

# Inquiry into Whistleblower Protections in the Corporate, Public and Not-for-Profit Sectors

## Public Hearing – Friday 28 April 2017 Questions Taken on Notice – PM&C

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**Mr KEOGH:** One of the other issues that has been raised in relation to Public Service PIDs, public interest disclosures, is knowledge of the operation of PID—that it is there, how it can be used, what it applies to—and the need to make sure all public servants, and also contractors to the Public Service, are aware of it. Has anyone looked at making a mandatory provision of information about PID to APS employees on engagement?

**Ms Kelly:** We have certainly looked at that issue in response to the recommendations of the Moss inquiry, which did find that people who make disclosures under the public sector regime do not feel supported. The Moss report makes a number of recommendations. Certainly, in considering the response to the Moss recommendations, we have looked at a number of ways that we can better support people to use the system and to be aware of the system, including not only the people disclosing but also the people who are supervising those disclosures and who are dealing with complaints in the system. I think the issues have been looked at in the context of responding to the Moss report.

**Mr KEOGH:** I will ask the question again though: have you looked at making it mandatory to provide information about PID and its operation to APS employees upon their engagement?

**Mr Arnaudo:** Mr Keogh, one of the recommendations from the Moss report was to make it mandatory in terms of the level of support that principle officers and authorised officers have to provide when they are managing and handling a PID. In terms of the actual engagement of staff at a particular point in time, there are a number of ways that you could do that. It is not just training courses and awareness courses. It is also making sure that the information is widely available on the internet and intranet.

**Mr KEOGH:** When I first became an APS employee a decade or more ago, I had to be given a whole heap of different pieces of paperwork that had to happen. One of them was a tax file number declaration form—the law requires that. The law requires that I nominate a superannuation account, or I get a default superannuation account. Did you look at making it mandatory that, when you sign on to become an Australian Public Service employee, you are given a sheet that says this is the public information disclosure legislation, your obligations and your rights, and this is how it works?

**Mr Arnaudo:** I am happy to take it on notice and provide you with more specific information on what we provide to new starters whether it is, for example, in PM&C or other departments. There is general information about the obligations and duties public servants have. There is information about their ability to raise complaints and concerns as well—that is there already as a general stage. I think your question is more, 'Have I looked at it from a policy perspective of whether we need to make any specific changes in it?' One of the Moss recommendations that goes some of the way, that government is considering and will be informed by the recommendations of this parliamentary committee, is whether we want to enhance that obligation on principle officers in key agencies. That is a recommendation that Mr Moss has made. It is under consideration. Clearly, it will be informed further by the considerations of this committee and its recommendations as well, because the terms of reference of this inquiry include public sector, corporate and not for profit as well.

**Mr KEOGH:** Could you take that on notice and come back to us about what is currently required to be provided and what you have already looked at in terms of enhancing that?

**Mr Arnaudo:** Sure; happy to do that.

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**ANSWER**

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The *Public Interest Disclosure Act 2013* (the PID Act) does not impose an obligation on an agency to provide information about the Act to employees upon their engagement.

The Department of the Prime Minister and Cabinet requires all new employees to complete a mandatory online Induction Program within three months of commencement. The Induction Program includes a module on the rights and obligations of employees under the PID Act. Information about the PID Act, and how to contact authorised officers, is also published on the Department's internal and public websites.

The PID Act requires the Commonwealth Ombudsman and the Inspector-General of Intelligence and Security to conduct educational and awareness programs relating to the Act (s62(b) and s63(b) of the PID Act refer).

The Government is presently considering recommendations in the report of the independent *Review of the Public Interest Disclosure Act 2013* undertaken by Mr Philip Moss AM (tabled in the Parliament on 20 October 2016). This includes recommendations 20 to 25 that are about making it easier for people to get advice and help. In the context of enhancing awareness of the PID Act, recommendation 22 (set out below) is particularly relevant.

That the PID Act be amended to include a positive obligation on Principal Officers to provide ongoing training and education to public officials who belong to their agency about integrity and accountability, incorporating the PID Act's protections and mechanisms to report concerns. This training should become more rigorous as a public official takes on supervisory role or is promoted.

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**Mr KEOGH:** Then, moving on from that is, obviously, the legislation at a Public Service level covers contractors. Are there any obligations placed on APS agencies, or on government, to provide information at the time of, or in the process of, engaging a contractor, and any obligation placed on the contractor to ensure that any of its staff that are engaged in that process are given that information?

**Mr Arnaudo:** I am happy to take that on notice as well. It will vary, agency to agency, because of the nature of the types of contracts and arrangements they enter into, but I am happy to take that on notice.

**Mr KEOGH:** Yes. I suppose there are two parts to it. Does it happen? Then that will vary. And also is it being, or has it been, looked at to make it a government-wide policy or practice to require that to occur?

**Mr Arnaudo:** Definitely; I am happy to take that on notice.

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**ANSWER**

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The PID Act does not impose an obligation on agencies to give information about making a public interest disclosure to a contracted service provider at the time of, or in the process of,

their engagement by the agency. Nor does the PID Act impose an obligation on a contracted service provider to ensure that its staff are given that information.

The Department of the Prime Minister and Cabinet does not give information about the PID Act to contracted service providers or to their staff upon engagement by the Department.

Information about the PID Act, and how to contact authorised officers, is also published on the Department's internal and public websites.