



Public Service Association of SA

GPO Box 2170, Adelaide, SA 5001

122 Pirie Street, Adelaide, SA 5000

Phone: (08) 8205 3200

[enquiries@psaofsa.asn.au](mailto:enquiries@psaofsa.asn.au)

[www.psaofsa.asn.au](http://www.psaofsa.asn.au)

6 November 2025

Ms Emma Townsend  
Independent Commissioner Against Corruption  
ICAC SA  
GPO Box 11066  
ADELAIDE SA 5001

By email – [WhistleblowerProject@icac.sa.gov.au](mailto:WhistleblowerProject@icac.sa.gov.au)

Dear Commissioner Townsend

**Re: Whistleblower Project**

I refer to your correspondence dated 29 September 2025 and thank you for the opportunity to provide submissions to the Whistleblower Project.

The adequacy and effectiveness of the protections currently provided by the existing whistleblower protection scheme in SA are matters on which our membership are well positioned to make comment in light of their position as 'public officers' in all levels of the public sector.

The Public Service Association of SA (PSA) has sought member input to address the "prompt questions". In collating the feedback received, it is apparent that there is a wealth of experience amongst our members that demonstrates the limitations of the current scheme when individuals seek to invoke the relevant provisions. The PSA also considers that other organisations may be better placed to comment on their experience and knowledge relating to the overarching operations of the scheme and system capacity to deliver the intended benefits of the existing scheme.

Overall, the feedback from our membership seems to highlight two key messages: firstly, that there is a need for a more robust set of protections, as the process allows the people in respect of whom Public Interest Disclosures are made to see the complaint and take indirect adverse action against the person who has made the report. Secondly, the sentiment is that the regime operates in such a way that while public officers want to do the right thing, the complexity of its operations sees potential disclosers in a context of little available support, and being vulnerable to victimisation through no fault of their own.

The particular "prompt questions" on which the PSA can contribute meaningful feedback are outlined in Attachment 1 to this letter, with observations and member feedback recorded thereunder.

The PSA remains available for further discussion or comment.



Please do not hesitate to contact PSA Principal Industrial and Policy Officer [REDACTED] if you have any questions.

Please direct any written correspondence to [enquiries@psaofsa.asn.au](mailto:enquiries@psaofsa.asn.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'CW', with a long horizontal flourish extending to the right.

**Charlotte Watson**  
**General Secretary**

Enc. Attachment 1 PSA Submission

## Whistleblower Project

### Attachment 1 – Submissions in response to ICAC’s “prompt questions” by the Public Service Association of SA

#### ISSUE 1 – Threshold for obtaining protections

##### ***Who should be able to make disclosures?***

*Should the class of individuals who may make an appropriate disclosure of public administration information be expanded beyond public officers? If so, to whom?*

*Should there be any qualifications to this — for example:*

- *a time limit for former public officers to make disclosures?*
- *permitting only volunteers from certain kinds of organisations to make disclosures?*

In their dealings with the Public Service Association (PSA) as their union, members can highlight concerns about aspects of public administration and seek advice about how to proceed. At present, the PSA is limited in the advice it can provide to these individuals both in terms of the operation of the current scheme but also in who to point them to for further guidance outside assisting them with appropriate industrial supports through administrative action taken that may arise. The PSA is able to observe concerns being raised by individuals on a systemic basis but does not have standing to make a disclosure itself.

If the class of individuals who may make a disclosure was expanded to those who have the capacity to provide detailed information but who are at an arm’s length to potential repercussions, potential disclosers may be more inclined to come forward and feel confident that the scheme would operate as intended. In this way, there is merit in considering opening protections to include employee associations.

The PSA agrees with the notion outlined in the discussion paper that any contact with the Independent Commission Against Corruption (ICAC) should be protected as it is the body to whom employees know to raise concerns about corruption, misconduct and maladministration. It is not universally understood that submissions to ICAC do not automatically invoke the protections of the *Public Interest Disclosure Act 2018 (SA) (PID Act)*.

Member feedback highlights that the fear of reprisal may be relieved when a public officer retires or resigns, but flags that associations between agencies and private enterprise or other levels of government can see that the risk does not disappear entirely. Similarly, members highlight that the lack of ongoing protection can be seen to imply that there is only a desire for whistleblowing

while there remains control and ability to exercise reprisal within an individual's employment relationship.

