level of risk to members of the public, (generally speaking), are significantly less than public officers that can be managed through pre-existing processes including general complaints frameworks. • Members of the public are unlikely to have 'insider knowledge' that would amount to a PID in the traditional sense (note: the Federal government defines a whistleblower as 'someone with inside knowledge of an organisation who reports misconduct or dishonest or illegal activity that may have occurred within that organisation.') • Industrial relations issues have a specific process that

		<p>may be followed.</p> <p>It is noted that, as a result of current stakeholder engagements across the City, it has become apparent that the understanding of PID is extremely limited or, in some cases, wrong. For example, no stakeholder has identified that members of the public can make PIDs, nor has anyone known that PIDs can be made about public health or safety, environmental harm or health or safety of a person with a disability.</p> <p>It is recommended: that the scope of the Act be limited to disclosures made by persons with 'insider knowledge' of the organisation and, for that reason, require higher levels of protection that are not currently afforded through other processes or legislation.</p>
	<p>Should a PID include disclosures about substantial and specific dangers to a person with a disability or to the environment? Why or why not?</p>	<p>Should the review determine to include these categories, it is recommended that it be limited to disclosures made by public officials (for the reasons discussed above). However, the reviewers should first contemplate whether existing legislation could sufficiently protect disclosures of this nature.</p> <p>If a decision is made to retain these categories, definitions of 'serious' and 'substantial' should be created to provide further clarity to agencies about what disclosers meet the threshold of a PID.</p> <p>It is recommended: review relevant legislation to determine whether protections may be adequately captured through those existing processes. Where a decision is made to retain those categories, it is recommended that the Act appropriately define 'serious' and 'substantial'.</p>
	<p>Is there benefit in introducing a public interest or risk of harm test in the definition of a PID?</p>	<p>There is benefit in introducing a public interest test. That is, if it is in the public's interest to be made aware of the issue / to have that issue remedied.</p> <p>A public interest test would provide more clarity for agencies about what processes should be followed and where the Act applies. For example, general HR/IR issues would be excluded as they may not be in the public interest.</p> <p>It is recommended: that a public interest test be</p>

		introduced.
	Should a person be required to have a particular state of mind when reporting wrongdoing to be protected under the PID regime? Are the current provisions appropriate and effective?	<p>This requirement should be removed, most notably because it is not measurable. Agencies are not capable of determining the motivations of disclosers.</p> <p>While this may result in an increase in assumed 'vexatious' complaints, this could be limited by removing PIDs concerning HR/IR matters.</p> <p>It is recommended: that this requirement be removed from the Act.</p>
Who can make a public interest disclosure?	Who should be protected by the PID regime? Should the three categories of disclosers (public officer, employees of government owned corporations or Queensland Rail, and any person) be retained? Why or why not?	<p>Consideration should be given to removing 'any person' as a category of discloser for reasons discussed above (including limited risks to members of the public and other processes that may appropriately cater for those disclosures).</p> <p>Public officers and employees of Government Owned Corporations (GOCs) should be retained, as disclosures made by these persons may be insider knowledge that is in the public interest.</p> <p>It is recommended: the category of 'any person' is removed from the Act.</p>
	Should the definition of public officer be expanded to include those performing services for the public sector whether paid or unpaid, for example volunteers, students, contractors and work experience participants? Should former public officers be covered?	<p>Yes, as those persons may have access to or otherwise become aware of information that would be in the public interest.</p> <p>Former public officers should be afforded protections where the disclosure relates to information obtained while employed. However, some additional criteria may need to be contemplated - for example, the ex-public officer may need to articulate why they didn't make the disclosure while they were a public officer.</p> <p>It is recommended: that all individuals who perform services for a government agency (paid or unpaid) be included as a 'public officer'. Ex-public officers may also require protections but may need to provide further particulars.</p>
	Should relatives of disclosers, or witnesses be eligible to make PIDs? Should they, or anyone else, be entitled to protection under the PID	<p>Relatives/friends of disclosers should be able to make PIDs <i>on behalf of</i> the discloser (i.e., a disclosure of reprisal action). However, the protection should rest with the original</p>

