

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

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Date Received: 13 June 2017



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Damien Tudehope MP
Parliament of New South Wales
The Chair, Joint Committee on the ICAC
Parliament House
6 Macquarie Street
Sydney NSW 2000

Your ref LAC17/062

Our ref Parliamentary submission - ICAC
Disclosures

Contact Lauren J Witherdin [REDACTED]

9 June 2017

Dear Mr Damien Tudehope,

Inquiry into protections for people who make voluntary disclosures to the ICAC

Thank you for your letter, dated 4 May 2017, inviting KPMG Forensic to make a submission to the Committee on the Independent Commission Against Corruption (ICAC Committee).

It is encouraging to see regulators and legislators acknowledging and addressing concerns about Australia's current whistleblower regimes. We see this inquiry, specific to voluntary ICAC disclosures, as a further positive example of government seeking to address and rectify shortcomings in the current regime.

In this letter, we set out our response in relation to the Terms of Reference for this inquiry (Annexure 1). The comments within this submission, are based upon our experience in providing whistleblower reporting services and working with both whistleblowers and Government agencies in matters of serious wrongdoing across New South Wales and beyond.

Our experience

KPMG Forensic has operated a confidential, anonymous, whistleblower hotline, called *FairCall*, since 1998. We currently provide the *FairCall* service to a range of public and private sector organisations. The service receives, on average, between 150 and 200 whistleblower reports per year. These reports cover a broad range of matters such as fraud, corruption, regulatory breaches, occupational health and safety breaches and other misconduct issues.

Our observations

Based on our practical experience in providing this service and working with whistleblowers and government agencies, we make the following observations:

1 Concerns about whistleblower protection

Our discussions with whistleblowers over the years show that many whistleblowers have concerns about the appropriate reporting avenue they should use (for example, whether to report

internally or externally) and what level of protection may be provided, if any, under the different internal and external avenues for reporting that may be available.

In our experience, these concerns can result in whistleblowers either a) not proceeding with a report or b) electing to be anonymous. Both of these outcomes can result in potentially valuable information not being provided by whistleblowers.

2 Persons making disclosures

Our experience providing the FairCall service to public and private sector organisations shows that valuable information is obtained, not just from an organisation's employees, but also third parties. We have seen many instances where information received from third parties has been key to the detection of serious wrongdoing.

3 Protection against retaliation

In our experience, retaliation is a key concern of many whistleblowers who are deliberating whether to speak out, or who have previously made a disclosure. These concerns may be in relation to fears that their employment will be terminated, their future progression affected, or that there will be other negative impacts on their career as a direct result of making a disclosure.

4 Anonymous disclosures

The ICAC Act appears to be silent on the issue of protection for individuals who anonymously make disclosures to the ICAC.

Our experience shows that anonymity is preferred by a significant portion of whistleblowers, with around 80% of the whistleblowers who contact KPMG choosing to be anonymous. Many of these whistleblowers elect to be anonymous to their employer or the organisation concerned whilst providing contact details to KPMG.

We recognise that it is more difficult to protect a whistleblower if one does not know who they are. However, it is our view that anonymous whistleblowers should be provided with protection in instances where their identity becomes revealed during proceedings (either inadvertently or intentionally).

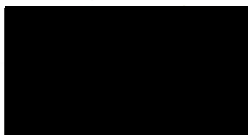
Due to advances in technology, we have found that a high quality of information can be obtained from an anonymous whistleblower. Whistleblowers are also able to communicate more easily and effectively with investigators and other relevant parties, using a secure web platform or over the phone using a unique reference number.

Thank you for the opportunity to provide this submission. Please contact us if you wish to discuss further.

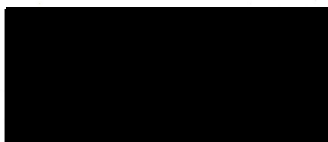


*Parliament of New South Wales
Inquiry into protections for people who make
voluntary disclosures to the ICAC
9 June 2017*

Yours sincerely,



Gary Gill
Partner in Charge



Lauren Witherdin
Director



Annexure 1: Terms of reference

We note the following terms of reference for this inquiry:

“That the Committee on the ICAC inquiry into and report on whether the laws should be amended to protect people from criminal, civil or disciplinary liability if they voluntarily disclose information to the ICAC for the purposes of the ICAC’s functions.”