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Ethical Standards Unit
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File Ref: DG078548

Mr Phil Clarke
Queensland Ombudsman
Office of the Queensland Ombudsman
GPO Box 3314
BRISBANE QLD 4000

Dear Mr Clarke

Review of the Public Interest Disclosure Act 2010

I refer to your correspondence dated 3 November 2015 advising of the commencement of a review into the operations of the *Public Interest Disclosure Act 2010* (PID Act) and your request for stakeholder submissions.

I would like to thank you for this opportunity to provide feedback and further inform the review process.

The Department of Health (the Department) Ethical Standards Unit (ESU) is responsible for the management and administration of public interest disclosures for the Department. The ESU has reviewed the published issues paper.

Please find attached the Department's response to some of the questions posed within the issues paper for your consideration.

Should you require further information, please do not hesitate to contact me on telephone _____

Yours sincerely

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Department of Health – response to *Public Interest Disclosure Act 2010* review Issues paper

Issues paper item	Question	Department of Health response
5 The main objects of the PID Act	Has the PID Act been effective in promoting public interest disclosures?	<p>The introduction of the PID Act has not, in isolation, promoted an increase in public interest disclosures.</p> <p>Although internal awareness campaigns have assisted in providing information to public officers working within the department it does not promote awareness to the wider community.</p> <p>The Qld Ombudsman could take a more proactive role in promoting the PID Act not only to public officers but to the general public.</p>
6.5 Public officers reporting role-related PIDs	Should the PID Act be made more explicit about disclosures made in the normal course of a public officer’s duties?	<p>The PID Act should be more specific in the requirements around a Department’s management of disclosures that occur within the normal course of a public officer’s duties.</p> <p>Often disclosures are made purely as a result of duties that are performed, for example, police officers dealing with criminal conduct engaged in by public officers within their workplaces, auditors performing general workplace audits.</p> <p>Consideration could be given to, where reprisal is unlikely and the disclosure is made in the normal course of duties, what PID administrative requirements are required, if any.</p>
6.6 Changes to employment arrangement for public officers	Should the PID Act definition of ‘public officer’ be widened to include volunteers and contractors?	<p>The department agrees the definition of public officer, as it relates to the provisions of the PID Act, should be extended to include contractors, volunteers and students working with ‘public officers’ under employment-like arrangements. (Similar to NSW PID legislation)</p> <p>This would assist those students and volunteers providing health care whilst working within hospitals, Ambulance services and other health care placements to disclose wrongdoing within the workplace.</p> <p>Additionally, consideration should be given to protection for those public officers from inter-state providing relevant information about Qld public officers. Where the State with which the officer is disclosing has relevant statutory protections in place, consideration should be given to acknowledging those protections.</p>

<p>7.3 PIDs to journalist</p>	<p>How has this option been used? Are there alternatives that should be considered?</p>	<p>Whilst s20 provides for when an officer may make a disclosure to a journalist it does not consider penalties for inappropriate disclosures of relevant information to journalists.</p> <p>Consideration should be given to expanding this provision to include penalties for inappropriately disclosing relevant information to journalists where a department is dealing with the matter, including by a discloser.</p>
<p>8.3 Providing protections for ‘a public officer’ who is not employed by the entity</p>	<p>Should the PID Act be more specific about providing protection to a discloser who is not an employee of the entity investigating the PID?</p>	<p>The department agrees the PID Act should be more specific regarding the provision of support/protection to those disclosers not employed by the agency receiving the complaint.</p> <p>Equally, the PID Act should be more specific about what protections should be provided by an investigative agency i.e. the CCC, to public officers outside of their agency. For example, consideration may need to be given to engaging the relevant PID Coordinator of the external agency to assist in ensuring the discloser is sufficiently protected within their employing agency.</p>
<p>8.6 Preserving confidentiality</p>	<p>Are the current arrangements for confidentiality adequate and appropriate?</p>	<p>S65 could be expanded to include examples involving the disclosure of confidential information to other entities, for example, WorkCover.</p> <p>It is unclear in the PID Act whether the disclosure of complaint information that also forms part of a WorkCover claim is an inappropriate disclosure or whether this is considered ‘an appropriate discharging of a function under another Act’.</p> <p>This issue was raised during the 12months review of the PID Act. Further guidance within the PID Act regarding this issue is recommended.</p> <p>Currently, s65 only applies to those persons involved in the Act’s administration and as a result does not apply to disclosers. Consideration should be given to expanding the application of s65 to include ‘disclosers’ to assist in protecting relevant information from inappropriate disclosure and exposing disclosers to potential risk.</p>