***What should disclosures be about?***

*Should the definition of public administration information be broadened to capture a wider range of conduct? If so, how? Should disclosures of conduct constituting victimisation be expressly included?*

Victimisation can be overt but it can also take place in an indirect manner. In our members' experience, this includes the onset of sudden performance concerns, a shift in inclusivity within the workplace, and protracted investigations accompanied by directions to remain absent from the workplace with strict limitations on to whom the members may speak about their situation. While these may all be reasonable management action in some circumstances, the absence of concerns prior to the workplace becoming aware that a disclosure was made, suggests there can be more read into it.

*If disclosers incorrectly assess that alleged conduct raises a potential issue of corruption, misconduct or maladministration in public administration, should they be protected nonetheless?*

The PSA agrees with the position outlined in the discussion paper with respect to the complexity a potential discloser must traverse in considering both subjective and objective elements when determining whether they are covered by the scheme.

When a potential discloser is experiencing stress, concern about the possibility of reprisals or doubt about their judgment regarding the different legal elements of a report, errors may readily and honestly be made. The vulnerability to which disclosers are subject just by raising concerns in the first instance deserves protection.

Member feedback highlights that the subject of the report may not be accompanied by hard evidence such as video/audio recordings, or may involve a subjective interpretation of the materials and therefore be open to interpretation. In a complex context in which employees run the risk of reprisals for making a report if they are incorrect in their assessment of the various aspects required to obtain protection, may see potential disclosers err on the side of non-disclosure.

*Should some kinds of disclosures — such as those related only to personal workplace grievances — be expressly excluded from the definition of public administration information?*

Being prescriptive in the categories of what amounts to a public administration information can involve a further level of self-censure by potential disclosers. However, there is a need to balance this concern with clarity to serve as a guide to those considering making a disclosure. If there are categories of disclosure that the Office for Public Integrity (OPI) deal with frequently that are not considered to amount to public administration information, having guidelines to highlight how such matters should be dealt with will assist our members in understanding where to properly raise concerns.

In relation to personal workplace grievances in particular, these grievances can reveal patterns of conduct and administration that warrant consideration through the PID lens. If the OPI is considering the inclusion of victimisation as an express category of disclosure, it is worthwhile noting that this may present as individual workplace grievances at first glance.

### ***Who should be able to receive disclosures?***

*Should the definition of “relevant authority” be broadened to ensure disclosers are not denied protections because they inadvertently report to an agency not captured by the definition?*

The PSA supports the notion of broadening the definition of “relevant authority”. Even with an intention to do the right thing, the complexity of the scheme can easily see a discloser submitting a report to an inapplicable authority. The potential for reprisal notwithstanding having genuine intentions, but rather through operating under a scheme in which there is a lack of clarity, should not see the consequences of a disclosure fall on the discloser.

*Should categories of people to whom an external disclosure may be made in certain circumstances be expanded beyond journalists and members of parliament? If so, should any safeguards be put in place to ensure information is treated appropriately?*

The intersection between the *Independent Commission Against Corruption Act 2012* (SA) and the PID Act is not universally understood. Member feedback seems to indicate an assumption that making a report to ICAC invokes the protections of the PID Act. The PSA supports a two-fold approach to amending this, in which the ICAC is deemed a relevant authority and properly resourced to allow employees to seek advice and support as to how to approach a disclosure, fully informed of their rights and obligations.

Employee associations are well placed to be authorised to receive external disclosures, given the advice and support function already provided to members, and the involvement in the life-cycle of members’ employment rights and obligations. While the chance that the disclosure could be attributed to an individual employee remains, there is merit to a disclosure being made by a third party at arm’s length to the potential for victimisation. If an authorised to receive disclosures, a union can be involved for the entire journey of the

employee's disclosure, and provide assurance and support to potential disclosers.

