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For reply please quote: *IS&CA/MR – T23/334 – D23/6301*

27 February 2023

The Honourable Alan Wilson KC  
Public Interest Disclosure Review Secretariat  
Strategic Policy and Legal Services  
Department of Justice and Attorney-General  
G P O Box 149  
BRISBANE QLD 4001

Via email: [PIDActReview@justice.qld.gov.au](mailto:PIDActReview@justice.qld.gov.au)

Dear Mr Wilson

Thank you for the opportunity to provide a submission to the review of the Public Interest Disclosure Act 2010 (PID Act).

As an organisation that takes allegations of wrongdoing very seriously, we appreciate the opportunity to provide feedback on the objects, purpose and function of the PID Act. The PID Act is a very important piece of legislation that provides guidance, protection and support for anyone involved in the making of a Public Interest Disclosure.

My team has compiled feedback on a number of questions from the Issues paper, which I have included with this letter for consideration in the review.

Should you or your colleagues have any questions about the contents of our submission, please don't hesitate to contact Melissa Rogers, Director, Independent Services and the Customer Advocate via email to [REDACTED] or by phone on [REDACTED].

Yours sincerely

[REDACTED]

**Samay Zhouand**  
**Public Trustee of Queensland and CEO**

## Attachment 1 – Questions to consider

	Question	Comments
1.	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?	The PID Act supports greater levels of accountability across the public service.
2.	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?	Given the objectives of the Act a change in title may help disclosers to identify where to find their obligations and protections.
3.	Are changes needed to ensure public confidence in the integrity of the PID regime?	Greater levels of support to complainants would assist in increasing the confidence in the PID regime.
5.	What types of wrongdoing should the PID regime apply to? Should the scope be narrowed or broadened? Why and how?	The current categories remain relevant.
6.	Should a PID include disclosures about substantial and specific dangers to a person with a disability or to the environment? Why or why not?	Yes, however clearer definition on the scope of this type of wrongdoing would be helpful as would further guidance on what falls under this category or assessment of substantial or specific.
7.	Is there benefit in introducing a public interest or risk of harm test in the definition of a PID?	Potentially, however, to avoid duplication, there would need to be clarity on how this is considered if the categories noted above (ie. substantial and specific dangers to a person with a disability or to the environment) were to remain in the Act.
8.	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?	The Public Trustee does not have a position on this issue but would note the importance of continuing to ensure that people are not discouraged from reporting wrongdoing.
9.	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?	Consideration could be given to whether widening the scope of who receives protections, similar to widening the definition of corrupt conduct to include organisations the public sector does business with, would be effective.

	Question	Comments
10.	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?	It could give greater confidence in the system if the definition was expanded to volunteers, students, contractors, and work experience participants and to former public servants. However, the state of mind of former public service officers might become a relevant consideration.
12.	Should different arrangements apply to role reporters? Why and how?	It may be beneficial to specifically ensure protections apply to role reporters, particularly staff involved directly in the assessment and referral of matters to the CCC.
17.	Are the requirements for making, receiving and identifying PIDs appropriate and effective?	The requirements for making, receiving and identifying PIDs appear clear in the legislation.
18.	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?	It may be beneficial to have multiple reporting pathways for disclosers unsure about which agency is responsible for actioning their concern. Alternatively, a 'clearing house' arrangement could assist to avoid duplication and support consistent assessment, identification and allocation of PIDs.
19.	At what point in time should the obligations and protections under the PID regime come into effect?	Obligations and protections commencing as soon as the disclosure is made would best support disclosers.
20.	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?	It could be helpful to ensure all parties understand the status of the disclosure to ensure protections and obligations are met.
22.	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?	Consistent processes across all government entities may aid disclosers in understanding when and how obligations and protections apply to their circumstances.
23.	Are the requirements for managing, investigating and responding to PIDs appropriate and effective?	The requirements are broadly appropriate and effective.

	Question	Comments
24.	Are agencies able to provide effective support for disclosers, subject officers and witnesses? Are any additional or alternate powers, functions or guidance needed?	Yes, however additional guidance on strategies and options to provide support would be welcome.
25.	Should the PID Act include duties or requirements for agencies to: 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?	These are positive obligations that would support the objectives of the PID Act.
26.	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?	Individual disclosers may have various reasons for opting out of certain protections and enabling this choice may relieve administrative burden on agencies in some instances.
27.	Are the current protections for disclosers, subject officers and witnesses appropriate and effective? Should additional or alternative protections be considered?	The current protections support the objectives of the PID Act.
28.	Are the current provisions about confidentiality adequate and fit for purpose? Should any improvements be considered?	Yes, the current provisions balance privacy, protection and procedural fairness.
29.	Is the definition of reprisal appropriate and effective? Do any issues arise in identifying, managing and responding to reprisals?	The Public Trustee does not take a position on the definition but notes that allegations of reprisal can complicate investigations by creating the potential for additional managerial action to protect staff during investigations.
30.	Is there a role for an independent authority to support disclosers in Queensland? If so, what should its role be?	It may be beneficial for an independent authority to support disclosers, including providing information on their protections and obligations.
34.	Do you support an administrative redress scheme for disclosers who consider they have experienced reprisals?	The Public Trustee does not have a position on this, but it may be appropriate if accessing the current remedies is found to be too onerous for disclosers.

	Question	Comments
37.	Do the roles of integrity bodies overlap during the PID process? Are changes needed or do the existing arrangements work effectively?	As identified in the example in the Issues paper, the agencies do overlap somewhat, however given the role of each agency in a matter, the arrangements work effectively.
38.	Are the Standards published by the Queensland Ombudsman effective? Are changes needed?	Yes, they are lengthy though and there may be scope for refinement.
41.	Should the PID legislation include incentives for disclosers? If so, how should they operate?	The Public Trustee does not have a position on this however notes that an incentive scheme may create a culture of opportunistic reporting rather than encouraging local issue identification and incremental improvement.
42.	Are current arrangements for training and education about the PID Act effective? How could they be improved?	The support provided by the Ombudsman's PID team is valuable. Perhaps for role reporters or complaint assessors there could be benefit from annual conferences or intensive training days.
44.	Is the PID Act accessible and easy to understand? How could the clarity of the Act be improved?	It may be beneficial for a 'simplified outline' of each division of the Act.