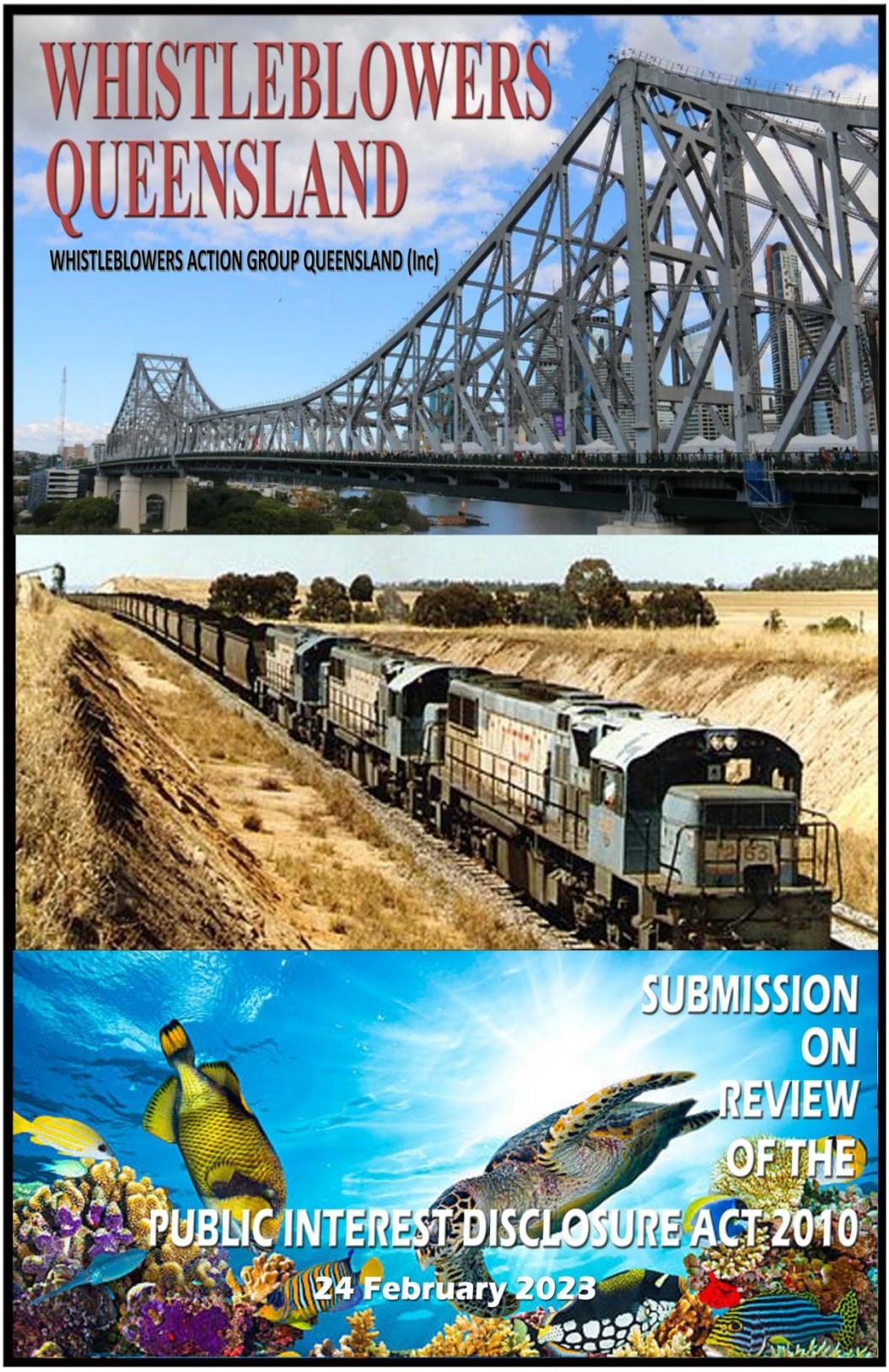

WHISTLEBLOWERS
QUEENSLAND
WHISTLEBLOWERS ACTION GROUP QUEENSLAND (Inc)
SUBMISSION
ON
REVIEW
OF THE
PUBLIC INTEREST DISCLOSURE ACT 2010
24 February 2023

SUBMISSION
REVIEW OF QUEENSLAND'S PID ACT
From Queensland Whistleblowers [Whistleblowers Action Group Qld Inc (QWAG)]

Overview

Systemic Corruption of a jurisdiction, of an administration, and / or of an entity within a democracy provides the benchmark testing for the effectiveness of any protection afforded to persons (whistleblowers) who make public interest disclosures of wrongdoing within such jurisdiction, administration and / or entity, Queensland Whistleblowers submit.

Protection is needed by whistleblowers in four time scales:

- The **immediate needs** are to
    - prevent immediate dismissal without investigation of disclosures that merit investigation, and to
    - prevent immediate reprisals against the persons who have made the disclosures;
- The **short term needs** are to ensure that
    - the matters of jurisdictional, administration and or entity wrongdoing disclosed by the whistleblower are investigated properly, thoroughly and fairly;
    - any disclosures of possible reprisal are properly, thoroughly and fairly investigated, and fully redressed, with continuation of preventative protections against further reprisals;
- The **medium term needs** are to ensure that any matters brought before any quasi-judicial authority (inquiry, integrity office, ombudsman, commission, appeal body, industrial tribunal) by the whistleblower and / or against the whistleblower are properly, thoroughly and fairly investigated;
- The **longer term needs** are to ensure that any matters brought before the judiciary or the Parliament or the public media are dealt with properly, thoroughly and fairly.

The Queensland Public Interest Disclosure Act 2010 may be characterised by the following:

- The Act displays what might be termed ***'a low energy effort'*** in addressing protection – it may even constitute tokenism in important respects;
- The Act does not appear to envisage that corruption in jurisdictions, administration and entities of Queensland could be systemic and unchecked; the Act may appear to be a product of the post Fitzgerald narrative that corruption in Queensland now is just ad hoc, occasional, localised, temporary – thus that corruption is in check in Queensland, and is not systemic, the narrative proposes;
- The processes of the Act are vulnerable to capture in systemically corrupted environments, at the entity level and at the levels of the administration, the jurisdiction and the Parliament;
- The Act does not provide the protections needed by the whistleblower in the immediate, short and medium term after the disclosure is made, and no protections from the Parliament;
- The Act facilitates the new-century tactics by entities, administrations, jurisdictions and parliaments to cover-up corruption and to silence the disclosures and the whistleblowers;

- The Act provides a right through the Queensland courts and tribunals to self-funded legislative recovery from the damages caused by any reprisal – these are processes that may be utilised in the longer term, but with serious disadvantages imposed on the whistleblower by corrupted processes that occur during those earlier IMMEDIATE, SHORT and MEDIUM Term timeframes;
- The Act consolidates the right for Parliament and its committees to inflict punishments on whistleblowers who make disclosures.

The PID Act has provisions largely facilitating corruption, enabling corruption to cover-up disclosures rather than facilitating the making of disclosures in the public interest (as claimed in Section 3). With other laws and processes, the PID Act may be falling short of ensuring protection for whistleblowers, and may instead have become a framework for dealing harshly with whistleblowers until the whistleblowers and their disclosures have been silenced.

The Counter Narrative

Whistleblower protection legislation needs reforms that will provide comprehensive protection in all four timeframes to those making disclosures of wrongdoing, in the public interest.

Setbacks to systemic corruption (rather than against ad hoc corruption) appear to arise from ***'moments'*** whereby genuine processes attempt proper (mostly), thorough (selectively), and fair (largely) investigations into systems of wrongdoing, such as abuse of the young, thefts by industry corporations, and mistreatment of institutionalised elders. The ***'moment'*** can arise from a wide variety of causes, say, written concern from a foreign government, a collective concern from backbenchers across the House, a sting of stories across all media. The common feature of most of these ***'moments'*** is the existence of an **'accumulation'** of cases, of instances, of tragedies, which accumulation gives weight to the needs of that ***'moment'*** for serious action.

The need for that ***'accumulation'*** to grow in number and presence is the strategic benefit from whistleblowing in imposing setbacks to systemic corruption in our democracies. The key here is that the whistleblower must survive. If the whistleblower survives, so too does the disclosure and evidence of the wrongdoing, and one more case is added to the ***'accumulation'*** of other cases building up against the systemically corrupted system.

In the environment of systemic corruption, it follows, those benefitting from or protected by the systemic corruption understand that the whistleblower must not survive. The first indicator as to whether or not an entity, an administration, a jurisdiction or a parliament is seriously affected by systemic corruption is whether or not whistleblowers survive.

