

Date: 7 January 2016
Contact: [REDACTED] Chief Operating Officer
Location: Waterside West (Level 3)
Telephone: [REDACTED]
Your reference: 2015-00225
Our reference: ISPOT52917428

Office of the Queensland Ombudsman
GPO Box 3314
Brisbane Qld 4001

Attention: Mr Phil Clarke

By Email: PIDreview@ombudsman.qld.gov.au

Dear Mr Clarke

RE: PUBLIC INTEREST DISCLOSURE ACT REVIEW [REDACTED]

I refer to correspondence forwarded by your office dated 3 November 2015 inviting submissions from stakeholders.

I now **attach** and **enclose** submissions [REDACTED] on behalf of Council of the City of Gold Coast.

Please do not hesitate to contact the Chief Operating Officer, [REDACTED] should you have any questions or concerns regarding Council's submission.

Yours faithfully

[REDACTED]
Dale Dickson
Chief Executive Officer
Council of the City of Gold Coast



Public Interest Disclosure Act Review

15 January 2016

CITY OF
GOLDCOAST.

Public Interest Disclosure Act Review: Discussion Paper

All submissions will be made publicly available unless it is clearly stated that the submissions are made in confidence.

Submissions must be received by close of business Friday 15 January 2016.

Email: PIDreview@ombudsman.qld.gov.au

Mail: PID Act Review, Office of the Queensland Ombudsman, GPO Box 3314, Brisbane Qld 4001

Name: Mr Dale Dickson – Chief Executive Officer

Organisation: Council of the City of Gold Coast

Postal Address: PO Box 5042, GCMC Qld 9729

OPENING/GENERAL COMMENTS:

Council of the City of Gold Coast (Council) is one of the largest employers on the Gold Coast. Council has 3,629 full time equivalent positions.

As a major employer, Council of the City of Gold Coast welcomes a review of the Public Interest Disclosure Act 2013 to ensure more effective transparency between the Act and the implementation of the Act.

There are many laws around Australia that guide how disclosures in the public sector can be made, how they can be acted on, and how those who make them should be managed and protected. These laws vary in style, coverage and principle. Council strongly supports a statutory scheme that provides appropriate protections for public sector workers who make disclosures about issues of public interest. Council supports such a scheme not only because it is in the interest of public sector workers, but also because the legislation promotes a more open and transparent government and in doing so enhances public confidence in government administration.

This submission includes our responses to the questions raised within the Review Paper prepared by the Queensland Ombudsman's Office together with some additional questions we would like considered as part of the review.

While progress is needed towards a more comprehensive reform, the most important need is care and deliberation over the nature of the current legislative strengths and weaknesses. It is hoped that through this review process, steps can be taken towards ensuring the Act's effectiveness by providing more clarity of the entirety of the Act.

Questions raised by the Queensland Ombudsman's Office as part of the Public Interest Disclosure Act Review (PID Act Review).

1. *Has the PID Act provisions been effective in promoting public interest disclosures?*

It is Council's view that the adoption of the PID Act in 2013 was an extremely effective way of promoting the importance of public interest disclosures. It is Council's view that public sector organisations need to ensure they prepare and adopt practices and procedures that promote the effectiveness of the PID Act. Council has introduced regular educational workshops regarding the PID Act, its role within Council, its effect on the business, the discloser and the subject officer.

2. *Are the PID Act provisions for assessment and investigation appropriate or should other options be considered?*

It is Council's view that the PID Act provisions for assessment and investigation are adequate.

3. *Are the PID Act provisions for protecting the interests of disclosures and subject officers adequate and appropriate? What alternatives might be considered?*

It is Council's view that the Queensland Ombudsman's Office could offer workshops for Government Organisations, which focus on educating and training Managers how to adequately and appropriately manage PID'S. This would assist in ensuring consistency across the public sector.

4. *Are the PID Act provisions for protection against reprisal effective? What works well in the current arrangements? What opportunities are there for improvement?*

It is Council's view that the PID Act provisions for protection against reprisal are effective but more procedural guidance on what an employee's rights are when they are experiencing reprisal and the subject officer has ceased working for Council need to be explored.