### ***Reasonable suspicion requirement***

*Does the requirement in SA that a subjectively held suspicion be objectively reasonable remain appropriate in light of the stated purposes of the legislation? In other words, should it be enough that a discloser suspects or believes the information raises potential corruption/misconduct/maladministration in public administration?*

*Should SA introduce a presumption akin to that in the NSW legislation with respect to suspicion or belief?*

Please refer to earlier commentary about the complexity of the scheme and the issues posed by disclosers acting in good faith but still potentially leaving themselves open to liability. Consistent with this position, member feedback is supportive of the notion that it should be sufficient to trigger operation of the relevant protections under the PID Act that the discloser suspects or believes the information raises potential reportable issues.

Member feedback has flagged the situation where people become aware of issues early in their employment and discount the notion of reporting due to a sense they don't have a complete understanding in light of their recent commencement.

Introducing a presumption in line with the NSW legislation would clarify this issue and reflect the spirit in which most disclosures are made. This also encourages early reporting when the objective element is otherwise harder to make out.

*Should it be sufficient to qualify for legislative protection in SA that the information disclosed tends to show corruption, misconduct or maladministration in public administration, irrespective of the discloser's state of mind?*

*Should provision be made for substantially compliant disclosures to trigger protection, in order to prevent disclosers from being penalised for technical failures to comply with the legislation?*

*Should the legislation expressly specify that disclosures may be anonymous?*

For all the reasons outlined above, member feedback is in support of any report being protected, and anonymous disclosures being allowed and treated with the same weight.

## **ISSUE 2 – Early certainty about status**

*Should a new or existing authority be able to formally confer whistleblower status to provide potential disclosers with greater certainty that statutory protections will apply to them, potentially even before they report?*

While there remains a view within our membership that reprisals will be unavoidable, properly resourcing advice and support to allow them to make a fully-informed decision about entering into a disclosure is critical to ensuring people will participate in the scheme. The PSA is therefore supportive of an authority being empowered to confer whistleblower status to potential disclosers.

## **ISSUE 3 – Independent statutory authority to support whistleblowers**

*Should an independent statutory authority be established with – or the functions, powers, and resources/extended to existing agency to include extended functions/powers/resources to:*

- *Provide information and support to potential whistleblowers*
- *Provide legal advice/representation*
- *Receive/refer/investigate disclosures*
- *Investigate/refer/prosecute alleged victimisation?*

In line with the reasoning outlined under Issue 2 above, the PSA sees that further resourcing is key. The question of whether a new statutory authority should be established or if an existing agency could have its functions, powers and resourcing extended to provide these critical supports, is less crucial than the provision of adequate resources to support these functions. Such supports will go a long way to address member concerns that they are “on their own” should they choose to make a disclosure.

## **ISSUE 4 – Confidentiality Obligations**

*What, if any, reforms to the PID Act should be considered to ensure disclosures are treated confidentially and provide would-be disclosers with confidence that they will be so treated?*

*To what extent do public authorities and recipients of disclosure have systems and capabilities required to protect the confidentiality of whistleblowers. What, if any, changes are needed?*

The PSA can't comment on the systems and capabilities in place in various agencies to deal with disclosures, nor the intent informing actions that may be undertaken in response thereto, but member feedback highlights that in practice, confidentiality obligations are often disregarded. Members report they have little faith that any report they make would be treated as confidential, noting that the relevant management representatives against whom disclosures may be made can be the nominated contact, or are asked for information to address the report. In small workplaces or where highly specialised knowledge is involved in the report, the identity of a discloser is readily able to be deduced.

One member recounts an instance of having submitted a PID to a designated inbox, only to have the email referred to by an employee who was not an authorised recipient in a later interaction. Nothing came of the PID. Understandably, this experience gives rise to strong concerns that while reports may be shared internally, no action will be taken in respect of concerns raised.

## **ISSUE 5 – Immunities and remedies**

*Are immunities in PID Act adequate and effective?*

- *Should immunity be extended to witnesses or any other groups?*
- *Should preparatory acts associated with the making of a disclosure (for example, accessing information believed to be relevant to the disclosure) be immunised? If so, what limitations should be placed on such immunity?*
- *What process should be followed where a person the subject of disciplinary proceedings wishes to claim immunity on the basis that their conduct amounted to an appropriate disclosure of public administration information?*
- *Do you have any experience or knowledge about the effectiveness or otherwise of the current provisions relating to immunity?*

*Are the remedies under the PID Act adequate?*

*Do you have any experience or knowledge about the effectiveness or otherwise of the current provisions relating to victimisation?*

Member feedback reflects the sense that immunities and remedies as currently provided for are not adequate to address how less overt methods are used to penalise disclosers – as outlined on page 2 of this submission, various approaches are taken and presented as being based on non-disclosure related reasons. Examples include sudden performance concerns being prosecuted with an overreaching Performance Improvement Plan, reduced inclusivity within the workplace, direction away from the workplace and a protracted investigations accompanied by directions to remain home with strict limitations on to whom the members may speak about their situation.