	<p>regime?</p>	<p>discloser. For example, where the original discloser has sought the support of a family member and that family member determines to make a disclosure, the original discloser may require protections that the family member would not.</p> <p>Witnesses should be offered protections under the Act, particularly where it may be reasonably ascertainable who the witness is. This may follow the same or similar process as disclosers - i.e., complete a risk assessment and determine appropriate protections.</p> <p>It is recommended: friends/family may assist a discloser in making their PID (including on behalf of), however the protections should remain with the original discloser. Witnesses should be afforded protections consistent with the level of risk posed to them.</p>
	<p>Should different arrangements apply to role reporters? Why and how?</p>	<p>I believe there should be more clarity around disclosures made by role reporters, including detailing a process which may be like the arrangements for witnesses and other disclosers. However, the protections offered should still be consistent with the level of risk to the person making the report.</p> <p>To assist, a definition of 'role reporter' should be included in the Act.</p> <p>It is recommended: further clarity for role reporters should be provided, including defining the position in the Act.</p>
<p>Experiences of people who witness and report wrongdoing</p> <p>The Review acknowledges that people who report wrongdoing may be subject to confidentiality requirements outside the PID Act, such as a direction given under the <i>Public Service Act 2008</i>. Submitters to the Review should ensure they comply with any confidentiality requirements that apply to them.</p>	<p>How would you describe your experience in reporting wrongdoing under the PID Act? Do you have any suggestions for improvements?</p> <p>What factors impacted your decision to report or not report wrongdoing? Did you encounter any barriers or obstacles during the process? How can the PID regime encourage disclosers to come forward?</p> <p>Were you supported effectively during the process? Would alternative or additional support have been helpful?</p>	<p>NA</p> <p>NA</p> <p>NA</p>

	Did you feel your disclosure was taken seriously, assessed in a timely way, investigated fairly and addressed appropriately?	NA
Making, receiving and identifying PIDs	Are the requirements for making, receiving and identifying PIDs appropriate and effective?	<p>The requirements for making PIDs are generally appropriate and effective, noting that disclosers may be unaware of the PID categories. Further, while the issues paper notes that there are 'no wrong doors' when making a PID, this may not necessarily be applied in practice. For example, some agencies may interpret that for a disclosure, to be 'appropriate' it must be made to an officer detailed in section 17(3) or otherwise in the agency's policies. The practical effect may be that a disclosure is made to a general employee (i.e., customer service officer) and the protections of the Act are not afforded because it was not made appropriately.</p> <p>To ensure PIDs are received and identified appropriately by agencies, it is recommended that more training and examples are offered, as opposed to changing the receiving and identifying processes.</p> <p>It is recommended: that more education and assistance is offered to agencies to support the receiving and identification of PIDs.</p>
	Who should be able to receive PIDs? Do you support having multiple reporting pathways for disclosers? Is there a role for a clearing house or a third-party hotline in receiving PIDs?	<p>Given that PIDs may come into the organisation through various ways, including as a 'general complaint', it may not be appropriate to limit who a PID may be made to / who may receive a PID. Practically, many agencies would not have capability to ensure disclosers are received only by certain functions. For example, a member of the public who is seeking to make a complaint about water contamination may not necessarily know or think that this complaint could only be made to a CEO or other identified position.</p> <p>Multiple pathways for making PIDs remains supported primarily because it would be impracticable to stop this. Instead, better guidance and education should be offered to agency employees to identify and refer PIDs to an appropriate officer.</p> <p>The introduction of a clearing house or third-party hotline is</p>

