The Office of the Queensland Ombudsman
Level 17, 53 Albert Street
Brisbane QLD 4000

Dear Mr. Phil Clarke,

Below is the submission of the Australian Medical Students Association (AMSA) to the *"Review of the Public Interest Disclosure Act 2010"*.

Our submission focuses on applications of the Act relevant to Queensland medical students.

We understand that some protections are afforded to medical students under section 12 of the *Public Interest Disclosure Act 2010*. However, the level of these are not the same as those afforded to formal employees of Queensland Health despite the close working relationship and inferiority of medical students - as well as nursing and allied health students - in Queensland hospitals.

AMSA believes that this is inadequate, and it is for this reason that we are submitting the following document to the Queensland Ombudsman's Review. We request that the definitions and protections of medical students completing a hospital placement in Queensland be broadened and strengthened so that issues of bullying and harassment can be appropriately reported and properly assessed.

This submission speaks to multiple aspects of the Issues Paper, but specifically centres on whether the definition of 'public officer' should be expanded to include volunteers and students (6.6) and increasing the protection of those who make complaints against reprisals (8.3 and 9).

We would like to thank you for conducting this review and look forward to the publication of the discussion paper.

Yours Sincerely,

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AMSA President 2016

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AMSA Submission to the (

"Review of the Public Interest Disclosure Act 2010" (

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Executive Summary)

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A significant part of Australian medical student life consists of undertaking several years (of clinical training in the hospital environment, studying underneath junior and senior (doctors, and working alongside the medical staff. In Queensland, they are active (contributors to the hospital teams that provide close contact care to patients but due to (their junior status within the team are at significant risk of bullying and harassment by (more senior staff. (

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AMSA is satisfied with the existing processes used by students and staff to make (complaints about such behaviour, however it is clear that the levels of protections (against reprisals for doing so are inadequate for medical students. AMSA and (Queensland medical student societies are aware of a number of instances where (students, having experienced significant bullying and harassment, refused to make (formal complaints because it would compromise their current education as well as their (future employment prospects. (

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This concern has been corroborated by advice to AMSA stating that due to the grey area (in which medical students are situated - not being formal employees of Queensland (Health, working and studying in such hospital environments, and then eventually (becoming employees in the same areas where they trained - no clear level of protection (is available. Therefore, in response to the Issues Paper, AMSA proposes that: (

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1.(The PID Act definition of 'public officer' is widened so that the rules concerning (disclosures by a public officer (s. 13) and protections of the same against (reprisal (s. 28e) apply to students undertaking clinical placements in Queensland (hospitals. (
2.(The PID Act should be more specific about providing protection to a discloser (who is not an employee of the entity investigating the PID, and that this (protection should be extended to those who become employed by the entity (such as students undertaking placements throughout Queensland Hospital and (Health Services. (
3.(The PID Act should become more specific about providing adequate reprisal (considerations to volunteers and students in Queensland Health, and should (expand upon the "adverse discrimination, disadvantage or adverse treatment (about career, profession [and] employment" to explicitly account for the unique (position of medical students undertaking clinical placements under university (supervisors and potential employers. (

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Introduction (

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In May of 2015, bullying and harassment in medicine occupied the national discourse. This was (sparked by an opinion from Dr. Gabrielle McMullen, a prominent Sydney vascular surgeon, that (young female doctors should comply with rather than report the sexual requests of their male (colleagues and seniors as that would be a safer option, professionally and personally. This (shocking assertion shone a candid light on the hierarchical structure of medicine and medical (training. Just one consequence of this broad issue is that junior members are unable to report (bullying and harassment without fear of personal and professional reprisal. (

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Across the country, numerous bodies and organisations have moved to address the root cause (of a culture that in order to address the root cause of such a bullying culture and provide staff (with appropriate protection in disclosing their experiences. In the Victoria, the Auditor-General has (been tasked with investigating claims of bullying and harassment and the secretary of NSW (Health, Dr. Mary Foley, has written to all NSW Health workers dictating a zero tolerance approach (to bullying and harassment in hospitals. (

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Following this national spotlight on the presence of such an ingrained culture in some parts of (medicine, medical students and junior doctors publicly disclosed their experiences of bullying and (harassment in local health networks. Many attributed their silence to the fear of reprisal that their (future careers would be endangered by making such reports.(

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In Queensland, more than a dozen medical students raised their concerns with their medical (student society, who in turn raised this with AMSA. AMSA embarked (on the process of engaging each level of the Queensland Health complaints process to provide (medical students with the opportunity to escalate these concerns in a safe and confidential (manner. (

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AMSA is satisfied that the mechanisms of reporting provide appropriate avenues for disclosure. (However, it became apparent to AMSA, the QLD Conduct Advisory Service, and this specific local (health network that the definition of a 'public officer' in the *Public Interest Disclosure Act 2010*'s (failed to confer the necessary protection to medical students making a disclosure that was (routinely offered to other members of the local health network. (

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When the affected medical students understood their classification under the Public Interest (Disclosure Act 2010, only three accounts of sexual harassment were made to the local health (network conducting the investigation. When asked, the medical students were simply unwilling to (engage in the complaints process, even when providing de-identified accounts. They cited very (serious concerns that disclosure will lead to a risk of reprise both as a medical student or even (further down the line for their progression working as a doctor in Queensland Health. (