While the PSA supports members through these industrial processes, there is little in the way of legal and industrial support available to whistleblowers in preparation of making a disclosure to prevent these indirect actions to undermine them in undertaking this important public duty. When members reach out for advice and support in managing the administrative action taken by the employer, establishing firm evidence that the employer's action(s) are connected to the disclosure is difficult.

Preparatory acts should be immunised to the extent that they are undertaken within the context of making a disclosure – provision of advice and support to allow possible disclosers to consider how this can be evidenced is critical here. The process to follow in claiming immunity should be developed and made available to employee associations and potential disclosers accordingly.

## **ISSUE 7 – Accessibility and clarity**

*What changes – whether in format, language, level of detail or some other way – should be made to our PID Act to make it easier to understand?*

*What measures could be implemented to increase awareness of the existence of our PID Act? Would a return to the language of whistleblowing in the title of the legislation go some way towards increasing visibility and accessibility?*

*Should there be greater harmony between whistleblower protection laws in other Australian jurisdictions and our laws? Why or why not?*

Consistent with feedback provided earlier in this submission, the PSA sees the ease of understanding of the PID Act by potential disclosers as critical to its successful operation. The measures identified in the discussion paper to simplify the subjective and objective elements currently required to be interpreted to invoke protection, would be an improvement on this account.

Expanding the scope in who may receive disclosures to include ICAC and employer associations is also supportive of this change, making it clearer to whom a disclosure can be made and, if reporting through an employee association, more arms-length in terms of possible repercussions.

## **ISSUE 8 – Incentives**

*Is there a place for a financial reward scheme to incentivize whistleblowing in SA today? Why/why not? If so, do you have any views about the form such a scheme should take?*

In light of member experiences with indirect victimisation, there is a case in favour of provision for financial recompense for monetary loss caused by action taken against a discloser, whether overt or indirect. By way of a possible approach, provision could be made that in the absence of recorded performance concerns prior to the relevant date, an assumption applies that any administrative actions taken following inquiries about/making of a disclosure are in response to the disclosure/inquiries. In those instances, any financial impacts on members should be compensated (e.g., lost shift loadings if stood down, additional psychological support outside access to Employee Assistance Program). Such monies should be paid by the agency who has taken the action.

## **Prompts not covered by PSA submission**

### **Issue 1 – Threshold for obtaining protections**

*Should our Public Interest Disclosure Act continue to govern disclosures of information that raise potential issues of substantial risks to the environment or to the health or safety of the public, or are there sufficient existing channels for disclosures of that kind?*

*Should the grounds for making external disclosures be expanded? If so, how?*

### **Issue 5 – Immunities and remedies**

*Are immunities in PID Act adequate and effective?*

*Should immunity be extended to witnesses or any other groups?*

*Are the remedies under the PID Act adequate?*

*Are the obligations to inform/update disclosers of various matters in relation to disclosures made by them adequate? Do the timelines fixed in the Guidelines remain appropriate?*

*Should there be an ability to opt in/out of parts of PID Act given that some public officers, particularly those whose official role it is to identify and report wrongdoing in public administration ('role-reporters') may not wish to receive updates and the obligation to provide updates may be burdensome?*

### **Issue 6 – Oversight**

*What gaps, if any, exist in the current oversight framework for SA's whistleblower protection laws?*

*Which existing or new agencies should be tasked with filling such gaps? Why?*

### **Issue 9 – Organisational Climate**

*Do you have any experience or knowledge about the impact of organisational climates on willingness to "blow the whistle" or on whistleblower welfare?*

*What, if any, additional measures should public sector agencies having place to encourage the reporting of information and to support and protect those who report?*