Whistleblower Protection Act Review
Independent Commissioner Against Corruption
GPO Box 11066
Adelaide SA 5001
By email: admin@icac.sa.gov.au

10 January 2014

Dear sirs

Re: Submission to the South Australian Independent Commission against Corruption (ICAC) in respect of the *Public Interest Disclosure Act 1993* (SA)

Please see **annexed** submission to ICAC, from Blueprint for Free Speech.

For any queries in relation to this submission, or any other matter, please do not hesitate to contact me.

Yours faithfully

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Submission to the South Australian Independent Commission against Corruption (ICAC) in respect of the *Public Interest Disclosure Act 1993* (SA) (SAPIDA) by Blueprint for Free Speech

10 January 2014

1 Introduction

Thank you for the opportunity to provide comments to ICAC in respect of its review of SAPIDA.

Blueprint for Free Speech (**Blueprint**) is an Australian based, internationally focused not-for-profit concentrating on research into 'freedoms' law. Our areas of research include public interest disclosure (whistleblowing), defamation, censorship, right to publish, shield laws, media law, Internet freedom (net neutrality), intellectual property and freedom of information. We have significant expertise in whistleblowing legislation around the world, with a database of analyses of more than 20 countries' whistleblowing laws, protections and gaps.

In 2012/2013, progress in the development of legislation in Australia has taken great steps forward for the protection of whistleblowers. This has been reflected by the federal parliament's passage of the *Public Interest Disclosure Act 2013* (Cth) (**APIDA**) as well as the ACT passing its *Public Interest Disclosure Act 2012* (ACT) (**ACTPIDA**). These important steps have been taken for a number of reasons. One of these is that there is a cultural shift occurring in many places, including Australia, which shows the broader public to be in support of whistleblowers and whistleblowing as important mechanisms in society to reduce serious wrongdoing.

We are encouraged that South Australia seems ready to explore going down the same path as other parts of the country in improving whistleblower protections. We hope this interest will contribute to continuing to ensure that Australia is a world-leading jurisdiction for the protection of those men and women brave enough to come forward in the public interest.

In this submission, we will address the following three matters:

- The cultural shift toward protecting whistleblowers, and the public support behind the need for increased protections;
- Issues with the currently applicable SAPIDA; and
- Further inclusions necessary to update SAPIDA to become congruent with APIDA and ACTPIDA.

2 The cultural shift in Australia - attitudes to whistleblowing from individuals, organisations and wider society

Public demand for effective whistleblowing regimes has been building to a critical mass. Set out in '**Annexure A**' to this submission, we have provided research data from Australia, the UK and

Iceland which clearly demonstrates that the public see whistleblowing as an important part of society and worthy of protection. It provides both transparency and anti-corruption platforms in government. Of significance in Australia is the fact that there is concern about the level of secrecy in public institutions. Whistleblowing is a way to highlight serious wrongdoing hidden by secrecy, whether it is done internally or externally.

For example, in Australia, 50% of those surveyed said too much information is kept secret in organisations. 81% believe that people should be supported for revealing serious wrongdoing, even if it means revealing information from inside an organisation. 87% of those surveyed in Australia, agreed that if someone in an organisation has information from inside an organisation about serious wrongdoing, they should be able to use a journalist, the media, or the internet to draw attention to it, either as first option, last option or in specific circumstances.

For further information and a breakdown and comparison of the survey, see **Annexure A**. For the comprehensive worldwide survey see the World Online Whistleblowing Survey, found at https://www.whistleblowingsurvey.org.

3 Issues with SAPIDA as it is currently applicable

(a) The criminal offence to make a false disclosure must be repealed

Section 10 of SAPIDA provides that it is an offence to either knowingly or recklessly make a false public interest disclosure. This applies even if a whistleblower otherwise makes a truthful disclosure and part of their disclosure is knowingly or recklessly false.

It is prudent to discourage the disclosure of material known to be false. However, some balance needs to be achieved. The ACTPIDA better achieves this balance as it prevents a person from enjoying the protection of that Act in cases where they have knowingly made a public interest disclosure that is false or misleading (section 7). Importantly, it does not go as far as SAPIDA in two respects. First, it does not also include the 'reckless' element. Second, it does not create a separate offence, it merely precludes a whistleblower from the protection under the Act.