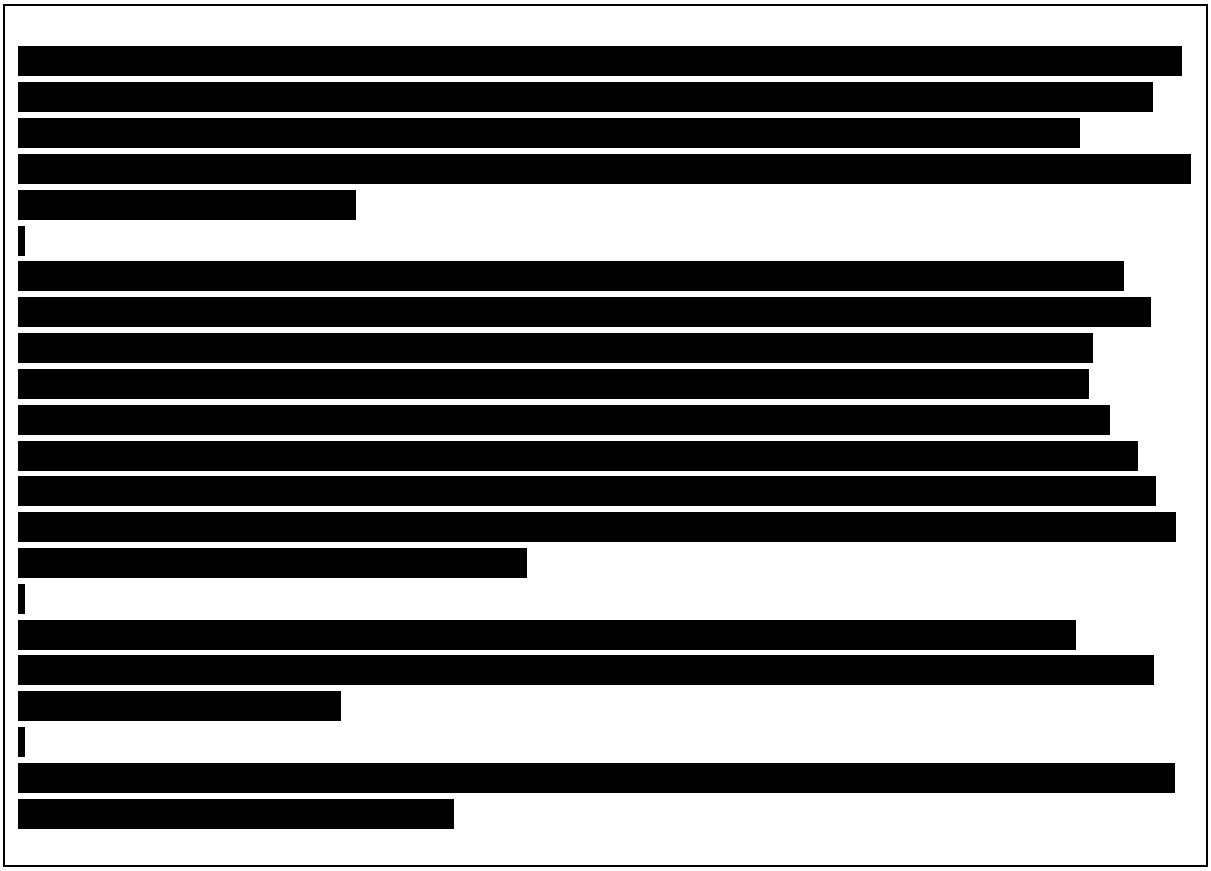
A few whistleblowers do survive through their own inner capacities, external support and accessible resources. The purpose of whistleblower protection legislation is to ensure that persons of integrity in entities, administrations, jurisdictions and parliaments receive the support and resources that will allow proper, thorough and fair processes to determine whether and how they survive in those entities, administrations, jurisdictions and parliaments.

It follows thus that whistleblower protection legislation needs to be effective. It also follows that those seeking benefits or protections from systemic corruption may seek to render whistleblower protection legislation ineffective, either by using the legislation to injure or destroy the whistleblower and / or by rendering the whistleblower defenceless against the processes of a systemically corrupted environment.

Detailed requirements for effective reform of current legislation are offered herein against the above summary of needs of whistleblowers (and of their disclosures) to survive – that survival needs to be maximised against the benchmark conditions that the agency, administration and / or jurisdiction has been captured by systemic corruption. Shortcomings of the PID Act 2010 in this regard are identified.

A summary is provided at appendix 1

QWAG's CASE STUDY



Problems under Systemic Corruption

'Systemic Corruption' is defined by a state where governance authorities act in their own interests, rather than in the public interest, to cover-up the existence of wrongdoing or particular forms of wrongdoing in a jurisdiction, or in an administration, or in an entity.

A system that allows for cover-up, if this is what may be happening, requires weaknesses in the systems by which a parliament, a jurisdiction, an administration and / or an entity operates laws, regulations, procedures, codes, inquiries, courts, tribunals and other aspects of a justice infrastructure. While the justice system may be purporting to provide justice in the public interest, it may be being driven to achieve outcomes for various self-interests.

The problems that this state of corruption can present to whistleblowers can be described against the four timeframes of Immediate, Short Term, Medium Term and Longer Term challenges that can be imposed on whistleblowers in a systemically corrupted environment.

Protection In the <u>Immediate Term</u>

Disclosures. The disclosures of wrongdoing can be refused investigation in a systemically corrupted environment, without regard to the strength of the information disclosed. Reasons given vary widely, but can include:

Receipt Excuse. The disclosure was never received;
Process Excuse. The disclosure was not made in the proper way (using the proper form and / or communicated in the proper sequence), and / or in time, and / or to a body with appropriate jurisdiction;
Public Interest Excuse. Any investigation would not be in the public interest;
Minimization Excuse. The matter described is only technically a wrong, everybody does it;
Complexity Excuse. Any redress or correction to any wrongdoing would be impossible to administer, the resources necessary would bring the operations to a standstill;
Vilification Excuse. The complainant is, for example, a ***'chronic complainant'*** or a disgruntled employee – this disclosure and further disclosures will be filed and not given a response;
History Excuse. The matter has already been comprehensively investigated and found to be without merit;
Belief Excuse. It is not credible that members of the organisation would ever act in the way alleged;
The Good Intention Excuse — The perpetrators had good intentions and were acting in good faith.

There can be situations where a decision not to investigate can have merit, but in a systemically corrupt environment these ***'excuse'*** reasons may be used when the factors described in denying any investigation could not reasonably be attributed to the real situation before the decision-maker.

The PID Act. Section 30 of this Act empowers decision-makers receiving disclosures to make the decision not to investigate, using reasons such as:

The substance of the disclosure has already been investigated;
The substance of the disclosure has already been dealt with by another appropriate process;
The entity reasonably considers that the disclosure should be dealt with by another appropriate process;
The age of the information the subject of the disclosure makes it impracticable to investigated;
The entity reasonably considers that the disclosure is too trivial to warrant investigation;
The entity reasonably considers that dealing with the disclosure would substantially and unreasonably divert the resources of the entity from their use by the entity in the performance of its functions;
[*Another entity that has jurisdiction to investigate the disclosure has notified the entity that the disclosure is not warranted* – discussed later**.]**

A low energy effort is made in the Act to cause the decision-maker to remain reasonable in the immediate term, as to how situations are to be evaluated before making such decisions not to investigate. The Act relies on the personal ethics of the decision-maker to cause matters to be evaluated appropriately and reasonably. The risks that such personal ethics may not be applied in a systemically corrupted environment appears not to have been considered in drafting the Act, and / or the position was taken that systemic corruption was something that would not occur at least in Queensland.

The recourse given in s30 to the whistleblower is a requirement for the whistleblower to be given written reasons, and a right to seek a review from the chief executive. In a systemically corrupted environment, any reasons given and any CEO review are likely to maintain any cover-up. This may also be the outcome in a systemically corrupted environment if the whistleblower makes the disclosure then to a proper authority external to the agency (say, in the middle term).

Reforms. The counter measures that could be applied to improve provisions for this immediate risk to the whistleblower include:

The Two Decision-maker Motif. The decision to dismiss, when the situation meriting such a decision to dismiss are not present, is essentially fraudulent. The risk of fraud generally in organisational processes is mitigated by having two (or more) decision-makers agree the decision, thus requiring two decision-makers to become involved in any fraud in the decision. The best choice of two decision-makers, in terms of achieving a just balance of opposing needs, is to have each of the two decision-makers come from different or adversarial organisational perspectives at issue with respect to whistleblowing.

Veto Provision Motif. Particular reasons given formally (and informally) in past decisions may merit provisions in the PID Act specifically vetoing these particular reasons. Examples include:

- **The Process Excuse**: the PID Act could provide
  - that a disclosure of wrongdoing, however it is received, if it is received, needs to be evaluated properly regarding the decision whether or not the disclosure received is to be investigated;
  - that the definition of reprisals include
    - any falsehoods, given or made by commission or omission, in written decisions for refusing an investigation of the disclosure actually made;
    - any failure to make a decision based on the disclosure actually made and not based on another constructed disclosure not made by the whistleblower;

- **The Vilification Excuse**: the PID Act could include a specific veto on any psychological vilification of whistleblowers (eg, that the whistleblower is a ***chronic complainant*** given earlier disclosures already made) to justify the refusal of an investigation. In a systemically corrupted system, multiple reprisals are to be expected until silencing is achieved.

The Reminder Motif: More energy could be incorporated into the Act if at or about Section 30 of the PID Act there were included notes and / or references relating the existence of other laws that bind the decision-maker to making decisions reasonably and without wrongdoing (such notes are given for other purposes in other sections of the PID Act, eg, sections 17 and 19). Such other laws and legal precedents may include

- The elements of natural justice;
- Misuse of powers held;
- Use of powers not held;
- Ignorance of the law is no excuse for breaching the law.

A reminder could also be given, at or about s30, of relevant provisions in the PID Act about reprisals to whistleblowers.

Reprisal. The whistleblower can be subjected to changes in employment arising soon or immediately after the disclosure is made and comes to the knowledge of the jurisdiction and /or the administration and / or the entity. Reasons given vary widely, but can include:

- Performance issues (skills, capabilities)
- Mental or physical problems or handicaps
- Behaviours, attitudes or actions that are inappropriate, in breach of discipline or in breach of a code of conduct
- Criminal behaviours

The detriments incurred can include administrative warnings, adverse transfers (outside of the whistleblower's profession, reporting to less paid, less experienced and / or less qualified colleagues, removal from family location, or isolated at the workplace without work to do - in a ***'gulag'***), suspensions with or without pay, and terminations (with or without ***'backgrounding'*** to alternative employment or likely employment organisations). The detriments can be sequential, say, a transfer to a position in a section or branch about to be downsized or privatised.

Some such detriments for some such reasons can be reasonable in some situations and sequences of real events rather than contrived events, but in a systemically corrupt environment these reasons can be used when the factors described in justifying the detriments could not reasonably be attributed to the real situation before the decision-maker.

Section 45 of the PID Act empowers decision-makers receiving disclosures (the whistleblower's manager is specified) to impose the following processes upon the whistleblower:

> ***Work appraisal, forced counselling, suspension, discipline, transfer, deployment, redundancy, retrenchment, and (denial of) promotion, reclassification, transfer, or benefit.***

No effort is made in the Act to cause the decision-maker to remain reasonable in how situations are evaluated before making such decisions to impose detriments. The Act relies on the personal ethics of the decision-maker to cause matters to be evaluated reasonably, with allegations against the whistleblower tested rather than accepted without proof. The risks that such ethics may not be applied in a systemically corrupt environment, where the manager may have been the subject of the disclosure or may have failed to detect or report the matter themselves, appears not to have been considered in drafting the Act. The Act appears to have dismissed any such risks as being risks that may arise in Queensland.

Reforms. The wording and format of the PID Act giving most risk to the whistleblower of becoming the subject of fraudulent practices appears to be the use, without guidance, of the terms ***'reasonable'*** and ***'appropriate'***.