5. *Should the PID Act be made more explicit about disclosures made in the normal course of a public officer's duties?*

It is Council's view that any employee with managerial/supervisory responsibilities should not be able to rely on the application of the PID Act because they are raising allegations of corrupt conduct about employees they manage. In Council's view this is an inherent part of a manager's or supervisor's role and the responsibility for reporting corrupt conduct should be exercised as required and without the protection of the Act.

6. *Should there be further consideration about how role-related PIDs should be managed?*

It is Council's view that the Act needs to be more specific on the topic of how role-related PID's should be managed. For example: If a Manager conducts an audit and uncovers corrupt conduct by their Director, should the auditor (Manager) be afforded PID protection?

7. Should the PID Act definition of a “public officer” be widened to include volunteers and contractors?

Yes it is Council’s view that the only difference between volunteers and contractors is the way in which they are paid. It must be noted and accepted that volunteers and contractors are exposed to the same working conditions as employees on the payroll system and thus should be protected in the same manner. Further a widening of the Act to include volunteers and contractors will align with the Crime and Corruption Act.

8. Should further consideration be given to clarifying the application of the public officer definition?

It is Council’s view that the Act is specific enough with respect to the definition of a public officer.

9. Should the PID Act be more explicit about how disclosures by former public officers should be managed?

It is Council’s view that the PID Act could be more detailed on the issue of employment separation and PID protections.

10. What is the impact of this wide range of options for disclosing a PID?

It is Council’s view that having various reporting avenues open to employees can cause confusion. There are a variety of compaction issues that make “options reporting” problematic such as inconsistent advice, a higher possibility of information being potentially mismanaged, passage of time delays and confusion. It is Council’s view that the Queensland Ombudsman’s Office should create a procedure that outlines how a PID is to be managed, thus ensuring certainty for the discloser and consistency across the public sector.

11. Should the PID Act be explicit about when information should be provided to disclosers?

It is Council’s view that the PID Act adequately prescribes what information should be provided to disclosers.

12. Should the PID Act be more specific about providing protection to a discloser who is not an employee of the entity investigating the PID?

It is Council’s view that in some circumstances yes, it would be appropriate to provide PID protection to a discloser who is not an employee. For example: The neighbour of a Council employee has made an application for an extension on their third story decking. This approval will be sought by making the application to Council. The Council employee is threatening the neighbour almost daily that they will stop their application for approval if they don’t mow their lawn every Friday. In this situation, the neighbour should be able to qualify for PID protection.

13. Are the current requirements for each public sector entity to develop and publish their own PID policy valuable and appropriate?

It is Council's view that developing and publishing our organisation's own PID Policy was valuable because was the first step in educating our employees and members of the public (i.e members of the public who wanted to make environmental complaints). It also promotes transparency which is an extremely important concept to Council for the City of Gold Coast.

14. Should further consideration be given to the extent of protections provided by the Act and responsibility for providing that protection?

It is Council's view that section 65 (3) of the PID Act is appropriate and should not be amended.

15. Are the current arrangements for managing reprisal adequate and appropriate?

It is Council's view that the PID Act is silent as to how reprisal action is to be managed. It would be beneficial for a set of guidelines to be developed and issued by the Queensland Ombudsman's Office for all public sector organisations.

Additional Questions to be considered

16. Is the intention of the Public Interest Disclosure Act to cover any Council employee who raises a workplace complaint?

17. How do we guard against the misuse of Public Interest Disclosure Act by employees seeking to prevent and or prolong other reasonable management action/s (i.e disciplinary investigations)?

18. There appears to be confusion around the terminology regarding "Public Interest Disclosure". The previous term "whistle-blower" appears to be better received by the people who generally make such complaints through the Integrity and Ethical Standards Unit. Is there any scope to revisit the previous terminology "whistle-blower"?

19. There appears to be an ongoing pattern of people getting "caught up" in the PID Act unknowingly when for example trying to manage an employment matter. Is there any possibility of the Queensland Ombudsman's Office creating a set of guidelines on how to manage workplace matters and the Public Interest Disclosure Act simultaneously?

For more information

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