Finally, and even though Blueprint considers that an offence is unnecessary, it certainly should not be a criminal offence. There is no reasonable justification for this. It will only serve to discourage legitimate whistleblowers from coming forward. Whistleblowers are nervous enough in most instances in stepping forward – it involves a considerable leap into the unknown.

(b) Available remedies must be updated

A Public Interest Disclosure Act should ensure that a whistleblower who comes forward in the public interest has available to them sufficient means of protecting themselves. In a legal context, this means that they have a range of remedies available to meet any potential reprisal brought against them in connection with the making of a public interest disclosure, or indeed any loss they have suffered as a result of making same.

Under SAPIDA, the remedial focus is on victimisation, allowing a victim of such to bring an action in tort or to lodge a claim under the *Equal Opportunity Act 1984* (SA) (where if one path is chosen,

then the other cannot later be taken). Again, a better approach is taken under the ACTPIDA – where the right might generally be classified as protection from 'detrimental action', which incidentally includes protection against victimisation. The issue is that it is easy to envisage a situation where reprisal is taken against a person, or a class of persons, that does not necessarily constitute victimisation. Although 'detriment' is brought into victimisation by virtue of the inset definition of section 9 of SAPIDA, the system is set out the wrong way around.

Another issue is the cost of enforcement of the protections under SAPIDA. In 2013, the Commonwealth passed the *Public Interest Disclosure Act 2013* (Cth), which incorporated remedies from the *Fair Work Act 2009* (Cth) and allowed whistleblowers to use the *Fair Work Tribunal* as a forum to enforce their rights. This ensured an easier access to compensation and a forum, which is less costly than a civil claim in a regular court. This is obviously more difficult to achieve in the context of a State government regime as most employment law is dictated at a federal level, however, having available better and proper remedies referable to the *Equal Opportunity Tribunal* could potentially lower costs. Blueprint considers this imperative to ensure that a whistleblower can protect their rights.

(c) Increase the scope of potential recipients of public interest disclosures

Section 5(4) of SAPIDA outlines the classes of people to whom a public interest disclosure might be made. The list, whilst helpful, purports to be exhaustive. This is the first issue. When a whistleblower wishes to come forward with information in the public interest, all should be done to ensure that they have a safe passage to reveal information.

The best way to achieve this, rather than have specific categories for people who work in particular departments, is to create a generally applicable 'three-tiered' disclosure regime. The three tiers are as follows (and with incentives decreasing in the order presented such that the first is preferred over the second and then the third tier):

- Tier 1 – internal disclosure. This is where an employee or contractor reports the wrongdoing internally within an organisation. This may be to a line manager, a person tasked with handling public interest disclosures, human resources, the executive team or the board of the organisation, or any other person inside the organisation they reasonably believe could change the wrongdoing.
- Tier 2 – externally, to a regulator. Depending on the wrongdoing, and the organisation, this may or may not be applicable. Or it might be the case that the wrongdoing relates to the responsibilities of more than one regulator.
- Tier 3 – externally, to the media. This is the final step in the public interest disclosure process. In most instances, it should be the last resort, and research shows that most whistleblowers do choose to go internally first. However, choosing Tier 3 should not necessarily be conditional on the whistleblower attempting to disclose either via tiers 1 or 2 above. A disclosure of this nature should have a higher, but certainly not prohibitive, threshold.

When a more general approach is taken to those who might be able to receive public interest disclosures, it creates flexibility, and therefore choice, for a whistleblower when making the disclosure. Each situation of course will have its own context, dangers, personalities and etc. Really, it is only the whistleblower who is apprised of the scale of those involved in the wrongdoing – and whether this wrongdoing might go very far up the ladder in an organisation. Thus only that

person can actually make a proper decision about his or her own safety in making the disclosure, and ultimately to ensure that the underlying wrongdoing is properly investigated.