Unlike when dealing with the disclosure (under s30), where the whistleblower is entitled to written reasons when the disclosure is not to be investigated, the whistleblower does not appear to be entitled to written reasons for any changes to their employment under the ***'reasonable management'*** provisions of section 45. In any case, in a systemically corrupted environment, any reasons given and any CEO review are likely to maintain any cover-up of any reprisal. The same may happen in any process where the whistleblower makes the claim of reprisal, an alleged indictable

offence, (in the short or medium term) to another proper authority external to the agency. The whistleblower will need to consider the longer term legal processes, using their own resources, to overcome any reprisals.

The counter measures that could be applied to improve provisions against this risk of reprisal in a systemically corrupt environment, in the **Immediate Term**, include:

The Two Decision-maker Motif. The decision to impose detriments when the situation meriting such a decision are not present is essentially fraudulent. The reasons may constitute false accusations. The risk of fraud generally in organisational processes is mitigated by having two (or more) decision-makers agree the decision, such that both become involved in any fraud in the decision. Some changes in employment may be reasonable or even desirable to the whistleblower. The best choice of two decision-makers in terms of a balance is to have each of the two decision-makers come from different or adversarial organisational perspectives at issue with respect to the continuing management of whistleblowers.

The Safeguarding Motif. Particular safeguards could be included in the Act to ensure some risks for the whistleblower during post disclosure employment are mitigated. These provisions include:

- Safeguarding from destruction, disposal, and modification, documents on the performance, health, behaviours, discipline and conduct of the whistleblower, known by the whistleblower to exist before the date of disclosure.

The Guidance Motif.

- Against PID Act sections, such as s30 and s45, which rely on definitions and judgements of what is ***'reasonable'*** and ***'unreasonable'***, and ***'appropriate'*** and ***'inappropriate'***, notes could be included, as they have been included in other sections of the Act, to provide guidance with examples of what would be reasonable AND what would be unreasonable.

Veto Provision Motif. Particular lived experiences of whistleblowers in employment post making a disclosure may merit provisions in the PID Act specifically vetoing some impositions of changes upon the whistleblower's employment. Examples include:

- **The Status Quo Protection** – changes to the position and conditions held by the whistleblower as at the date of disclosure could be vetoed until the investigation of the disclosure (s28), the investigation of any disclosed reprisal (s28) and any appeal by the whistleblower (s46) is completed, or for one year, whichever is longer;
- **Changes to Employment by Agreement** - changes to the position and conditions of the whistleblower may only be negotiated between the whistleblower and the organisation where either of the parties have concerns about reprisals – Section 47 should be repealed. In a systemically corrupted environment, there can be other reasons for seeking a transfer, and this provision opens the door for the entity to misuse the same grounds. This is discussed further later in this submission;
- **Post Disclosure Performance Plans and Assessments** - performance agreements should be negotiated between the whistleblower and the organisation, not forced unreasonably upon the whistleblower.

The Reminder Motif: The PID Act could include provisions or notes relating the existence of other laws that bind the decision-maker to making decisions reasonably and without wrongdoing. Such other laws and legal precedents that may merit this consideration include:

- The elements of fair and objective performance assessment;
- The elements of bullying and harassment;
- Destruction, disposal and / or falsification of official records and other documents.

Protection In the Short Term

Disclosure. In this timeframe, the disclosure is now subject to an investigation by authorities empowered to conduct inquiries or investigations into wrongdoing. That investigation will be the responsibility of a selected, appointed and authorised person or body. The investigation can be a threat to the whistleblower where the investigation is not properly, not fairly and / or not thoroughly conducted.

Those issues, which may arise where systemic corruption of the jurisdiction or of the administration or of the entity dominates decision-making relating to the investigation of the disclosed wrongdoing, are matters that should be dealt with by legislation pertaining to the investigation of suspected wrongdoing, not by the legislation designed for the protection of whistleblowers.

The part played by legislation protecting the whistleblower with respect to investigations of their disclosures is to ensure that investigation processes into the disclosure made by the whistleblower are not corrupted, or, if corrupted, are overcome. The test of the legislation is that the whistleblower, through such protections, survives. If the whistleblower survives, the disclosure survives and the information supporting the reasonableness of the disclosure survives. Those survivals ensure that the disclosure remains alive for any appeal, for any second disclosure from another whistleblower, and for any accumulation of disclosures from multiple whistleblowers and victims – such accumulations, by their number and / or their mass, can force a topdown initiative for a proper, fair and thorough investigation from authorities that are outside of the control of the jurisdiction, the control of the administration and / or the control of the entity, which levels of executive management may be dominated or influenced by systemic corruption.

Reprisals. The investigation processes that are within the interests of the legislative effort to protect whistleblowers are the processes directed at determining whether or not the whistleblower has been subjected to reprisals.

The two investigation processes, one regarding the disclosed wrongdoing, and the other regarding alleged reprisals, can come together when the investigation purportedly into the wrongdoing disclosed by the whistleblower can be turned into an investigation into the counter allegations made about the whistleblower.

The PID Act 2010 appears not to address how whistleblowers can be reasonably protected in the short term from the risks of reprisal where systemically corrupted jurisdictions, administrations and

/ or entities are threatened by the whistleblower's disclosure. The Act shows little effort here, leaving redress largely to the longer term through court actions resourced by the whistleblower. The Act gives immunity from civil or criminal or disciplinary action using the disclosure as the stated basis for the cause of action (eg, defamation, breach of obligation such as confidentiality or code of conduct). The ***'protection'*** provided by the PID Act is largely compensatory in nature (through a tort for damages), and is less about prevention – injunctive relief (s48 and S49) is one temporary preventative course of action provided for by the PID Act if the whistleblower can afford that action. If any ***'protection'*** is not preventative, it cannot be defined as protection at all, it is submitted. Compensatory provisions do not achieve ***'protection'***, it is submitted.

Below are set out some of the pathways by which a systemically corrupted jurisdiction, administration and / or entity can corrupt its own investigatory processes:

- **Terms of Reference**. Here, the authority commissioning the investigation (or Inquiry) sets out terms of reference for that inquiry:
    - that do not include the wrongdoing actually disclosed, but require investigation into wrongdoing not disclosed or wrongdoing by parties not the subject of the disclosure;
    - that limit the investigation to sources of information unlikely to have evidence, or to public officers likely to be conflicted by the matters under investigation.

- **Evidence.** In addition to any corruption of the terms of reference, the evidence brought to the investigation can be controlled or affected by the following actions:
    - Destruction and disposal of records and other documents;
    - Falsification of documents, including undated post disclosure modifications to and / or annotations added post disclosure to documents completed pre-disclosure;
    - Defeating discovery procedures by having duplicated files with damaging records on only one of the files, the one not used for discovery;
    - Defeating Freedom of Information (FOI) processes by giving codewords to files, storing documents off-site (eg, with law firms or at the houses of human resource managers), thus missed by agency searches, hiding documents;
    - Using privacy claims, immunity claims, privilege claims, security claims and / or FOI exemption claims to deny the whistleblower the opportunity to sight and rebut statements and records used against the whistleblower.

- **Procedures.** The fairness, propriety and thoroughness of the investigations can also be prejudiced by the following practices:
    - Appointing investigator(s) with a conflict of interest, either regarding the wrongdoing disclosed, or regarding any actions allegedly taken against the whistleblower;
    - Delaying the steps to the investigation, including replies to procedural matters raised by the whistleblower;
    - Reprisals, including threats and corridor bullying before attending at interview or hearing, against witnesses who have not made any disclosure but are a risk if they support the whistleblower at interview or hearing;
    - Failing to interview witnesses of substance, including the whistleblower;
    - Mild or non-substantive questioning of particular witnesses;

- Denying the whistleblower legal and / or industrial advice and / or representation.

- **Decision-making.** The whistleblower can be denied a fair, proper and comprehensive treatment of the results of the investigation in how the decision is made.
  - Aspects of the decision that can be disadvantageous to the whistleblower include:
    - Whether or not the decision comes with **detailed reasons** for the decision, including findings on the facts, a copy of any legal advice relied on in making the decision, a copy of any witness statement(s) received by the investigation, and the rationale bringing the facts and law to the decision;
    - Whether or not the rationale, if given for the decision, is a **sound rationale** for the decision made;
    - Whether or not the redress or other directions given where reprisal has been found are sufficient for the losses incurred and cognizant of any continuing risk that the whistleblower may face after the decision.

  - **Reasons**. Receiving detailed reasons for the decision is critical to any appeal that may be merited by the investigative processes applied to the allegation of reprisal. Detailed reasons can be denied, detailed reasons can be denied on critical allegations rather than on all allegations, and summary reasons can be given without detail (eg, just writing "No reprisals were found", rather than detailing why each alleged reprisal was not a reprisal). Corrupted jurisdictions, administrations and entities can frame decisions in these ways and claim that ***"written reasons"*** as required by the Act (eg, s30(2)) have been given.

  - **Rationale.** The rationale for the decision, too, is important to any appeal or review of the decision. The rationale can be prejudiced by procedures followed during the investigative process, for example, by insufficiencies in the evidence taken, but further elements of unreasonable reasoning can be introduced in coming to a decision. Such elements include:
    - Misrepresentations of relevant aspects of the law;
    - Reliance on laws not applicable by law, or not reasonably applicable, to the determination of wrongdoing;
    - Excusing any wrongdoer:
      - the wrongdoers were well-intentioned;
      - the wrongdoers believed that what they were doing was the best for the organisation and for the whistleblower;
      - the breaches were only technical;
      - the wrongdoers were misled by in-house legal advice;
      - the wrongdoing had little effect upon the whistleblower;
    - Showing wilful blindness towards aspects of the evidence and / or the law that should otherwise dominate or influence the determination.

  - **Redress and Risk Mitigation.** The decision rationale can cut itself short of findings that may be advantageous to the whistleblower in seeking sufficient redress and in gaining sufficient protection from further reprisals from those that the whistleblower caused to be investigated. Examples of such insufficiencies include:

- A finding is made of an administrative irregularity imposed on the whistleblower, but does not go to the issue of whether or not the irregularity was imposed because of the disclosure made by the whistleblower. The detriment is thereafter treated as an irregularity, not as a reprisal;
- The matter of any reprisal is not then considered for any determination of wrongdoing as a reprisal. The whistleblower is said to be vindicated by the finding of the irregularity – the issue of any detriment occurring as a reprisal is cancelled on other (minor administrative) grounds – the matter is held to be finalised;
- The whistleblower is not returned to the status quo position or given an equivalent position, but with the detriment purportedly redressed as an irregularity, the whistleblower is told that the whistleblower can apply for the same or an equivalent position and that their application will be considered fairly;
- The absence of any finding on whether the detriment was also a reprisal may mean that the same person(s) may impose further detriment upon the whistleblower. A finding that the cancelled detriment was also a reprisal would have given the whistleblower grounds for seeking protection from the risk of further decisions by these persons or by the entity or authority adversely affecting the whistleblower.

