

**Submission  
No 14**

**INQUIRY INTO PROTECTIONS FOR PEOPLE WHO  
MAKE VOLUNTARY DISCLOSURES TO THE  
INDEPENDENT COMMISSION AGAINST  
CORRUPTION**

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**JAMIE PARKER MP**  
Member for Balmain



Carly Maxwell  
Director  
Committee on the Independent Commission Against Corruption  
Parliament of NSW

1<sup>st</sup> June 2017

Dear Madam,

I wish to make a submission to the Committee on the Independent Commission Against Corruption (ICAC) inquiry into protections for people who make voluntary disclosures to the ICAC.

I am in favour of strengthened protections for people who make voluntary disclosures to ICAC, as outlined in *the Independent Commission Against Corruption Amendment (Disclosure of Information) Bill 2016* introduced into the Legislative Assembly by Jamie Parker MP on 17<sup>th</sup> November 2016.

The current ICAC Act only provides limited protection to people who provide information to the Commission. This protection does not apply where a person voluntarily discloses information to the Commission about corrupt conduct that the ICAC is not currently investigating.

Amending this will ensure that people providing information to the ICAC are protected from any criminal, civil or disciplinary liability where the disclosure was made for the purpose of the Commission's functions.

Legislative protection for the voluntary provision of information is currently in place in other jurisdictions including disclosures brought to Queensland's Crime and Corruption Commission:

Section 343 of the Crime and Corruption Commission Act 2001 (Qld) relevantly provides:

*343) Information disclosure and privilege (1) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or furnished to a person, whether imposed by any Act or by a rule of law, applies to the disclosure of information to the commission for the performance of the commission's functions. (2) A person who discloses information under subsection (1) does not, only because of the disclosure— (a) contravene a provision of an Act requiring the person to maintain confidentiality in relation to the disclosure of information; or (b) incur any civil liability, including liability for defamation; or (c) become liable to disciplinary action.*

The provision of information to the ICAC has been discussed by the Committee on the Independent Commission Against Corruption in its discussion paper, *Prosecutions arising from ICAC investigations: Discussion Paper: November 2014*.

Included in the 21 submissions made to the discussion paper, the Independent Commission Against Corruption made submission No. 8, dated August 2014, in which it recommended that the Independent Commission Against Corruption Act be amended to include a provision that protects

persons from criminal, civil or disciplinary liability for the voluntary disclosure of information to the commission where the disclosure was made for the purpose of the commission's functions.

The ICAC submission stated that:

*"There are numerous secrecy and confidentiality provisions in legislation under which public authorities operate that have the effect of prohibiting the disclosure of information obtained by a public official in the course of their employment unless that disclosure is for the administration of or a function of operating legislation or is otherwise required by a law.*

*A large number of complaints and information accepted by the Commission each year are received directly from public officials who are not required or authorised by law to report or provide that information and in circumstances where the voluntary disclosure of that information is prohibited by a secrecy or confidentiality law.*

*Similarly, private individuals who voluntarily provide information to the Commission may be at risk of incurring civil liability because of contractual or employment undertakings into which they have entered. Section 109 of the ICAC Act gives limited protection to persons providing information to the Commission, and then only in circumstances where the Commission has exercised its power to require or obtain that information.*

*This protection is not useful where persons have voluntarily disclosed information to the Commission about corrupt conduct of which the Commission is unaware and not at that time investigating."*

Many people would find it quite remarkable that those provisions to protect disclosures were not already in place.

If the government is serious about supporting the fight against corruption, they will support these proposed changes, which will give the community confidence that they can disclose information to the ICAC without risk.

The strength of our political system often depends on the integrity of individuals who are prepared to take a stand. Enhancing protection both to public officials and private citizens who make disclosures on corruption issues is a common sense step that deserves the support of the Parliament.

This is a relatively simple amendment to the Independent Commission Against Corruption Act. The Greens and I believe it strengthens the opportunity for people to provide information to the ICAC without risk or concern. I trust the committee will agree with this common sense amendment.

Yours sincerely,



Jamie Parker  
Member for Balmain