4 Further inclusions necessary to update SAPIDA

(a) External disclosure

It is paramount to the success of any public interest disclosure law that a whistleblower or discloser has the ability in appropriate circumstances to disclose wrongdoing externally to their organisation. This is especially important where:

- there is endemic corruption within an organisation and the people to which the wrongdoing is to be reported are complicit in that wrongdoing;
- reporting channels within an organisation are not capable of investigating or dealing with the wrongdoing;
- the immediacy or gravity of the wrongdoing necessitates that it be revealed publicly or to someone outside the organisation.

This does not mean to say that an internal disclosure regime cannot co-exist with an external disclosure regime. In fact, both go 'hand-in-hand' – and it will depend on all of the circumstances to which is the most appropriate in any given context. It is common, of course, to make protections for external disclosure contingent on disclosing internally at first instance. However, such contingencies should remain reasonable – i.e. the whistleblower may consider the above bulleted points outweigh the desire of disclosing internally at first instance. In this case, the whistleblower should not have to forego rights they would otherwise have under the public interest disclosure regime simply because they were forced to disclose externally. In either case, it should be up to the whistleblower to make this assessment, based on a reasonable belief test, of whether the disclosure should be made internally or externally. This is because they are best placed to understand the serious wrongdoing in their organisation. Most whistleblowers use internal channels at least once if not twice before considering 'going externally'. External disclosure often ends up with very high costs for the whistleblower, particularly if it is not anonymous, thus this provides a disincentive to 'go external' except in circumstances where it is truly needed in order to effect change to the on-going wrongdoing.

(b) Improving compensation and remedies for whistleblowers as victims of reprisal

Blueprint strongly supports the introduction of effective compensation provisions for whistleblowers under public interest disclosure legislation, as part of a regime aimed at protecting a whistleblower against reprisal for exposing wrongdoing in the public interest.

A whistleblower may take on serious risk to their financial position, reputation and personal safety when disclosing wrongdoing in the public interest. After making a disclosure, a whistleblower may be subject to reprisal from their employer, fellow employees or another person as a result of that disclosure. Accordingly, it is appropriate to have not simply protective measures for that whistleblower, but also to allow for effective compensatory remedies to return them to a position

they would otherwise have been in but for making of the disclosure and any resulting reprisal taken against them.

Public interest disclosure legislation should be underpinned by an acknowledgement that it is often very difficult and risky for a whistleblower to come forward and expose wrongdoing. Effective compensation and favourable costs provisions only seek to encourage the exposure of wrongdoing by making the path to such disclosure easier for a whistleblower.

The issue becomes one whether the whistleblower has access and incentive to activate the rights to which they are entitled. This means solving the following two issues –

- how might they might prevent the invalidation of their rights by ensuring the protection of their ability to disclose information externally (see above for arguments on external disclosure); and
- how to provide them with financial support should it be necessary to enforce their rights (or defend their actions) in a litigious process.

(c) Improving compensation by incentivisation - should whistleblowing be incentivised / independently funded?

i. Introduction

Qui tam remedies – or remedies that are designed to incentivise whistleblowing by providing a percentage of the savings due to the exposure of the wrongdoing – are a growing effective trend in whistleblowing worldwide. These types of remedies are most prevalent in the US, where the *False Claims Act* sets the benchmark for whistleblowers exposing corruption in military procurement.

There are three options for going forward with qui tam remedies:

(a) the whistleblower him or herself receives a percentage of the money saved from the exposure of wrongdoing; or
(b) a 'public interest disclosure fund' or 'whistleblower protection fund' is created to assist future whistleblowers with costs, funded by a percentage of cases brought on behalf of the government (i.e. a *qui tam* remedy but the beneficiaries are future whistleblowers). Costs should include legal expenses, loss of income as a result of the disclosure, medical costs associated with the making of the disclosure, retraining costs where a whistleblower must change employment / profession; or
(c) both of the above.