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Compounded by the necessity to keep the account deidentified, the complaints process was not (able to fully pursue this disclosure. In turn, AMSA believes that the appropriate course of justice (was not achieved. (

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Given the blatant nature of sexual harassment in these experiences, AMSA is determined to (engage with the Queensland Ombudsman's review of the *Public Interest Disclosure Act 2010*. In (the course of submission, AMSA will discuss: (

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1.(The medical student risk profile (
2.(Role of medical students in the hospital clinical environment (
3.(Grey area between university and hospital policies (
4.(What Australian medical students want to see (

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1.The medical student risk profile (

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Every domestic Queensland medical student is offered a guaranteed job by Queensland Health (upon graduation. However, that medical graduate's future progression hinges on their senior (colleague's appraisal of their performance and ability. (

The Royal Australasian College of Surgeons conducted a national inquiry into Bullying and Harassment in the surgical profession. The expert advisory report identified that junior medical officers and medical students view disclosing evidence of harassment in the medical profession to be career suicide, due to a genuine fear of academic reprise.

"People report not speaking out (about bullying or conditions or the behaviour of others) for fear of being seen as weak or unsuitable for surgery; concerns about marginalisation; and being denied workplace opportunities, including in theatre. They report making a complaint as 'career suicide' and fear being 'black-balled' in areas such as selection, references, job recommendations, appointment processes, and career path."

Expert Advisory Report into Bullying and Harassment RACS 2014

The report also noted that in many cases, making a formal complaint was the only way to address bullying and harassment in the hospital.

"There is a lack of any mechanism to raise – and address – concerns or issues early, which means they either escalate into formal complaints or are not addressed at all."

Expert Advisory Report into Bullying and Harassment RACS 2014

A significant proportion of medical students decide to practice medicine at the hospital at which they completed their clinical training. When AMSA explored the reasons why medical students opted to not submit a formal disclosure of sexual harassment, they cited the fear of academic reprise for future career progression as that clinician was a supervisor during their prospective employment in that local health district. The prospect of academic reprise, actually undertaking the reporting mechanisms, and the adverse impacts of doing so on future career prospects, raise the risk profile of medical students making a public interest disclosure about bullying and harassment.

2. Role of medical students in the hospital clinical environment

Queensland medical students undertake several years of clinical training in Queensland hospitals. They are active contributors to the hospital teams that provide patient care, and their roles in the hospital includes and is not limited to: writing in patient notes, constructing discharge summaries, cannulation, venipuncture, consenting patients and operating in surgery.

Medical students are expected to participate in hospital medical teams. These traditionally include multiple consultant doctors, trainee registrars and junior medical officers. Medical students, by virtue of their role in the hospital team and their place at the bottom of the hierarchy, can be exposed to direct experiences of bullying and harassment by Queensland Health staff.

This exposure and risk of bullying and harassment of students undertaking a Queensland Health clinical placement is comparable to a formal employee of Queensland Health, but the levels of protection provided to medical students making complaints about such behaviour are inadequate.

3. Grey area between university & hospital policies

Medical students exist sit in a grey area within hospital and university policies. If a medical student is found to be complicit in acts of bullying and harassment, the university can take action using the its own bullying, harassment, and student misconduct policies.

If medical students experience bullying and harassment by a Queensland Health employee, the university has an expectation that Queensland Health will appropriately action these concerns. However, the difficulty lies in the risk of reprise if these instances are disclosed through the

required hospital policies. Currently, section 12 forms the main basis protection for medical (students who are classed as non-public officers, and are duly inadequate to protect medical (students from the risk of reprise in terms of medical studies or future career prospects. (

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AMSA understands that students could still bring action against the hospital as it would be (classed as an education provider and is still vicariously liable for its staff. This action could be (taken under either the Queensland Anti-Discrimination Act or under the Federal Sex (Discrimination Act. However, to medical students these are formidable tasks more likely to not be (taken. What is required is a structural change in the legislation where students are formally (defined as 'public officers' and gain the full suite of protections given in the PID Act. (

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4. How to protect Australian Medical (Students that seek to make a public (interest disclosure (

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AMSA would like to see Queensland medical students provided the same protections of other (Queensland Health employees. (

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Ensuring that medical students, who spend a considerable amount of time working and studying (throughout Queensland hospitals, are entitled to the same level of protections as and from those (with which they work is essential. AMSA views this review as the perfect opportunity for the (Ombudsman to formalise such protections for Queensland students, in medicine and in other (health students working in hospitals. (

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If the Queensland Ombudsman views altering these definitions and offering the same level of (protection to medical students studying in Queensland as a worthwhile change, then a number of (positive outcomes could eventuate. Students who have suffered bullying and harassment would (have greater full confidence in both the system of reporting and that future repercussions would (be suitably addressed. This would benefit medical students, their universities, and Queensland (Health. (

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The impact of addressing this issue would be an important first step in fostering a necessary (cultural change within the medical profession, and would be a meaningful step in easing the (burden of wanton, uncalled for, and despicable acts of bullying and harassment sometimes (experienced by medical students in Queensland hospitals. (

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