

**Submission
No 10**

REVIEW OF THE PUBLIC INTEREST DISCLOSURES ACT 1994

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Ms Dora Oravec
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Dear Ms Oravec

Thank you for your letter of 30 June 2016 about the *Review of the Public Interest Disclosures Act 1994* (the Act).

I understand the Parliamentary Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission is currently reviewing the Act and has invited submissions from relevant parties.

The Office of Local Government is pleased to provide the attached submission.

Yours sincerely



Tim Hurst
Acting Chief Executive



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Submission to the Review of the *Public Interest Disclosures Act 1994*

Office of Local Government

Thank you for the opportunity to contribute to the Review of the *Public Interest Disclosures Act 1994* (the PID Act).

The Office of Local Government has reviewed the Act with respect to how it supports public interest disclosures in the local government context and has identified a reporting issue raised by the Act that warrants amendment.

The PID Act and the *Local Government Act 1993* (the LG Act) place different requirements on councils to report public disclosures activity. The intention behind these reporting requirements is to ensure the Minister for Local Government and the NSW Ombudsman have the public disclosures information necessary to ensure compliance with their respective Acts. It is also to ensure that public interest disclosures information is publicly available. The PID Act specifies in detail what this reporting information should cover.

Under section 428 of the LG Act, each council is required to submit an annual report to the Minister for Local Government within five months of the end of each financial year (i.e. 30 November). This annual report includes the council's public interest disclosures information for that year. A copy must be provided to the Minister for Local Government and made publicly available on council's website.

Under section 31 of the PID Act, councils are required to prepare their annual PID reports within four months of the end of each reporting year, being a financial year (i.e. 30 October).

The inconsistency in these reporting timeframes is creating unnecessary duplicate reporting for councils. The Independent Pricing and Regulatory Tribunal's recent draft report analysing the regulatory burden on local government also supported reform in this area noting that these reporting requirements impose an additional regulatory burden on councils that is of no value and is counter to the intention that the information be publicly available.

The Office of Local Government understands that the October timing of annual reporting under the PID Act and the *Government Information (Public Access) Act 2009* is based on when State Government agencies are required to submit their annual reports under the *Annual Reports (Departments) Act 1984* and the *Annual Reports (Statutory Bodies) Act 1984* (so State authorities only submit one report covering all requirements under all Acts). However, this timing does not reflect when councils are required to submit their annual reports under the LG Act. This timing disconnect is causing councils to have to prepare two separate reports about the same information.

Additionally, because councils are not subject to the requirements of the *Annual Reports (Departments) Act 1984* and the *Annual Reports (Statutory Bodies) Act 1984*, section 31(2) places a requirement for the tabling of council PID reports on the Minister each year. The LG Act does not place a requirement on the Minister to table council annual reports in Parliament. It would be preferable that the inclusion of PID reporting in councils' annual reports meet the requirements for providing the PID information to the Minister. In this way the current provisions for making this information publicly available, as provided in the LG Act, could be recognised by the PID Act. This would be preferable to the Minister being required to table in Parliament separate pieces of information from councils.

There are a number of options that the Office of Local Government has identified for possible reform:

- amend section 31 of the PID Act to remove the requirement for councils to submit annual reports in October each year, but acknowledge that this information be included in each council's annual report which is submitted one month later each year, or
- extend the time period for reporting under the PID Act to reflect the time period for annual reporting under the LG Act, and
- the Ombudsman's oversight annual report which is tabled in Parliament each year be used to make council's public interest disclosures information publicly available, and that the need for councils to report separately to the Minister be removed from the PID Act.

On a separate administrative matter, the Office requests that the definition of "local government investigating authority" in the PID Act be amended to refer to the Departmental Chief Executive of the Office of Local Government rather than the Director-General. This would ensure the PID Act is consistent with the LG Act.