Reforms. The counter measures that could be applied to improve provisions in any whistleblower protection legislation, for these risks of reprisal during the Short Term in a systemically corrupt environment, include:

Veto Provision Motif. Particular lived experiences of whistleblowers in facing investigations into their allegations of reprisal may merit provisions in the PID Act specifically vetoing some of those practices. Examples include:

- **The Allegation of Reprisal** – the PID Act could specifically require against stated penalties that any investigation is to investigate the allegation actually made;
- **Detailed Reasons** - the PID Act could specifically require against stated penalties that detailed reasons are to be given for decisions on allegations of reprisal, not just ***"written reasons"***, and define in the legislation, not in the regulations and standards and codes, what constitutes detailed reasons and what does not constitute detailed reasons;
- **Conflicts of Interest** – the PID Act could specifically require against stated penalties that appointments as investigating officer be made employing persons without any conflict of interest either with respect to the wrongdoing disclosed or with respect to the whistleblower or the witnesses;
- **Protection of Witnesses** - the PID Act could give the same protections to witnesses that it gives to whistleblowers;
- **Receiving Evidence** – the PID Act could require with stated penalties that witnesses nominated by the whistleblower are to be interviewed for the investigation and / or their statements sought and taken against the elements of the reprisal wrongdoing alleged by the whistleblower;

- **Redress and Risk Mitigation** – the PID Act could require against stated penalties that any investigation finding that a reprisal occurred or may have occurred (that is, there is a case to be answered) is to recommend risk mitigation and risk management measures for the jurisdiction, administration or entity to implement in consultation with the whistleblower, so as to protect the whistleblower and the witnesses if applicable from further reprisals or risks of further reprisals.

The Safeguarding Motif. Particular safeguards could be included in the Act to ensure some risks for the whistleblower during post disclosure employment and any investigation are mitigated. These provisions include:

- Safeguarding documents on the performance, health, behaviours, discipline and conduct of the whistleblower, known by the whistleblower to exist before the date of disclosure, from destruction, disposal, and modification;
- Requirements for documentation showing minimum analyses and argued justifications for restructuring positions and / or for re-organising work and / or changing job requirements, that are proposed to be introduced after the disclosure date, that may affect the whistleblower's employment and enjoyment of their work.

The Two Decision-maker Motif. The Act relies on the personal ethics of the decision-maker to cause matters to be evaluated reasonably. The risks that such ethics may not be applied in a systemically corrupt environment appears not to have been considered in drafting the Act and / or dismissed as something that would not occur in Queensland.

The decision to investigate an allegation of reprisal improperly or unfairly or without thoroughness is essentially fraudulent. The risk of fraud generally in organisational processes is mitigated by having two (or more) decision-makers agree the decision and thus to require both decision-makers to become a party to any fraud involved in the decision. The two parties can still engage in the dishonesty, but if they are not friends or close colleagues it can be difficult for each to trust the other in a dishonesty that might be used later against the first. The best choice of two decision-makers in terms of achieving a balance in decision-making is to have each of the two decision-makers come from different or adversarial organisational perspectives at issue in any agreed decision.

If a second decision-maker is established by the PID Act, and the second person was to take responsibility, not for the investigation of the wrongdoing disclosed, but for the protection of the whistleblower, the PID Act then could authorise that any Whistleblower Protection decision-maker was to have powers that include:

- Access to the documents and records of the jurisdictional, administration and / or entity relevant to the disclosure made by the whistleblower and any alleged reprisals against the whistleblower;
- A safeguarding function for certified copies of substantive documents and records
- A function to seek injunctive relief for the whistleblower for:
    - Excessive delays in conduct of investigations;

- Improper use of privacy claims, immunity claims, privilege claims security claims and / or FOI exemption claims to deny the whistleblower the opportunity to sight and rebut statements and records used against the whistleblower;
- Failures by the First decision-maker to meet the specific requirements of the provisions of the PID Act.

The Support Motif. - the whistleblower could be required to be provided with industrial and / or legal advice and representation in reviews, appeals and negotiations when responding to management actions in the Short Term. The PID Act could require the jurisdiction, administration or entity to fund independent advice and representation for the whistleblower.

The Reminder Motif: The PID Act could include provisions or notes relating the existence of other laws that bind the decision-maker to making decisions reasonably and without wrongdoing. Such other laws and legal precedents may include:

- Making false accusations against another (s66 vetoes false or misleading information);
- Relevant sections from other parts of the PID Act;
- Requirements of other legislation to refer suspected wrongdoing to other authorities;
- Conspiracy.

Protection In the Medium Term

During this timeframe, the disclosure of wrongdoing and / or the allegations of reprisals, including allegations of additional reprisals, will likely be put before appeal or review bodies or other quasi-judicial authorities (Inquiry, integrity office, ombudsman, commission, justice authority) by the whistleblower. Those disclosure initiatives may be accompanied by proceedings and prosecutions initiated by the jurisdiction or administration, made against the whistleblower and / or the whistleblower's supporters. Matters will likely be above the level of the entity and its processes.

The PID Act. Section 30 facilitates the exclusion of an investigation into any irregularity in the first purported investigation, where it authorises an investigation to be refused if –

> ***Another entity that has jurisdiction to investigate the disclosure has notified the entity that the disclosure is not warranted.***

Irregularities may be expected to occur in any investigation into disclosed wrongdoing and / or alleged reprisals when corruption is systemic. Section 30 then can become a part of the system for ensuring that investigations of disclosures and / or of alleged reprisals are conducted and completed at the entity. In this way the PID Act works with other legislation, for example,

- The Ombudsman and some Commissions under their legislation may not accept a disclosure and / or an allegation of wrongdoing unless it has first been investigated by the entity, and,
- Other Commissions accept the disclosure and / or alleged reprisal, but then may nearly always send it to the entity that is under suspicion, to investigate themselves;

This system may then authorise any system of corruption that is seeking to cover-up wrongdoing to achieve cover-up by having all investigations end up back at the entity. The entity then can keep any wrongdoing in motion and any irregularities intact. The effect, if not the intention, is that the disclosure and / or the allegations have been corralled. Section 34 of the PID Act adds to the

corralling effect by denying a Member of Parliament any role in investigating a disclosure – the Member of Parliament needs to refer it to a ***'public sector entity'*** which then most probably will send it to the entity which is the subject of the disclosure.

As in the Short Term, the processes in the Medium Term regarding the wrongdoing disclosed by the whistleblower, and the processes responding to the allegations of reprisals, can become related, even intertwined. The former processes are determined by other legislation administered by other authorities, which processes are not determined, directly at least, by the whistleblower protection legislation.

The focus in this submission is directed at the second set of these processes purported to be ensuring proper, fair and thorough inquiry into allegations of reprisals. The whistleblower's further disclosure in the Medium Term will likely be that their allegations of reprisal have not been properly, thoroughly and / or fairly investigated.

QWAG's submission further is advocating legislation that, within its scope of protecting whistleblowers, will be effective in environments where systematic corruption dominates or influences the processes, or can dominate the processes, of the jurisdiction and / or of the administration. To this point, the submission has identified types of features termed ***'motifs'*** that such legislation should establish in enforceable ways:

- The Two Decision-maker Motif
- The Veto Provision Motif
- The Safeguarding Motif
- The Guidance Motif
- The Support Motif
- The Reminder Motif

There are important differences when matters come to the Medium Term stage, however, that the whistleblower, their supporters and the whistleblowers protective legislation needs to appreciate. This is especially the need where the administration and / or the jurisdiction may be systemically corrupt:

- The whistleblower is showing persistence, and may be attacked, denigrated and vilified for that characteristic;
- The whistleblower has been successful in front of colleagues in surviving to the Medium Term stage, and that survival may draw more intense attention in a systemically corrupt environment from the system, not just from those subject to disclosure;
- At the level of the administration and jurisdiction, those who may be driving and / or using the processes of systemic corruption have greater powers than those authorities operating at the entity level;
- Any conspiracies that are underway, or that have successfully covered up matters in the past within a systemically corrupted administration and / or jurisdiction, can have been using irregular processes before, and thus can be well practised across multiple authorities and entities in silencing whistleblowers and their disclosures;

- Any such successes by the administration and / or jurisdiction may need to be defended by the corrupted system each time another whistleblower seeks to have the corruption exposed – this accumulation of successes by the corruption system may mean that the whistleblower may be facing an opposition larger and more widespread than the scope of the matters that the whistleblower may be disclosing.

The legislative motifs already identified for Immediate Term and Short Term processes can be effective at the Medium Term level as well, but the above differences may call for additional motifs and / or additional provisions within the six motifs already listed. Some examples of possible situations include:

- Inquiries at the administrative level can use their own legislation to assign to entity Z the investigation of alleged reprisals by entity Z upon the whistleblower. This is a conflict of interest situation for agency Z, which puts the whistleblowers need of a proper, fair and thorough investigation at serious risk in a systemically corrupted environment. If the whistleblower protection legislation has a Veto Provision against conflicts of interest, the whistleblower legislation will also need a specific provision, within the Override Motif, to ensure that the conflict of interest Veto provision is in fact followed. Elsewise, the matter will be propelled into the Longer Term stage for a court to decide which legislation dominates and has sway.

- The administration can use its powers of termination provided by other legislation to terminate (or declare redundant) the whistleblower's employment (or other detriment), thereby allowing the administration to also terminate any investigation into any reprisals, as the whistleblower is no longer a member of the administration. If the whistleblower protection legislation has a Veto Provision against changing the status quo until after the allegations of reprisal are properly, fairly and thoroughly completed, again the whistleblower protection legislation may need:
    - A Veto Provision to set out a Two Decision-maker requirement in determining whether or not the allegations of reprisal have been properly, fairly and thoroughly completed, and
    - An Overriding Motif provision with respect to which legislation decides.

- An administration or one of its Commissions can use its legislation to give an assignment to an officer who is under investigation for reprisals (officer A), an assignment to serve on the selection panel for positions reporting to the officer assigned to investigate the actions of officer A. Whistleblower protection legislation may need another set of Veto Provisions with Two Decision-maker Motif and Overriding Motif provisions, to prevent prejudicial work relations and relationships between investigating officers and persons being investigated.