		<p>not presently supported as there is no way to stop PIDs being made through other channels. This would result in just another way agencies would need to manage PIDs.</p> <p>If a clearing house or hotline were developed, consideration would need to be given to section 17 of the Act to ensure that the clearing house/hotline had legislative authority</p> <p>It is noted the City currently has an (internal) 'whistle-blowers' hotline that is answered by the Integrity and Ethical Standards Unit. It is not largely utilised. For this reason, it is unclear whether an external function (clearing house or hotline) would receive high volumes of disclosers.</p> <p>It is recommended: that, if a hotline or clearing house is implemented, consideration be given to the amendment of section 17 of the Act. However, the preferred outcome is that further energy be invested in training and education to ensure PIDs can be received and identified as intended.</p>
	<p>At what point in time should the obligations and protections under the PID regime come into effect?</p>	<p>At the time a matter is considered to be or purported to be a PID. This means that, where a discloser advises they are making a PID, they should be mindful of their obligations (including the obligation to maintain confidentiality).</p> <p>However, there should be an obligation on agencies to keep a discloser informed of the status of the PID, including whether additional information results in the matter losing its protections (i.e., additional information shows that the matter is not a PID).</p> <p>It is recommended: that protections under the Act commence when a discloser purports to make a PID, or the matter is otherwise accepted by the agency as a PID.</p>
	<p>Should the PID legislation require a written decision be made about PID status as recommended by the Queensland Ombudsman? What would the implications be for agencies?</p>	<p>While clarity would be helpful under the current processes, it is not always practical or necessary. For example, a potential PID concerning environmental harm will be actioned by Council quickly (usually within 24 hours). It is quite possible that that the issue would be resolved before the Ombudsman could assess it.</p> <p>If the decision were that the Ombudsman was to 'approve' each matter as a PID, instruction would need to be developed</p>

		<p>to ensure agencies could progress the substantive issue where necessary.</p> <p>Processes would also need to be implemented at the Ombudsman's office to ensure that those 'assessing' the matter would be different to those who may need to review a complaint about a PID process.</p> <p>It is recommended: that, where a written decision from the QO is required, guidance be given to agencies about what actions they can take to stop or reduce further harm while the QO assesses the matter.</p>
	<p>Are the provisions for disclosures to the media and other third parties appropriate and effective? Are there additions or alternatives that should be considered?</p>	<p>It is appropriate to have a mechanism to raise concerns with the media or other persons. The current arrangements are appropriate, as they ensure the agency has reasonable opportunity to respond / remedy a situation before referral to the media.</p> <p>Notwithstanding the above, it is unlikely that a member of the public would be aware that, to be afforded the protections of the Act, they cannot go straight to the media. This may further support reference to 'any person' being removed from the Act, but should this not be supported, as a minimum, this aspect of the Act requires further guidance to members of the public.</p> <p>It is recommended: that the provisions concerning disclosures to the media or other third parties are appropriate, however, further education/materials regarding this process may be required.</p>
	<p>Should the PID process for government owned corporations or Queensland Rail be different to those for public sector entities? Why or why not? Are the current arrangements appropriate and effective?</p>	<p>While the City does not have complete knowledge of the PIDs relating to GOCs, it is believed that the process for GOCs should be the same or similar to other government agencies. This is because:</p> <ul style="list-style-type: none"> • GOCs are governed by the State, and • GOCs rely heavily on public monies to undertake their tasks. <p>It is recommended: the PID process remain the same, or similar for GOCs.</p>
Managing investigating and responding to	<p>Are the requirements for managing, investigating and responding to PIDs appropriate and effective?</p>	<p>Overall the requirements for managing, investigating and responding to PIDs is generally effective. The only comments</p>

<p>PIDs</p>		<p>are below:</p> <ul style="list-style-type: none"> • There should be a greater onus on agencies to keep disclosers informed of the status of their complaint - i.e., timeframes to acknowledge and reoccurring updates. • As discussed separately, there are too many documents that agencies must comply with. It is recommended that the 'management' of PIDs be consolidated into a statute-required model policy and procedure, as opposed to the three Standards. <p>It is recommended: that the legislation provide actual timeframes for agencies to keep disclosers informed of their complaint. It is also recommended that the process for managing a PID is detailed in a statute-required model policy and procedure as opposed to the standards.</p>
	<p>Are agencies able to provide effective support for disclosers, subject officers and witnesses? Are any additional or alternate powers, functions or guidance needed?</p>	<p>While agencies are generally able to provide effective support to those involved in a PID, there can be difficulties where:</p> <ul style="list-style-type: none"> • the agency is small and there are limited support officers available, • where approval is required to provide support to those involved in a PID above and beyond support available through pre-existing mechanisms (i.e., Employee Assistance Programs), and • there isn't clarity regarding supports that may be available to witnesses and role reporters. <p>It is suggested that the broadening of the PID Coordinator function to be capable of approving additional supports would assist.</p> <p>Additionally, further guidance may assist agencies in identifying the types of supports that may be required. For example, where there is a high-risk associated with a PID some supports may include medical support, relocation, paid leave etc.</p> <p>It is recommended: that further clarify be provided regarding the types of supports that may be required for those involved in PID, including witnesses and role reporters. Further, the PID Coordinator function within agencies should be provided broader discretion to approve supports, to ensure that confidentiality is</p>