We recommend that ICAC should pursue options (b) or (c), as applied to government or public agencies. In particular, option (c) is worth strong consideration, implementing both the financial percentage to the whistleblower that exposes the wrongdoing and also contributing a percentage to a 'public interest disclosure fund' designed to ensure future whistleblowers have legal funding to defend themselves. Both work to encourage whistleblowing and therefore the exposure of corruption in two separate ways – the first to personally incentivise a whistleblower to come forward where it might seem the risk to their safety or career is too great in normal circumstances. The

second is where the whistleblower, whilst convinced of the merit of their disclosure, simply cannot afford to defend themselves against legal reprisal. Qui tam remedies create an incentive based system, which on balance has had success in the US in a number of situations, particularly where large-scale fraud is involved.

However the arrangements for the split of any monies must be transparent and consistent, with percentages enshrined in legislation or static regulation so whistleblowers do not have to argue their case yet again just to receive the monies they would expect. As a guide, we would propose the following division:

- 50% returned to the government
- 30% to the Whistleblower Protection Fund
- 20% to the Whistleblower

Further we would envisage that the Protection Fund would be administered on the basis of supporting those whistleblowers whose cases are both most in the public interest and of a nature where the whistleblower would not be entitled to a share of any recovered monies.

One likely option would be a path for whistleblowers to apply for financial support of costs under the Fund. As the Fund's financial resources may be limited, it seems logical to assess such applications on the basis of the above two tests.

This second criteria might apply for example to whistleblowing acts exposing wrongdoing that was serious but not necessarily involving fraud. If for example the whistleblower-exposed practices leading to deaths in hospitals, they would not normally receive any Qui Tam remedies (since there is no financial fraud involved) however, they may have significant legal expenses. Clearly in such instances there is a public interest case to be examined. It is just this sort of case that we would envisage might receive financial support from the Whistleblower Protection Fund.

A Whistleblower who received the 20% 'bounty' would not be eligible for financial support from the Fund. In this way, society can ensure that all types of public interest disclosures – including those that don't involve the opportunity to win 'bounties' – will be protected.

This is because while Qui Tam remedies are successful in encouraging and protecting the disclosure of wrongdoing in matters such as fraud, they are less useful as a tool where there is simply serious wrongdoing of other, non-financial types. Therefore it is important that the Whistleblower Protection Fund aim to support these types of whistleblowers – and particularly their often-high legal costs. Their whistleblowing may serve a serious and very sweeping public interest, such as revealing wrongdoing in the health system leading to patient deaths or negligence affecting public safety in food or environmental safety (as two examples). Yet because the wrongdoing does not involve significant financial fraud, they may not be able to benefit from any qui tam remedies. Thus giving this sort of whistleblowing first protection under the new Fund would ensure that at the very least they are not facing financial hardship.

ii. Model Clause

In the creation of an effective *qui tam* remedy, we have prepared a list of principles to be incorporated into the legislation. We have created this as a 'model clause' with an explanation of how the mechanism would work.

"Model Clause 1 – Qui tam damages and whistleblowing defence fund

(1) For the purposes of this Clause:

(a) 'the government' includes the government itself, a governmental agency, a government owned corporation or a contractor (or sub-contractor) to any of the aforementioned;

(b) 'Costs' includes legal expenses, loss of income as a result of the disclosure, medical costs associated with the making of the disclosure, retraining costs where a whistleblower must change employment / profession;

(c) calculable financial loss means a quantifiable amount lost or potentially lost as a result of wrongdoing;

(d) public interest disclosure fund — means a fund established under this Clause, a consequent Clause, or another Bill:

(i) to be administered by an independent authority;

(ii) that is separate from an investigating authority into any wrongdoing disclosed;

(iii) for the purpose of funding or subsidising actual or prospective disclosers in disputes arising from a disclosure;

(iv) to be separate from any other type of legal aid provided to a discloser for disputes arising from a disclosure.

(d) *Any person*[1] *may bring an action for a fraud upon the government on behalf of the government and themselves.*

iii. Introduction

Qui tam remedies – or remedies that are designed to incentivise whistleblowing by providing a percentage of the savings due to the exposure of the wrongdoing – are a growing effective trend in whistleblowing worldwide. These types of remedies are most prevalent in the US, where the *False Claims Act* sets the benchmark for whistleblowers exposing corruption in military procurement.