- A Commission using its own legislation can adopt criteria defining those whistleblowers who are persistent (in seeking to receive a proper, fair and comprehensive investigation of reprisals allegedly imposed upon them) as ***'chronic complainants'*** or other form of psychological vilification. Once that classification has been attributed to the whistleblower, even where the substance of some disclosures by the whistleblower are acknowledged, that Commission using its own legislation can closedown further communications with the whistleblower. Genuine cases may occur where persons continue with complaints after they have received a proper, fair and thorough investigation, but in a systemically corrupt environment, an administration or

jurisdiction may use such criteria to closedown matters before they are given a proper, fair and thorough investigation. A Veto Provision may be needed in the whistleblower protection legislation to prevent closedown of investigations into whistleblower allegations of reprisal until they have been given a proper, fair and thorough investigation, including an appeal right after a proper, fair and comprehensive investigation has been received. Again supporting provisions under the Two Decision-maker Motif and the Overriding legislation Motifs may be required

There are higher levels of this pattern of using other legislated powers in ways that achieve a blocking effect on investigations, blocking that tends in practice to overpower the purported intentions of administrations and jurisdictions to investigate disclosures and protect whistleblowers. Prominent examples include:

- **Constructed conspiracies**. Blocks to investigations can be devised using cooperatively the powers of multiple authorities within an administration or jurisdiction.
    - Thus one Authority with powers to investigate allegations of criminal behaviour (a reprisal is a crime) may refuse to investigate because the Authority considers the allegations may constitute maladministration, and maladministration is in the purview of another body. The other body acknowledges that there may be some evidence of maladministration, but refuses to investigate because the maladministration is associated with allegations of criminal actions, and criminal actions are the responsibility of the first mentioned Authority. Thus no investigation is conducted by either authority, both authorities having knowledge of the refusal to investigate the matter by the other authority.
    - Thus the police may not investigate because that is the role of the crime authority, the crime authority may not investigate because it has not been directed to do so by the prosecutorial authority, and the prosecutorial authority has not required an inquiry by the crime authority because the prosecutorial authority has not received a brief from the police.

  There is in these examples a bulk of other legislation being used or misused in order to construct any such alleged conspiracy that has the effect of blocking any investigation of an alleged reprisal against a whistleblower, and / or any investigation of an allegedly associated criminal action.
- A strong indicator that systematic corruption may be interfering with the protection of a whistleblower is where the provisions of the legislation of those authorities with power to investigate, and the provisions of whistleblower protection legislation, are not being enforced.

Further legislative motifs that may enable further protections for whistleblowers, in such overpowering circumstances, may include:

- An **Applications Motif** may be necessary to require authorities within the administration to enforce the legislation that those authorities administer;
- A **Referral Motif**, where the whistleblower protection legislation gives the power to make referrals to investigative authorities in normal circumstances, and to the Speaker in circumstances where blocking of investigations takes an abnormal form;
- A **Reporting Motif**, where power is given in the whistleblower protection legislation to report to the Speaker, and to the public, concerns that other legislation may be being used by other authorities to overcome the whistleblowers protection legislation and to undermine the protections therein provided.

Protection In the Longer Term

At this fourth stage the Administration has refused to initiate or complete a proper, fair and thorough investigation. There is thus no determination or advice that may bring to notice the facts and relevant laws necessary to enable a proper decision on any prosecution or disciplinary action to be made. Nor will there be any redress or compensation regarding any impacts from any reprisals. It is thus necessary for the whistleblower to utilise any tort of liability or any breach of contract to bring matters before a court.

In a systemically corrupted administration and / or jurisdiction, the possibilities for any effective outcome for the whistleblower before a court, and the risks of further detriment, may have been affected by any corrupted practices that have already been imposed on the whistleblower in the Immediate, Short and / or Medium Terms. These corruptions may be affecting:

- The evidence available, post any destructions, falsifications and / or fabrications of records and documents, and discouragement of witnesses, this evidence all being relevant to the disclosure and / or to any reprisals that may have been imposed on the whistleblower;
- The financial capacity of any dismissed, denigrated, defamed, and / or under-employed whistleblower to mount a legal proceeding;
- The state of being of the whistleblower's health and mentality in coping with these losses and any diminishment of personal and / or professional (or industry) relationships occurring since the disclosure was made;
- The regard held and risk assessment made by the whistleblower as to whether or not the jurisdiction has integrity or sufficient integrity to provide a reasonable chance of obtaining a proper, fair and thorough proceeding, even in the highest court.

In the longer term too, whistleblowers may try other avenues for bringing disclosures of suspected wrongdoing (and reprisals) to the notice of the public. These include Parliamentary avenues (mainly members of Parliament and Parliamentary Committees) and all forms of media (mainly the press, public affairs programs and social media).

New-Century Tactics

These three avenues, namely the courts, the parliament and the media, have seen what appears to be methods and ruses, new to this century, being used by what may be systemically corrupted jurisdictions and administrations. These methods and ruses appear to have the effect of both preventing disclosures getting to the public, and also of using the outcomes imposed on those whistleblowers who have disclosed as warnings to other public officers not to disclose.

The Courts. Some issues may have arisen in jurisdictions that may have the effect of diminishing the role of the courts in achieving a proper, fair and thorough investigation and determination of matters brought to legal processes, be those processes judicial or quasi-judicial:

- Where a senior officer of the law is subject to allegations under inquiry, the law officer may be allowed off-the-record, one-on-one communications with the inquiry rather than appearing by

application before the inquiry. As such, these communications may be kept secret from those given standing before the hearings of the inquiry;

- Copies of documents thus kept off the judicial or inquiry record may later be allowed to be read by the whistleblower, but not copied, if the whistleblower learns of their existence;
- Solicitors and barristers can be brought before an executive arm of the administration and prosecuted for submitting a legal opinion during a judicial or quasi-judicial process with which legal opinion the administration may disagree:
    - This prospect may threaten lawyers against acting for whistleblowers;
    - Prosecuted lawyers may be faced with the choice between losing their right to practice or taking a plea bargain that gives a **'tap on the wrist'** penalty to the lawyer but obliges the lawyer to turn on their whistleblower client;
    - Prosecuted lawyers can be ***'verballed'*** by the court, that the lawyer has admitted or stated matters against their client whistleblower's case which statement has not been recorded in the court records, and appears thus not to have been admitted before the court;
- Witnesses in professions requiring registration under the law in order to practice, like doctors and engineers, can be disciplined under the powers of the registration bodies, part of the executive arm of government, for the evidence of a professional nature given before a tribunal, inquiry or court – privilege of such professionals for evidence given in such proceedings does not extend to the evidence they give involving their professional knowledge;
- Judges subject to allegations can have those allegations investigated by an executive arm of the administration, where the law and / or the constitution may require that a process before the Parliament be followed;
- The courts can direct a mediation to be conducted where the whistleblower has given discovery to the administration but where the administration has yet to provide discovery to the whistleblower;
- Journalists under threat of imprisonment can be forced to, and may have, given to the court their sources of information (including the names of the whistleblowers) for the disclosures that the media outlets have made to the public;
- Class actions are a means whereby whistleblowers, as a group who share a common experience of cover-up or reprisal or other alleged wrongdoing by an administration and / or a jurisdiction, can find the resources to engage in court proceedings in order to secure a proper, fair and thorough inquiry into their disclosures and / or into the treatment they received thereafter. The legal firms initiating the class actions can be sued for causing or inducing the whistleblowers and their colleagues to act in breach of their purported duties by any code or by their contracts of employment.

The courts can also be weaponised by a systematically corrupted entity, administration and / or jurisdiction by rejecting the protocols of a model litigant and adopting practices such as:

- Contesting at all steps adding to the legal costs of the plaintiff whistleblower when contesting has little consequence or prospects of success;
- Resourcing multiple parties for the defence of the proceedings with separate legal teams when such separations may not be necessary, adding to the financial consequences for the plaintiff if the plaintiff is unsuccessful.

The Parliament. Some issues may have arisen in administrations and jurisdictions that may have the effect of diminishing the role of the Parliament in achieving a proper, fair and thorough investigation. This may occur in the determination of matters brought to the administration by the whistleblower or by inquiries, by administration reports or by representations by elected members that are known to the whistleblower:

- Committees can declare as confidential to the Committee submissions made to them by the whistleblower, or by others on the whistleblower's behalf, about alleged systemic corruption in the administration and / or jurisdiction. The committees can then warn the whistleblower not to disclose the allegations further under threat of being found to be in contempt of the Parliament. The ban on making further disclosures to others can be enforced forever (see section 65);
- Inquiries by Parliamentary committees can white out from submissions any discussion of whistleblower cases that have been brought to the attention of previous committee inquiries, appearing thus to be a closedown by the committee of claims that the whistleblower's case has not received a proper, fair and thorough inquiry. Parliamentary Committees here appear to be assuming that systemic corruption does not exist in the administration and / or jurisdiction, and that any first inquiry has not been affected by previous and / or present systemic corruption;
- Inquiries by Parliamentary committees can respond to an allegation made against an identifiable person or agency in a submission to the inquiry by not publishing the whole submission rather than just redacting the words making the offending allegation.
- Ministers can use parliamentary privilege to defame and discredit whistleblowers who make disclosures in the public interest against areas under the Minister's portfolio

The Media. Some issues may have arisen in administrations and jurisdictions that may have the effect of diminishing the role of the media in achieving a proper, fair and thorough investigation of matters brought to the attention of the public in the public interest.

Administrations and jurisdictions have substantial in-house journalists and public relations resources practiced in putting the administration's perspective on issues before the public. These resources have work relations with media organisations. These resources, skill sets and relations can be turned against the whistleblower when the whistleblower's disclosure becomes of interest to the media. Such ***'turns'*** can be taken against individual whistleblowers or against whistleblowers in general. For example:

- **'Backgrounding'**. This term is used to describe the practice of collecting and giving to friendly media information of a denigrating or embarrassing nature about the whistleblower and / or their witnesses, family members, friends.
- **Research and Surveys**. The media can be fed the results or research and surveys on whistleblowing and / or related areas that portray the whistleblower circumstance in a prejudiced way. That prejudice can reflect the prejudice designed into sub-optimal research and survey methodologies. So, research results are produced indicating that few whistleblowers in the administration / jurisdiction suffer termination, but this is because only current members of the administration are surveyed, not past members – any and all terminated members would not be current members by definition. Any terminated members would thus not have been included in the survey.