	<p>Should the PID Act include duties or requirements for agencies to:</p> <ul style="list-style-type: none"> a. Take steps to correct the reported wrongdoing generally or in specific ways? b. Provide procedural fairness to the discloser, subject officer and witnesses? c. Assess and minimise the risk of reprisals? 	<p>protected.</p> <p>Yes. There should be a requirement for agencies to consider how they will address wrongdoing, where reported. This should be captured and reported on (internally and to the Office of the Queensland Ombudsman).</p> <p>The legislation should confirm that procedural fairness is to be offered to all individuals involved in a PID.</p> <p>There should be an obligation on agencies to continue to assess and minimise the risk of reprisal. This would be better reflected in the Act as opposed to the Standards.</p> <p>It is recommended: that the Act be amended to reflect questions a-c.</p>
	<p>Should a discloser be able to opt out of protections afforded under the Act, such as the requirement to receive information or be provided support? Should this only apply to role reporters, or to any type of discloser?</p>	<p>It should be open to any discloser, or other person involved in a PID to opt out of some protections for various reasons, including that an agency is unlikely to be able to 'direct' a person to contact an employee assistance program. Further, the person involved is most likely in the best position to determine the types of support that they may require. For this reason, it should not be solely an 'opt-out' but rather a conversation detailing the protections agreed to by both the agency and individual.</p> <p>To ensure that an agency continues to meet its WHS requirements, the agency, in consultation with the individual, should regularly assess the protections to determine appropriateness.</p> <p>It is recommended: that protections are determined by the agency and the individual. Further, while an agency may make a recommendation concerning protections, it should be available to the individual to opt-out. Where there is an opt-out mechanism, there should be a great onus on agencies to continually assess the appropriateness of the protections offered and accepted.</p>
<p>Protections for disclosers, subject officers and witnesses</p>	<p>Are the current protections for disclosers, subject officers and witnesses appropriate and effective? Should additional or alternative protections be considered?</p>	<p>The protections available are largely a decision for the agency. While this is generally appropriate, it is recommended that further guidance be provided to agencies regarding the types of protections that may be required to 'low', 'medium' and 'high' risk disclosures.</p>

		<p>It is recommended: that further guidance be provided to agencies regarding what protections should be contemplated for low, medium and high risk disclosures.</p>
	<p>Are the current provisions about confidentiality adequate and fit for purpose? Should any improvements be considered?</p>	<p>Overall, the confidentiality provisions are adequate. However, further guidance may assist agencies and disclosers in understanding their obligations. For example, guidance for when a discloser may 'break' confidentiality but still maintain the protections of the Act (for example, in cases where the disclosure is to assist in medical treatment).</p> <p>It is recommended: that further guidance be provided to disclosers and agencies regarding the practical application of the confidentiality provisions.</p>
	<p>Is the definition of reprisal appropriate and effective? Do any issues arise in identifying, managing and responding to reprisals?</p>	<p>The definition of reprisal per section 40(5) of the Act requires review. Any detriment that is caused in part (whether it is substantial or not) should be unlawful.</p> <p>It is recommended: that section 40(5) of the Act be amended to remove the requirement that an action is a 'substantial' ground for the reprisal.</p>
	<p>Is there a role for an independent authority to support disclosers in Queensland? If so, what should its role be?</p>	<p>There may be occasions where an external agency is better placed to provide support to a discloser, particularly where the agency is small and may not have sufficient resources to have a PID Coordinator, investigator and support officer. In these cases, an agency such as the Queensland Ombudsman may be better placed to act as the support officer. However, overall, it is believed that agencies are the best placed to support disclosers.</p> <p>It is recommended: that there is a mechanism for an external agency to act as support officer in exceptional circumstances.</p>
Remedies	<p>Are the remedies available to disclosers under the PID Act reasonable and effective? Are any changes needed?</p>	<p>The remedies available to disclosers are generally detailed in section 42 of the Act, which states that an appropriate remedy is to be determined by a Court. A decision to proceed with an action in tort may create additional unnecessary stress on an individual. Further, civil actions are a costly exercise. Between the stress and financial implications, it is possible that some disclosers who have been subject to reprisal will not seek remedy.</p>

