

21 February 2023

Hon Alan Wilson KC
Public Interest Disclosure Review
E: PIDActReview@justice.qld.gov.au

Dear Mr Wilson

Thank you for your correspondence of 30 January 2023 regarding the review of the *Public Interest Disclosure Act 2010* (the PID Act).

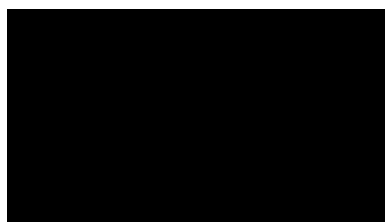
As you may be aware, LGMA is the peak body for Queensland local government officers and, in this capacity, works with officers across the state who are responsible for administering the PID Act in Queensland councils.

As a general statement, it is our view that the PID Act is not broken and plays an important role in the good governance of Queensland councils. We are supportive of a sound and clear Act which facilitates the prompt disclosure of wrongdoing, including through providing protections to disclosers.

LGMA welcomes the regular review of the legislation and, in the interests of continuous improvement and a contemporary and responsive legislative environment, offers comments on the Issues Paper as outlined in the attached table. Comments and responses have not been provided in cases where the question is a) not relevant to local government, b) the current position is considered satisfactory or c) LGMA does not have a view either way.

I trust this information is of assistance and we do thank you for seeking to engage local governments early in this process. Please do not hesitate to contact me if you require any further clarification.

Yours sincerely



Peta Irvine
Chief Executive Officer

Issues Paper reference	Subject	Comment
3.1 Policy Objectives	Terminology	Whistleblowing is a term which is more familiar to individuals than the term ‘public interest disclosure’ (although awareness is growing – probably more quickly in state government than it is in local government). Using the term ‘whistleblowing’ may increase accessibility of the legislative provisions and assist individuals to identify the provisions and processes applying to their disclosure prior to first making a disclosure. Understanding these provisions can be instrumental in the decision to disclose or not.
3.2 What is a PID	Workplace grievances	The position that disclosures solely about personal workplace grievances should not be protected except where they are indicative of systemic issue is supported.
	Public interest test	The application of a public interest test to disclosure assessments is not supported as it would create another layer of complexity for minimal additional benefit.
	State of mind	The suggestion of a ‘state of mind’ assessment is not supported as there does not appear to be significant benefit in attempting to assess the discloser’s state of mind given, a) state of mind is largely irrelevant as even if the intention is to harm an individual, the disclosure may still be factual, b) it creates an added layer of complexity and c) it puts more pressure on disclosers which may reduce incentive to disclose. However, LGMA is of the view that knowingly making an unfounded and vexatious disclosure should attract some censure.
3.3 Who can make a PID?	Subcontractors, volunteers etc.	The extension of provisions to sub-contractors, volunteers etc. is not supported as it would be excessively difficult to manage and these individuals are not necessarily subject to the Codes of Conduct applying to employees and may not have received relevant training.
	Relatives	LGMA does see a role for relatives of disclosers to make PIDs in instances where the discloser is unable to make the PID themselves (for example due to physical or psychological injury).

	Category of discloser	The option of creating categories of disclosers and having separate arrangements for role reporters is a sound suggestion, reflecting the different roles that disclosers may play.
3.5 Making, receiving and identifying	Clearing House	While in theory a clearing house function sounds sensible, based on the cost to administer and promote and risk of further delays in process, LGMA has formed a view that it would add insufficient benefit to justify the establishment of a new function.
	Multiple Reporting	Multiple reporting for local government-related disclosures generally involves disclosures to a single council and the Ombudsman. The current management of these is considered effective as the Ombudsman is diligent in contacting councils in the first instance to ascertain action taken. As a result, reporting overlaps are identified early and managed appropriately.
	Identification of a PID	A useful addition to the information available to disclosers (and which would also assist in the determination of PIDs by assessors) is a flowchart showing the gateways for determining if a matter is a PID or not.
3.7 Protections	Independent authority	LGMA does not support the establishment of an independent authority. Experience with such bodies is that resourcing is always insufficient to manage demand which creates significant delays and, in the case of the PID regime, this would be to the detriment of disclosers, agencies, the reputation of government and the wider community.
3.9 Role of oversight agencies	Queensland Ombudsman	Queensland local government has generally found the Office of the Queensland Ombudsman to be sufficiently responsive and effective in their management of PIDs and associated interaction with Queensland councils.
General	Reporting	A number of councils advise that the reporting requirements (end of year) are cumbersome and, as a result, may not be comprehensive or consistent in all cases.