Reforms. These matters, if they have occurred without defendable rationales, may go to the core of any systemic corruption in an administration and / or jurisdiction. It may seem unreasonable to propose that these matters could be handled by whistleblower protection legislation alone, without reforms of other legislation. It may however be the case that in such a situation the only means for correcting any such systemic corruption will be a first whistleblower, then a second whistleblower, leading to an accumulation of whistleblowers disclosing the possible spread and depth of corruption to or within primary institutions.

The lived experience of whistleblowers may indicate the need for the following provisions in whistleblower protection legislation:

- **Veto Provision Motif**: The following may be required –
    - Veto Provisions and / or other protections for lawyers acting for whistleblowers individually or in a class action
    - Veto Provisions and / or other protections for journalists reporting on matters disclosed by whistleblowers and / or reporting allegations of reprisals against whistleblowers and / or their witnesses and their lawyers
- **Referral Motif**: The following specifics may need to be added under this type of legislative power -
    - **Judiciary and Quasi-judiciary Matters**. That the legislation give power to its administrator to make public referrals of matters to the Chief Justice
    - **Parliamentary Matters.** That the legislation give power to its administrator to make public referrals of matters to the Speaker of the House
- **Whistleblower Support Motif:** That the legislation could give power to its administrator to assist whistleblowers in framing and distributing responses to allegations, criticisms and denigrations / defamations made about the whistleblower and / or members of their family in the media.

Administration of the PID Act

Section 28 is the pivotal provision driving the administration of the PID Act, it is submitted.

It requires from its administrator:

- A Whistleblower Support Function [s28 (1) (a)]
- An Investigative Function (assessment, Investigation and management) [s28 (1) (b), (c) and (d)]
- A Whistleblower Protection Function [s28 (1) (e)]

Importantly, s28 (1) (e) acknowledges that protection needs to be given ***"from reprisals by the entity"***, which entity has been given powers by the Act to investigate the disclosures made.

That acknowledgement in the PID Act clearly requires a degree of separation of the function that protects the whistleblower from the function with responsibilities to investigate reprisals against the whistleblower, but which, the Act envisages, may also reprise the whistleblower.

Queensland Whistleblowers therefore advocate that the investigative function be given to one "Decision-maker" and that the support and protection functions be given to a second Decision maker. This division of responsibilities into an investigation function and to a separate protection / support function is the basis of the Australian Standard AS 8004-2003, ***"Whistleblower Protection Programmes for Entities"***.

Queensland Whistleblowers further advance in this submission that the Support and Protection functions be given to a separate Commission or authority, with the standing of and independence from authorities with investigative responsibilities involved by the PID Act in the management of whistleblowing. Principally, these investigative authorities are or could be:

- The Crime and Corruption Commission – criminal allegations and official misconduct
- The Ombudsman – maladministration and overview agency
- The Public Service Commission – complaints and grievances
- The Anti-Discrimination Commission - discrimination

Queensland Whistleblowers refer to these investigative authorities as ***'Sword'*** organisations, and term the proposed Whistleblower Protection Commission as a ***'Shield'*** organisation. This separation from the Sword investigative functionaries of an independent Shield (protection and support) functionary reporting to the Speaker is termed ***'The Sword and the Shield'*** structure to whistleblower protection.

Additional Remarks

Vulnerability. Earlier in this submission it was described how the PID Act (and whistleblowers), in environments of systemic corruption, may be vulnerable to undermining in critical areas. These areas included decision-making on whether to investigate disclosures or not (s30), and decision-making on whether management actions imposed on whistleblowers are reasonable or vindictive (s45). Other areas of the legislation may also enable cover-up where the subject of the disclosure may be systemically corrupt. Such deficiencies in the PID Act become part of and / or are relied upon in any cover-up being undertaken by any official or any entity employing processes of corruption. Some examples of these other areas of the PID Act follow:

- **Extent of Systemic Corruption.** Provisions within the PID Act appear to assume that systemic corruption would not involve members of the judiciary or tribunals. The provisions appear to narrow the scope of influence needed by corrupted systems in order for corrupted systems to exercise widest controls:
    - S14 removes members of Parliament from receiving a disclosure concerning judicial officers;
    - S42 requires that a proceeding or trial before a court about reprisals must be decided by a judge sitting alone rather than by a jury, where a case given to a judge with conflicts of interests might give a fairer outcome if the matter was decided by a jury;
    - S49 restricts taking applications for an injunction to the court when the whistleblower is entitled to seek injunctions from the industrial commission. Where conflicts of interest may exist with members of the Industrial Commission, a fairer outcome may be given if the matter could go to a court;

- **Instigation of reprisals**. While the legislation at s28 recognises that ***'the entity'*** can make reprisals against a whistleblower, other sections restrict reprisals to be actions only of persons. Reprisals by an entity are an indication that any corruption in the entity may be systemic. Part 3 of the PID Act on "Injunctions" (see s 51-53) may have this deficiency.
- **Detailed Definitions**. Without definitions, what may be reasonable versus unreasonable, or what may be appropriate versus inappropriate, may be left to the corrupted purposes of any engaged in processes intending to protect corruption, and / or in processes intending to achieve cover-up of any corruption. Cases of where the PID Act might have more effect if some terms were given detailed definitions reinforced by examples of both what is and what is not required by the PID Act may include ***'written reasons'*** already described earlier in this submission. Other examples may include:
    - ***'reasonable procedure'***, under ss17(2), for making a public interest disclosure;
    - ***'reasonable information'***, under s32, to be given to the whistleblower – some effort is made here but could be greatly improved by further detail in existing provisions, by further provisions, and by notes;
    - ***'reasonable steps'***, under s43, to be taken to prevent reprisals against the whistleblower;
    - ***'a proper record'*** as per s29 - minimal information is here required by the provision of the PID Act, but the inclusion of a Standard issued under s60 could provide a comprehensive definition of what constitutes a proper record and what does not;
    - ***'the public interest'***, where disclosures of wrongdoing in public bodies are seen by the public to be in the public interest, but Sword organisations can take a view that investigation of such wrongdoing would not be in the public interest.
- **Enforcement**. Whether the requirements of the PID Act are well defined or not, the overriding problem can be that the requirements are not enforced.

Fragmentation. The current Act describes in general terms the existence of other legislation that may have provisions that conflict with the provisions of the PID Act (eg, s6, s10, s11, s17, s19). This indicates that the legislative effort in protecting whistleblowers within the jurisdiction may be fragmented. Further, the legislation repeatedly renders the PID Act as the junior legislation, assigning the superiority in any conflicts to the other unspecified legislation.

A provision that sets out just how fragmented the legislative effect of the PID Act in this regard may be is s63, part of the Chapter on the Oversight Agency. This section diminishes the effectiveness of any oversight of whistleblower protection, by separating the Crime and Corruption Commission [CCC] and how it exercises its powers to assess and investigate disclosures, and to protect and support whistleblowers, from the oversight by the Oversight Agency set up by the PID Act. The CCC is empowered to investigate all misconduct, and that includes reprisals. That constitutes a significant separation of two organisations both with responsibilities for investigations.

Incremental Reform. Allied to any fragmentation in the provisions of the family of relevant legislation is any incremental process by which the PID Act is being improved bit by bit rather than at once or at least in larger bits. Thus s12 and s13 allow ***'<u>any</u> person'*** to disclose with protections:

- safety threats to a **disabled person**, but not to other types of persons, including children;
- dangers to the ***'environment'***, but not to ***'public health'***;

- conduct of a ***'reprisal'*** against a whistleblower, but not vindictive administrative action against members of the public.

In each case the latter situations can only be disclosed with protections only by a ***'public officer'***.

Receiving Disclosures. The PID Act specifies in ss17(2) how disclosures ***'must'*** be made in the circumstances where the proper authority has a reasonable procedure for making disclosures. In other subsections of the provision, however, another six methods are allowed to be used. For a systemically corrupt entity, allowing entities to direct how disclosures ***'must'*** be received may present an opportunity to limit disclosures being properly made, to disqualify disclosures from becoming ***'public interest disclosures'*** and to disentitle whistleblowers from obtaining the protections under the PID Act. One trick, for example, is for a functional adviser to orally advise the employee or the contractor to make the disclosure direct to that officer or their functionary office. Then the entity can have the disclosure and protections discounted because the authority's procedures required that disclosures be made to the person's immediate supervisor, not the functionary office advising staff.

It is recommended that, however the disclosure is received, the entity or administration be required to accept that it has received a disclosure, and be required to show the expected responses regarding assessment, investigation, protection and support. Amending s17 to just its first subsection, and including the other subsections as guidance notes, is recommended.

A new provision establishing that a whistleblower cannot lose the protections of the Act because of how the disclosure has been made is also recommended so as to make matters perfectly clear.

Prevalent and Serious Offences. Lived experience of whistleblowers indicate that certain breaches of the PID Act can become more used by entities, administrations and jurisdictions than others. Such breaches may merit being identified with stated penalties in the PID Act and attract special mention for being offences against the Act, as s41 does for the reprisal and s67 does for three selected offences.

A similar approach may be taken with the most serious examples of reprisals and the most common reprisals. These are described in only very general terms (see Schedule 4 for definition of ***'detriment'***), not representative of the levels of harm that some reprisals can bring, such as:

- Tampering, for example, with brakes, engine supports or other parts of the whistleblower's motor vehicle or personal safety gear at work,
- Interfering with the medications of patients for which the whistleblower nurse has been assigned to care;
- False accusations of criminal and / or immoral behaviour made from, or by, persons in high office.

Forced Transfers. Section 47 can be used by a systemically corrupted entity, administration or jurisdiction to force adverse transfers of whistleblowers in at least four ways:

- One, by putting the whistleblower in a dilemma, that, if for what ever reason they think it is best to transfer, they have to say that it is for safety reasons [ss47(2)(b) talks of **'danger'** of reprisal, when it should read ***'risk'*** of reprisal]. There can be legitimate reasons for seeking a transfer

other than risk of reprisal, such as discomfort and unease, or loss of relationships or loss of the sense of belonging occurring from within rather than as a response to mistreatment reprisals. There can also arise a need within the whistleblower to finish being forced to participate in inappropriate or illegal activities – termed ***'moral injury'***;

- Second, by making ***'danger of reprisal'*** a legitimate reason for the whistleblower to request a transfer, ***'danger of reprisal'*** immediately becomes a legitimate reason for a reasonable management decision by the entity or administration to transfer the whistleblower under s45(3)(e). In a corrupted system, the entity or administration can declare the danger exists and make the transfer even where there is no danger.
- ***'Danger of reprisal'*** is a basis only for moving the whistleblower out of their current position. This wording gives no lead as to the criteria to be considered when deciding to which new position the whistleblower is to be landed. That insufficiency allows the entity or administration to transfer the whistleblower to an adverse situation – a job in an organisation about to be downsized or privatised, to a distant location from the whistleblower's home and family, to a different skill set for which the whistleblower has little training and experience, to a section run by a loyal bully, or to a ***'gulag'***;
- The provision appears to assume that in such situations it must always be the whistleblower who must transfer.