There are three options for going forward with qui tam remedies:

(d) the whistleblower him or herself receives a percentage of the money saved from the exposure of wrongdoing; or
(e) a 'public interest disclosure fund' or 'whistleblower protection fund' is created to assist future whistleblowers with costs, funded by a percentage of cases brought on behalf of the government (i.e. a *qui tam* remedy but the beneficiaries are future whistleblowers). Costs should include legal expenses, loss of income as a result of the disclosure, medical costs associated with the making of the disclosure, retraining costs where a whistleblower must change employment / profession; or
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iv. Model Clause

In the creation of an effective *qui tam* remedy, we have prepared a list of principles to be incorporated into the legislation. We have created this as a 'model clause' with an explanation of how the mechanism would work.

(e) *"Model Clause 1 Persons who bring an action under Model Clause (1) must notify the government.*

v. Introduction

Qui tam remedies – or remedies that are designed to incentivise whistleblowing by providing a percentage of the savings due to the exposure of the wrongdoing – are a growing effective trend in whistleblowing worldwide. These types of remedies are most prevalent in the US, where the *False Claims Act* sets the benchmark for whistleblowers exposing corruption in military procurement.

There are three options for going forward with qui tam remedies:

(g) the whistleblower him or herself receives a percentage of the money saved from the exposure of wrongdoing; or
(h) a 'public interest disclosure fund' or 'whistleblower protection fund' is created to assist future whistleblowers with costs, funded by a percentage of cases brought on behalf of the government (i.e. a *qui tam* remedy but the beneficiaries are future whistleblowers). Costs should include legal expenses, loss of income as a result of the disclosure, medical costs associated with the making of the disclosure, retraining costs where a whistleblower must change employment / profession; or
(i) both of the above.

We recommend that ICAC should pursue options (b) or (c), as applied to government or public agencies. In particular, option (c) is worth strong consideration, implementing both the financial percentage to the whistleblower that exposes the wrongdoing and also contributing a percentage to a 'public interest disclosure fund' designed to ensure future whistleblowers have legal funding to defend themselves. Both work to encourage whistleblowing and therefore the exposure of corruption in two separate ways – the first to personally incentivise a whistleblower to come forward where it might seem the risk to their safety or career is too great in normal circumstances. The second is where the whistleblower, whilst convinced of the merit of their disclosure, simply cannot afford to defend themselves against legal reprisal. Qui tam remedies create an incentive based system, which on balance has had success in the US in a number of situations, particularly where large-scale fraud is involved.

However the arrangements for the split of any monies must be transparent and consistent, with percentages enshrined in legislation or static regulation so whistleblowers do not have to argue their case yet again just to receive the monies they would expect. As a guide, we would propose the following division:

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One likely option would be a path for whistleblowers to apply for financial support of costs under the Fund. As the Fund's financial resources may be limited, it seems logical to assess such applications on the basis of the above two tests.

This second criteria might apply for example to whistleblowing acts exposing wrongdoing that was serious but not necessarily involving fraud. If for example the whistleblower-exposed practices leading to deaths in hospitals, they would not normally receive any Qui Tam remedies (since there is no financial fraud involved) however, they may have significant legal expenses. Clearly in such instances there is a public interest case to be examined. It is just this sort of case that we would envisage might receive financial support from the Whistleblower Protection Fund.

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This is because while Qui Tam remedies are successful in encouraging and protecting the disclosure of wrongdoing in matters such as fraud, they are less useful as a tool where there is simply serious wrongdoing of other, non-financial types. Therefore it is important that the Whistleblower Protection Fund aim to support these types of whistleblowers – and particularly their

often-high legal costs. Their whistleblowing may serve a serious and very sweeping public interest, such as revealing wrongdoing in the health system leading to patient deaths or negligence affecting public safety in food or environmental safety (as two examples). Yet because the wrongdoing does not involve significant financial fraud, they may not be able to benefit from any qui tam remedies. Thus giving this sort of whistleblowing first protection under the new Fund would ensure that at the very least they are not facing financial hardship.

vi. Model Clause

In the creation of an effective *qui tam* remedy, we have prepared a list of principles to be incorporated into the legislation. We have created this as a 'model clause' with an explanation of how the mechanism would work.

