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**OFFICE OF THE CHIEF
EXECUTIVE**

Level 21
11 Waymouth Street
ADELAIDE SA 5000

GPO Box 1671
Adelaide SA 5001
Tel (08) 8429 0216

www.pir.sa.gov.au

Independent Commission Against Corruption
Level 9, 55 Currie Street
GPO Box 1106
ADELAIDE SA 5001

Dear Ms Townsend

I refer to your email dated 29 September 2025, seeking submissions regarding the Independent Commission Against Corruption (ICAC) Whistleblower Project Discussion Paper. Thank you for seeking PIRSA's feedback.

We provide the following, in order of the prompt questions as per your email. PIRSA has not provided a feedback to all prompt questions, only as required.

Issue 1 - Threshold for obtaining protections**Prompt questions:**

- 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?

Expanding the class of individuals past public officers would be valuable. Government agencies utilise external contractors to perform critical work that cannot be performed by agency staff due to resourcing. Contractors can be engaged for extended periods of time, involved in key agency activities and projects, and therefore could be exposed to actions or activities that necessitate a public interest disclosure being made.

We note that in NSW, there is a broader definition of public official, extending to those acting in an official capacity or undertaking functions on behalf of an agency. This could be considered as part of the review.

Prompt questions:

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

PIRSA has no comments regarding the above prompt questions.

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

Personal workplace grievances and human resource matters should be excluded from public interest disclosures. These matters should be managed through the agency's internal processes.

Disclosures should only pertain to concerns of serious administrative wrongdoing that are of public interest.

- 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?

We note that currently in South Australia, environmental or health risks are under the same Public Interest Disclosure (PID) framework as public administration information. This type of reporting would most likely come from a wider audience (such as members of the public), rather than from public officers.

Our initial views are, to handle these disclosures under separate channels. Public administration information issues, reported by public officers, would be better placed as a separate disclosure issue. There are sufficient existing channels within an agency for complaints of this nature (risks to the environment or to the health and safety of the public).

Prompt question:

- Should the definition of 'relevant authority' be broadened, including to ensure disclosers are not denied protections because they inadvertently report to an agency or individual not captured by that definition?

PIRSA has no comment regarding the above prompt question.

Prompt questions:

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

Enabling officers to make disclosures about suspected serious wrongdoing at other agencies through the disclosure channels within your own agency, is important step for driving a collective public sector oversight approach.

Public officers often interact with other agencies, however, employees are more likely to be comfortable coming forward to their own agency to disclose what they have observed elsewhere.

Being able to make the disclosure externally to a responsible officer at your own agency would greatly reduce barriers to reporting.

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Prompt questions:

- Does the requirement in South Australia 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 or maladministration in public administration?
- Should South Australia introduce a presumption akin to that in the New South Wales legislation with respect to suspicion or belief?

PIRSA believe this is the case. Enabling a 'speak up culture' is important. The presumption of accuracy and honesty when receiving the disclosure is also an important element to support this culture.

The criteria for a making a report under public interest disclosure should be sufficiently stringent to prevent vexatious reports.

Further prompt questions relevant to Issue 1:

- Should it also be sufficient to qualify for legislative protection in South Australia that the information disclosed tends to show potential 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?

PIRSA has no specific comments regarding the above additional prompt questions with the exception of the last question.

While the option for anonymity is good in principle, it can also prevent the clarity required to enable the issue to be duly investigated (i.e. no avenue to clarify specific details around time/dates of an incident), and individuals may miss out on their entitlements to be kept informed or receive protection from the risk of victimisation.

Issue 2 - Early certainty about status

Prompt question:

- 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?

The Office for Public Integrity (OPI) or ICAC appear to be the most appropriate authorities to confer this status given their independence and key role in receiving and investigating these reports.

Issue 3 - An independent statutory authority to support whistleblowers

Prompt questions:

- Should an independent statutory authority be established with – or the functions, powers and resources of an existing South Australian agency be extended to include – the ability to, for example:
 - Provide information and support to potential whistleblowers and whistleblowers?
 - Provide legal advice and representation to potential whistleblowers and whistleblowers?
 - Receive – and potentially refer or investigate – disclosures?
 - Investigate – and potentially refer or prosecute – alleged victimisation?

Given the OPI does not have the statutory authority to guarantee informants protections nor the resources to provide comprehensive advice, an independent, centralised statutory authority would be valuable to support whistleblowers.

Issue 4 – Confidentiality obligations

Prompt questions:

- What, if any, reforms to the *Public Interest Disclosure Act* should be considered to ensure disclosures are treated confidentially and to provide would-be disclosers with confidence that they will be so treated?
- To what extent do public authorities and other recipients of disclosures have the systems and capabilities required to protect the confidentiality of whistleblowers? What, if any, changes are needed?

PIRSA has no comments regarding the above prompt questions.

Issue 5 – Immunities and remedies

Prompt questions:

- Are the immunities in our Public Interest Disclosure 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?

Prompt questions:

- Are remedies under our *Public Interest Disclosure Act* adequate?
- Do you have any experience or knowledge about the effectiveness or otherwise of the current provisions relating to victimisation?
- Are the obligations to inform and update disclosers of various matters in relation to disclosures made by them adequate? Do the timelines fixed in the Guidelines (see Appendix A) remain appropriate?
- Should there be an ability to opt in/opt out of parts of our *Public Interest Disclosure Act* given that some public officers, particularly those whose official role it is to identify and report wrongdoing in public administration (sometimes referred to as 'role-reporters'), may not wish to receive updates and the obligation to provide updates may be burdensome?

PIRSA has no comments in regard to the above prompt questions.

Issue 6 – Oversight

Prompt questions:

- What gaps, if any, exist in the current oversight framework for South Australia's whistleblower protection laws?
- Which existing or new agencies should be tasked with filling any such gaps? Why?

PIRSA has no comments regarding the above prompt questions.

Issue 7 - Accessibility and clarity

Prompt questions:

- What changes – whether in format, language, level of detail or some other way – should be made to our *Public Interest Disclosure Act* to make it easier to understand?
- What measures could be implemented to increase awareness of the existence of our *Public Interest Disclosure 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?

From experience, we note that with the introduction of ICAC legislation, public officers can easily become confused and/or mistake making reports of fraud, corruption and maladministration. It is therefore important to clarify the distinctions, whether there is any overlap, and how each of these matters are to be reported.

It may be worthwhile considering refreshing the whole of government PID training.

Greater harmony and alignment between whistleblower laws across federal and state jurisdictions would be useful, as there is often cross collaboration between these two tiers of government (for PIRSA, this includes research projects, grant programs, funding etc).

Issue 8 - Incentives

Prompt questions:

- Is there a place for a financial reward scheme to incentivise whistleblowing in South Australia today? Why or why not? If so, do you have any views about the form such a scheme should take?

This presents a self-interest risk and could raise issues around the accuracy of the reports if cash rewards are involved. However, there should be consideration for compensation/payment of legal fees if a person has been financially impacted from making a public interest disclosure.

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PIDs should represent a mechanism towards meeting ethical obligations as public officials. To incentivise this overlooks the responsibility and obligation to be reporting suspected serious wrongdoing.

Issue 9 - Organisational Climate

Prompt questions:

- 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 have in place to encourage the reporting of information and to support and protect those who report?

It is beneficial having a requirement around culture upfront that fosters 'speaking up' in agencies. More training and communication would be beneficial outside of internal communication channels.

If you require any further information, please contact Michelle Griffiths, Executive Director, Corporate Services on 8429 2152.

Yours sincerely



Prof Mehdi Doroudi PSM
CHIEF EXECUTIVE

4/11/2025

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