Status Quo Law. It is recommended that the PID Act establish a Status Quo period as described earlier in this submission, during which the whistleblower can only be moved by negotiated agreement without restriction on reasons.

Such a rule has existed in approved procedures in the Queensland Public Service in the past, such as for grievance procedures, but have not been set in law. The procedural requirement has not been enforced except against the complainant – in a corrupted system, the grievance is lodged, the next day or two the complainant is adversely transferred, a week later the receipt of the complaint is acknowledged and the status quo rule is brought into effect, such that the rule enforces the whistleblower remaining in the adverse position held on the day of acknowledgement of the complaint, not the position held on the day of lodgement of the complaint. This type of systemic corruption at the entity level would reasonably be expected to occur with whistleblowers lodging disclosures.

The difference with the above proposals for effective whistleblower protection that would enable the Status Quo Law to be effective is the Shield organisation and the powers given to the Shield organisation to act where the protections given to whistleblowers are not being implemented by entities, administrations or jurisdictions. Whistleblowers who use the Shield organisation to lodge their disclosures can also gain from the Shield organisation confirmation of the date of lodgement of their disclosure and thus of the date of application of the Status Quo law.

QWAG's CASE STUDY – WHAT WOULD HAVE HAPPENED WITH A <u>SHIELD</u> ORGANISATION

This expectation of alternative outcomes assumes the operation of a Shield organisation, say, a Whistleblower's Protection Commission, that would be responsible for the protection and support

of whistleblowers, that would be acting apart from and independent of the existing Sword watchdogs, a Shield with the powers and reporting relationships described above, a Shield without the conflicted leadership and without the budgetary constraints that can force the regulatory capture of Sword watchdog authorities. [redacted]

[redacted]

Overturning the Act. The intent of the PID Act may have been overturned with respect to its two major protections, bringing the Act into a possible state of regulatory capture by the Acts own hand:

- **Confidentiality.** Sections 10 and 37 state that confidentiality provisions do not apply to the whistleblower in making a public interest disclosure. Section 65, however, may indicate that a whistleblower in a role administering the PID Act, who made a public interest disclosure about wrongdoing that may be occurring within the administration of the PID Act, (say, it was captured or in some other way systemically corrupted) may not have immunity from the confidentiality provisions of s65
- **Immunity from Liability**. Section 36 states that a whistleblower who makes a public interest disclosure about wrongdoing is not subject to any criminal liability or any liability arising by way of administrative process, including disciplinary action. Section 65, however, allows Parliament to prohibit further disclosure of the information by use of standing rules and orders within the power of parliamentary committees or within the power of motions of the Legislative Assembly [SS65(7)(b)]. Further disclosure of matters brought to the parliament about suspected wrongdoing that may be occurring in an entity, in the administration, in the jurisdiction and / in the parliament may allow Parliament to find whistleblowers in contempt of the Parliament

That appears to be a case of the PID Act empowering the Parliament to itself impose penalties on whistleblowers who persist with disclosing suspected wrongdoing that the entity, the administration, the jurisdiction and / or the Parliament refuse to properly, thoroughly and fairly investigate – that may be Parliament acting in contradiction of the public interest.

Answers to Questions Posed by the Review

Policy Objectives [Q3.1]. The PID Act needs to enliven legislation that is enabled to ensure the survival of whistleblowers in an entity, an administration and a jurisdiction dominated by or influenced by systemic corruption. The key enabler is high energy legislation empowering an adversarial process though a Shield organisation that thereby acts to ensure proper, thorough and fair investigation of disclosures of wrongdoing and of alleged reprisals.

Disclosures [Q3.2]. Any information tending to show wrongdoing in a public body, however that information is received, should be treated as a public interest disclosure.

Who Gets Protections [Q3.3]. The regime of protection of whistleblowers should be extended to include whistleblowers however they disclose, their witnesses including experts required to register in Queensland to practice, and their lawyers including class action lawyers.

Lived Experiences [Q3.4]. A case study has been included to demonstrate the four stages of protection required by whistleblowers and to indicate how the proposed protections outlined by this submission would work to achieve the survival of whistleblowers.

Making Disclosures [Q3.5]. A Shield organisation (eg, a Whistleblower Protection Commission) is proposed by Queensland Whistleblowers. A major advantage of such a Shield organisation would be to assist public officers to make disclosures in ways that the receipt of the disclosure formally occurs and is identified on the date of disclosure. Adversarial efforts by agencies or administrations or jurisdictions to confuse matters at this IMMEDIATE stage or the process can be matched or responded to by the Shield organisation in support of the public officer and in enforcement of the PID Act

Investigating Disclosures [Q3.6]. Again, any Whistleblower Protection Commission can match or respond to any adversarial actions taken by the agency, the administration and the jurisdiction during this SHORT Term stage of the disclosure processes. This would ensure that the whistleblower has the support necessary to compete with any adversarial approach adopted by the any entity, administration or jurisdiction against the public officer in breach of the PID Act and related legislation.

Protections [Q3.7]. The current legislation

- provides compensation rather than protection,
- in only the LONGER Term rather than in the IMMEDIATE Term and SHORT Term stages of the disclosure – reprisal process,
- using the public officer's resources and funds rather than the public moneys funding actions taken against the public officer (the injunction is one exception)
- when the public officer is suffering loss and grief at a , professional and financial level
- when the evidence has been lost or destroyed and / or disposed of, or has been warned off from being brought forward

Remedies [Q3.8]. Remedies in practice are theoretically available, not realistically available, even in the LONGER Term. Remedies do not constitute protection. Protections are necessary to prevent reprisals or suspected reprisals from occurring, and thus need to be IMMEDIATELY available for whistleblowers being subject to IMMEDIATE reprisals or suspected reprisals. The Status Quo Rule has been used in the Queensland Public Service, and would have the effect of protection in the IMMEDIATE Term and SHORT Term if its enforcement was ensured by high energy legislation and a Shield such as a Whistleblower Protection Commission.

Oversight [Q3.9]. The Ombudsman's Office has had primary responsibilities as a Sword organisation in the administration of Queensland. There is an accumulation of allegations by whistleblowers against actions taken and actions that were not taken by the Ombudsman's Office to investigate disclosures and to protect whistleblowers. Queensland is conducting this review because of the performances of Sword organisations over the last three decades, in QWAG's assessment.

Legislation [3.10]. The PID Act in practice has been perceived to be low-energy legislation, if not token legislation, that entities, the administration and jurisdictions in Queensland may prefer to

have remain ineffective. The failure by Queensland to show energy in the protection of whistleblowers may be information tending to show that the entities, administration and jurisdictions may actively and or passively support the need for levels of Government to be able to cover-up wrongdoing in Queensland, if not also benefit from such wrongdoing.

G HARRIS
President

G McMAHON
Secretary

Appendices:
1. Summary of Recommended Reforms

Enclosures:
[redacted]

APPENDIX 1 TO
QWAG SUBMISSION TO
REVIEW OF PID ACT
DATED 22 FEBRUARY 2023

SUMMARY OF RECOMMENDED REFORMS

Protection In the Immediate Term

A Whistleblower Protection Commission [WPC] being in place, with powers to be one of the two decision-makers involved regarding nominated decisions that could adversely affect the whistleblower, reinforced by provisions in the PID Act that consolidate intended protections:

- The power to WPC to receive disclosures **[Two Decision-maker Motif]**
- The power to WPC to receive and / or seize, make certified copies of, record and return documents relied on by the whistleblower to support the disclosure **[Safeguarding Motif]**
- The power to WPC to receive and / or seize, make certified copies of, record and return documents relied on by the whistleblower to describe their work performance and behaviours up to the date of disclosure, including documents on performance plans and requirements, health, behavioural issues, discipline and conduct of the whistleblower, known by the whistleblower to exist on the time/date of disclosure, so as to safeguard these documents from destruction, loss, disposal, misplacement and modification **[Safeguarding Motif]**
- The power to WPC to take statements from witnesses relied on by the whistleblower in supporting the reasonableness of their disclosure **[Two Decision-maker Motif & Safeguarding Motif]**
- Provisions extending the protections of the PID Act to witnesses able to give evidence and / or witnesses that have given evidence regarding the disclosure and / or alleged reprisals **[Veto Motif]**
- The power to WPC to veto the decision of the other decision-maker not to investigate the disclosure, if the other-decision-maker has not in the opinion of the WPC provided detailed reasons for dismissing each of all disclosures made (the forms of wrongdoing considered, the elements of each form of wrongdoing, the evidence provided against each element of wrongdoing, the criteria for considering whether or not there may be a prima facie case of wrongdoing) with copies of legal advices and other documents relied upon in coming to the decision not to investigate **[Two Decision-maker Motif]**;
- Provisions and Guidance Notes in the PID Act as to what constitutes valid reasons and what does not constitute valid reasons for refusing an investigation, using examples and warnings that some reasons (eg, the whistleblower is a 'chronic complainant') may constitute a reprisal **[Guidance Motif]**
- Provisions and / or Guidance Notes in the PID Act as to what constitutes detailed reasons for a decision not to investigate a disclosure, and what does not constitute detailed reasons, using examples **[Guidance Motif]**