		<p>Alternatively, disclosers have an option to make an anti-discrimination complaint to the Queensland Human Rights Commission (QHRC). While supported as an option, it too may have similar consequences to civil action (particularly costs where a lawyer is engaged).</p> <p>Formal processes have a role however they should not be the only course available. Other options may include mandated alternative dispute resolution or the establishment of a redress scheme.</p> <p>It is recommended: that the review contemplate other appropriate redress options available, including ADR and/or the establishment of a redress scheme.</p>
	<p>Do the evidentiary requirements for remedies need amendment?</p>	<p>The evidentiary provisions at section 43 of the Act do not detail who is responsible for proving, or disproving, on the balance of probabilities that reprisal has occurred. Further clarity concerning the responsibilities is supported, including adopting a model similar to that detailed under the Commonwealth's PID processes.</p> <p>It is recommended: evidentiary requirements are developed and consistent with the Commonwealth's processes.</p>
	<p>Are the provisions permitting complaints to the Queensland Human Rights Commission appropriate and effective? What role should alternative dispute resolution play in resolving disputes?</p>	<p>It is noted that the QHRC has had limited involvement in complaints relating to reprisal. This may be, in part, due to that fact this process isn't widely communicated.</p> <p>The function of the QHRC as a review option is supported. However, less formal processes (such as ADR with the agency) should be offered in the first instance.</p> <p>It is recommended: that ADR processes be encouraged in the first instance, with other reviews (such as to the QHRC) being available where ADR is not successful or cannot be reasonably undertaken.</p>
	<p>Do you support an administrative redress scheme for disclosers who consider they have experienced reprisals?</p>	<p>Yes, but individuals should not be limited to utilising that scheme and should be able to determine the most appropriate course of action having regard to their individual circumstances.</p> <p>It is recommended: that the review contemplate the establishment of a redress scheme, noting that it should</p>

		not be the only option available to a discloser seeking remedy.
Role of the oversight agency	Are the Queensland Ombudsman's functions and powers suitable and effective for the purpose of the oversight body?	Through the <i>Ombudsman Act 2001</i> , the Ombudsman has a broad range of powers, including coercive powers (as required). It is presently unclear whether those powers apply to requesting information in relation to PIDs. It is recommended: the Ombudsman's powers under the <i>Ombudsman Act</i> apply to their functions related to PID management.
	Are there any conflicts between the Queensland Ombudsman's advisory and review functions for PIDs? If yes, how could these be managed or resolved?	There are no perceived or real conflicts between the Queensland Ombudsman's advisory and review functions for PIDs that are of concern. It is recommended: the advisory and review functions for PIDs remain with the Office of the Queensland Ombudsman.
	Do the roles of integrity bodies overlap during the PID process? Are changes needed or do the existing arrangements work effectively?	There is some overlap between functions that this review may resolve, including: <ul style="list-style-type: none"> the overlap between corrupt conduct investigations and PIDs, the role of the Ombudsman, particularly as it relates to PIDs regarding maladministration, and when it is appropriate for an agency to refer a PID to another agency (e.g., a Council referring a complaint of environmental harm to the Department of Environment and Science) It is recommended: that clarity be provided to the functions, including the expected involvement between agency parties to a PID.
	Are the Standards published by the Queensland Ombudsman effective? Are changes needed?	There is a high level of documentation that agencies must comply with and separately, must develop. To streamline what agencies must comply with, it is recommended that the Act be revised to include the requirements of the Standards. It is also recommended that the Act require agencies to, as a minimum, comply with a 'Model' policy and procedure. The revision to the Act in addition to a model policy and procedure would alleviate the need for three Standards.