- A Status Quo provision in the PID Act that vetos any change to the position and conditions held by the whistleblower as at the date of disclosure until the investigation of the disclosure, the investigation of any disclosed reprisal and any appeal by the whistleblower is completed in a proper, fair and thorough manner, or for one year, whichever is longer **[Veto Motif]**
- Provisions in the PID Act requiring any post disclosure changes to the employment and conditions of the whistleblower and any post disclosure performance requirements and performance appraisals, during the Status Quo period, to be negotiated through the WPC **[Veto Motif]**
- The power to WPC to veto any changes to the whistleblower's employment proposed by the other decision-maker to be a ***'reasonable management'*** action **[Two Decision-maker Motif & Veto Motif]**
- Provisions in the PID Act making prevalent forms of mismanagement of whistleblower disclosures and forms of changes to employment, an offence under the Act, including:
    - persons with a conflict of interest making such decisions and / or being placed by others in the role of making these decisions
    - not giving detailed reasons for decisions
    - considering wrongdoing that is not the wrongdoing disclosed
    - refusing investigation or rights to protection because of the way that the disclosure was received, and
    - other mismanagement practices that gain repeated entry in WPC reports on the operations of the PID Act **[Veto Motif]**
- The power to WPC to refer the other decision-maker to an investigative body for any alleged breach of any provision of the PID Act and / or of their own legislation **[Two Decision-maker Motif]**
- Provisions in the PID Act stating that where the powers given to the WPC by the PID Act are in conflict with powers given by other legislation to other decision-makers and / or directing that different procedures are to be followed, the PID Act is to be followed **[Overriding Motif]**
- The powers to WPC to provide support including industrial and / or legal advice to the whistleblower and to any witnesses providing evidence regarding the matters disclosed **[Support Motif]**
- Provisions in the PID Act with guidance notes based on examples of the requirements in other legislation
    - to provide all parties natural justice,
    - not to misuse powers held and not use powers not held,
    - that ignorance of the law is not an excuse in law for breaching the law
    - the elements of fair and objective setting performance requirements and the assessment of performance
    - the elements of bullying and harassment in workplace environments
    - the criminal nature of the destruction, disposal and / or falsification of documents that may be required for possible / likely future justice procedures and / or proceedings in a tribunal or a court
    - the criminal nature of wilful blindness **[Guidance Motif]**

Protection In the Short Term

In addition to the above provisions, the following may also be necessary **in the Short Term** for effective whistleblower protection in environments where corruption may be systemic:

- The powers to WPC to access the documents and records of the jurisdictional, administration and / or entity relevant to the disclosure made by the whistleblower and / or relevant to any alleged reprisals against the whistleblower **[Safeguarding Motif]**
- A safeguarding function for certified copies of substantive documents and records regarding the matters disclosed **[Safeguarding Motif]**
- The powers to WPC to seek injunctive relief for the whistleblower regarding
    - Excessive delays in conduct of investigations
    - Improper use of privacy claims, immunity claims, privilege claims, security claims and / or FOI exemption claims to deny the whistleblower the opportunity to sight and rebut statements and records used against the whistleblower
    - Failures by another decision-maker to meet the specific requirements of the PID Act **[Two Decision-maker Motif & Veto Motif]**
- Provisions in the PID Act that witnesses nominated by the whistleblower are to be interviewed or given the opportunity to make statements, which records are to be included in any report upon the investigation made by the other decision-maker **[Veto Motif]**
- Provisions in the PID Act that, where the other decision-maker finds that a reprisal has occurred or may have occurred, the other decision-maker is to produce or require within its powers the production of a Redress & Risk Mitigation Plan for protecting the whistleblower for negotiation with the WPC **[Support Motif]**
- Provisions in the PID Act with guidance notes based on examples of the requirements in other legislation regarding
    - The criminal nature of false accusations against another
    - Requirements of other legislation to refer suspected wrongdoing to other authorities
    - The elements determining whether the actions of two or more persons constitute a conspiracy **[Guidance Motif]**

Protection In the Medium Term

In addition to the above provisions, the following may also be necessary **in the Medium Term** for effective whistleblower protection in environments where corruption may be systemic:

- Provisions in the PID Act making it an offence by responsible officers in an administration or an entity to put an officer who is under investigation regarding a disclosure or alleged reprisal, into a position from which the officer under investigation may be able to interfere with the workplace of the investigation officer **[Veto Motif]**
- Provisions in the PID Act extending the protections of the Act to officers conducting inquiries or investigations or otherwise engaged in such activities **[Veto Motif]**
- Provisions in the PID Act requiring the other decision-maker to give detailed reasons to the WPC for dismissing or withdrawing an investigation officer appointed to assess or to investigate a

disclosure and / or an alleged reprisal, and allowing the WPC to interview the dismissed or withdrawn investigation officer **[Two Decision-maker Motif]**

- The power to WPC to deny any closedown from further investigation within an administration of allegations of reprisal against a whistleblower until any and each reprisal allegation made has been investigated properly, fairly and thoroughly, in the opinion of the WPC **[Two Decision-maker Motif & Veto Motif]**
- The power to WPC to make applications to authorities within an administration, of concerns held by the WPC that the provisions of the PID Act and / or the legislation of that authority may not be being enforced or may be being misused or abused **[Two Decision-maker Motif]**
- The power to WPC to make referrals to appropriate authorities including the Speaker that an investigative authority within the administration may be refusing to conduct an investigation into allegations of reprisals against a whistleblower to the fullest requirements that the investigation be conducted properly, fairly and thoroughly **[Referral Motif]**
- The power to WPC upon application to the Speaker to conduct its own investigation into allegations of reprisal against a whistleblower or others associated with the whistleblowers applications **[Two Decision-maker Motif]**
- The power to the WPC to report to the Speaker, and to the public, any concerns that other legislation may be being used by other authorities to overcome the whistleblowers protection legislation and to undermine the protections therein provided **[Reporting Motif]**.

Protection In the <u>Longer Term</u>

The lived experience of whistleblowers may indicate the need for the following provisions to be included into whistleblower protection legislation if the legislation is to be effective in environments where any corruption may be systemic:

- The PID Act extends the protections of the Act to include the lawyers of the whistleblower acting either individually or in a class action in matters before entities, and before tribunals, inquiries and courts **[Veto Motif]**
- The PID Act extends the protections of the Act to include registered professionals from pursuit by their registration bodies over professional evidence given at a tribunal, inquiry or court proceeding regarding alleged wrongdoing disclosed by a whistleblower and / or an alleged reprisal
- The PID Act extends the protections of the Act to include the journalists reporting on matters disclosed by whistleblowers and / or reporting allegations of reprisals against whistleblowers and / or their witnesses and their lawyers **[Veto Motif]**
- The Power to the WPC to allow the WPC to make public referrals of matters to the Chief Justice **[Referral Motif]**
- The Power to the WPC to allow the WPC to make public referrals of matters concerning the Parliament to the Speaker of the House **[Referral Motif]**
- The power to the WPC to assist whistleblowers in framing and distributing responses to allegations, criticisms and denigrations / defamations made about the whistleblower and or members of their family in the media **[Support Motif]** .

ENCLOSURE 1 TO
QWAG SUBMISSION TO PID ACT REVIEW
DATED 22 FEBRUARY 2023

CASE STUDY: DR PAM SWEPSON

I have made a separate submission to your review of the Public Interest Disclosure Act, Queensland. This document is a reduced form of that submission that I have organised against the four stages of the disclosure - reprisal process that has been identified by Queensland Whistleblowers (QWAG).

<u>The substance of the alleged official misconduct.</u>

In March 2003, I blew the whistle on the Department of Agriculture and Fisheries mis-reporting the National Red Imported Fire Ant Eradication program to the public and national funders. Fire ants will impact Australia's environment, economy and lifestyle. The Federal Government, in association with all State and Territory governments, will fund an eradication program 100%, but not a program to contain a biosecurity risk within the jurisdiction where it was detected. [redacted]

<u>What happened in the immediate term:</u> Raising my concerns internally and an act of reprisal.

I joined the Department of Agriculture and Fisheries' Fire Ant response team in the week the pest was detected in south-east Queensland in February 2001 as Community and Industry Engagement Officer. When the National Red Imported Fire Ant Eradication Program was officially created in September 2001, I became the Program's Senior Policy Officer, responsible for producing reports to the public and national funders on the progress of the program, based on the regular reports operational managers submitted to the Program Director.

By June 2002, I could see that program reports were becoming increasingly vague and the statistics never added up. Concerned for the funding of the program, I raised my concerns [redacted]

[redacted]

Reprisal: The result was I lost my job as Senior Policy Officer.

What happened in the short term:

My first public interest disclosure of official misconduct: mis-reporting the National Red Imported Fire Ant Eradication Program.

Complying with the Queensland Government Public Interest Disclosure Policy, I made a public interest disclosure to the Office of the Premier, which had the authority to intervene in the Fire Ant Program. The Premier's Office referred me to the Crime and Misconduct Commission where I made a public interest disclosure that the department was mis-reporting the Fire Ant Program to the public and national funders by overstating its progress and not reporting serious issues threatening it.

The first investigation

[redacted]

[redacted]

Reprisal

[redacted]

[redacted] I escaped this continuing campaign of reprisal by resigning to take on a senior position in the private sector.

Section 45 of the *Public Interest Disclosure Act* empowers decision-makers receiving disclosures, to transfer, deploy, retrench etc a whistleblower without having to give reasons for doing so.

What happened in the longer term?

Two years and eight months after receiving a public interest disclosure regarding a time sensitive program, the Crime and Misconduct Commission finalised its report into my disclosure [redacted] the Crime and Misconduct Commission found no substance to my disclosures of mis-reporting or a campaign of reprisal against me.

<u>The disclosure</u>

I complained to the Parliamentary Crime and Misconduct Committee and the Queensland Ombudsman that the Crime and Misconduct Commission had not competently investigated my disclosure. Both agencies echoed the findings of the Crime and Misconduct Commission.

After leaving the department, I engaged in a media campaign to inform the public of the truth about the Fire Ant Program, based on program reports I accessed under Right to Information applications. [redacted]

<u>The consequences</u>

I believed I encountered a corrupted system of legislation enacted by co-dependent agencies that silences whistleblowers: the *Whistleblowers Protection Act* offers no protection, the *Crime and Misconduct Act* legislates for agencies to investigate themselves and the *Right to Information Act* does not prevent agencies denying a whistleblower access to public documents. The legislation is enacted by co-dependent agencies: the department accused of official misconduct, the Crime and Misconduct Commission, the Parliamentary Crime and Misconduct Committee and Queensland Ombudsman can echo the findings of each other, making it virtually impossible for a whilstleblower to make a public interest disclosure in Queensland.

[redacted]

[redacted] The Department of Agriculture and Fisheries, the Office of the Premier, the Office of the Public Service Commissioner, the Crime and Misconduct Commission, the Parliamentary Crime and Misconduct Committee and the Queensland Ombudsman must, in part, be held accountable for this very serious national biosecurity disaster.

Dr Pam Swepson

22th February 2023