		<p>It is recommended: that the Standards are retired in lieu of the review of the Act and a model policy and procedure being created.</p>
	<p>Do you agree with the recommendations of the Queensland Ombudsman's 2017 review?</p>	<p>The Ombudsman's 40 recommendations are largely accepted, except for:</p> <ul style="list-style-type: none"> • Recommendation 2 <p>The term 'whistle-blower' has negative connotations and may, unintentionally, have an adverse effect on disclosures. Further, it is inconsistent with other states, territories and federal legislation, all of which have a 'Public Interest Disclosure Act'.</p> <ul style="list-style-type: none"> • Recommendation 23 <p>This recommendation relies on the current scope of the PID legislation. It is recommended that the scope is narrowed to those with insider knowledge that would require a higher level of protection than general members of the public.</p> <p>It is acknowledged that there may be some instances where there would be 'insider knowledge' from a public officer not of the agency they are making a disclosure about. In those cases, the PID protections should apply.</p> <p>All other recommendations are in principle agreed with, with the following comments:</p> <ul style="list-style-type: none"> • Recommendation 4 - Section 12 should be repealed, with 12(d) being relocated to Section 13 • Recommendation 10 - consideration should be given to which agency a PID should be made to where the public officer has since left the organisation they are making a PID about • Recommendations 12 and 13 - these requirements are currently detailed in the Standards. It is agreed that this obligation should be in the Act instead and may provide ways to retire the Standards. • Recommendations 26, 27 and 28 - this could be reflected in a model policy and procedure, with the Standards being retired • Recommendation 35 - clarification should be provided about what confidentiality provisions would apply to the

		<p>review of a PID decision through an agency's administrative review process.</p> <p>It is recommended: that 38 out of the 40 recommendations be implemented, noting the above comments.</p>
Practical considerations	Should the PID legislation be more specific about how it interacts with any other legislation, process or scheme?	<p>Yes. This should not be limited to the interactions between legislation, but also other government agencies. For example, further guidance should be provided regarding which agency is the most appropriate agency to deal with a PID (particularly in cases where the discloser makes complaints to more than one agency, or the discloser relates to a specific action taken by one agency - is that agency capable of reviewing its own actions through the PID process?).</p> <p>It is recommended: that the Act be more specific about the connections between other legislation and the interactions between agencies.</p>
	Should the PID legislation include incentives for disclosers? If so, how should they operate?	<p>Incentives for disclosers is not supported, as it may increase complaints made in bad faith. Instead, agencies should provide more information to potential disclosers to offer some comfort that the matter will be treated sensitively and appropriately.</p> <p>It is recommended: that incentives are not introduced.</p>
	Are current arrangements for training and education about the PID Act effective? How could they be improved?	<p>PID training offered by the Queensland Ombudsman is effective.</p> <p>To support agencies, it is recommended that the Standards are replaced with a model policy and procedure to ensure that the process is implemented as intended.</p> <p>It is recommended: that clarity be offered through a model policy and procedure.</p>
	How could an effective PID scheme provide for the needs of First Nations Peoples, culturally and linguistically diverse people and those in regional or remote communities?	<p>Ensure access to the process through multiple channels. Particularly for regional and remote areas, the Ombudsman could be used to assist disclosers, so that they don't need to make the disclosure to a person who may be directly involved at the agency they are seeking to make a PID about.</p> <p>It is recommended: the Ombudsman be available to accept more PIDs from disclosers (particularly those</p>

	<p>Is the PID Act accessible and easy to understand? How could the clarity of the Act be improved?</p>	<p>relating small agencies).</p> <p>It isn't necessarily the Act that causes confusion, but rather the various governance arrangements connected to it.</p> <p>For example, agencies are required to comply with the Act and Standards 1-3. They should also have regard to the Model PID Policy available on the Ombudsman's website.</p> <p>In applying that information to their organisation, agencies must then develop a PID Policy, Procedures and a 'Management Plan'.</p> <p>The different types of information agencies must comply with and develop is overly burdensome and complicated. It is recommended that this review contemplate whether the standards are effective, or whether there may be opportunity to include the requirements into the Act. This may then allow the Ombudsman to focus their energies on maintaining a contemporary model policy and procedure (which may set the mandatory minimum requirements).</p> <p>It is recommended: the Standards be replaced with a mandatory model policy and procedure, which details the minimum standards an agency must comply with.</p>
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Not endorsed Council Officer