> *(2) "Model Clause 1(1), or discloses information that leads the government to bring an action for a fraud upon the government, the Court may award a person up to 20% of any calculable financial loss prevented as a result of the action and the exposure of the wrongdoing, to assist with Costs.*

(f) *The government may elect to not pursue an action brought under this Clause, but it must notify the person or persons who brought the action of its decision to do so.*

vii. Introduction

Qui tam remedies – or remedies that are designed to incentivise whistleblowing by providing a percentage of the savings due to the exposure of the wrongdoing – are a growing effective trend in whistleblowing worldwide. These types of remedies are most prevalent in the US, where the *False Claims Act* sets the benchmark for whistleblowers exposing corruption in military procurement.

There are three options for going forward with qui tam remedies:

(j) the whistleblower him or herself receives a percentage of the money saved from the exposure of wrongdoing; or
(k) a 'public interest disclosure fund' or 'whistleblower protection fund' is created to assist future whistleblowers with costs, funded by a percentage of cases brought on behalf of the government (i.e. a *qui tam* remedy but the beneficiaries are future whistleblowers). Costs should include legal expenses, loss of income as a result of the disclosure, medical costs associated with the making of the disclosure, retraining costs where a whistleblower must change employment / profession; or
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viii. Model Clause

In the creation of an effective *qui tam* remedy, we have prepared a list of principles to be incorporated into the legislation. We have created this as a 'model clause' with an explanation of how the mechanism would work.

> *(3) "Model Clause 1(5), the person or persons who brought the action may continue the action by showing that it has reasonable prospects of success.*
>
> *(4) This Clause does not confer immunity from liability on any person actively involved in a fraud on the government.`*
>
> *(5) The Public Interest Disclosure Fund shall be established.*
>
> *(6) If a successful action is brought by either the government or another person pursuant to this Model Clause, the Court must award, in addition to, an award under Model Clause 1(4), 30% of the calculable financial loss prevented as a result of the action and the exposure of the wrongdoing to the public interest disclosure fund.*
>
> *(7) If a successful action is brought by either the government or another person pursuant to this Clause, the Court must award all remaining monies to the Government after any other award has been allocated pursuant to this Clause to either the person who brought the action or the Public Interest Disclosure Fund.*

ix. Explanation of Model Clause

The Model Clause allows people to bring an action for fraud upon the government. This Clause allows disclosers to recover a percentage of any money recovered by the government where the information they disclosed 'leads to' a successful action for wrongdoing, and where that money is used to cover the often-expensive costs associated with whistleblowing.

The Model Clause is intended to reward disclosers who reveal serious frauds on the public purse, not to undermine the capacity of the government to bring actions in its own right. Therefore, the government can dismiss an action under the Clause, but it can be continued if the person bringing it can show that there are reasonable prospects that it will succeed. This allows disclosers and other citizens to enforce the rule of law even if the government declines to do so.

As for rewarding disclosers, the Model Clause recognises that disclosing information that reveals serious fraud is likely to be fraught with personal difficulty for the discloser and that therefore they should receive protection through the reimbursement of the often high financial cost paid by whistleblowers. Although this reward comes from damages that the government would have otherwise received, the government still gains because it would likely not have been able to recover any damages at all without the disclosure.

Additionally, the Qui Tam provisions contain funding for a public interest disclosure fund. This fund is designed to be self-funding and requires no contribution from consolidated revenue. Its mission is to support disclosers or potential discloser through the financial hardship that can result from enforcing one's rights in making a disclosure. The Clause is structured such that the Court must award the Qui Tam remedy directly to the discloser (up to the amount necessary to cover Costs, and in addition the Court must also award 30% to the public interest disclosure fund. This provides a useful benefit to society in the sense that it continues to encourage disclosures by funding legal aid, however it does not compel the Court to award money to a discloser in inappropriate circumstances.

(g) Investigation obligation on the government must be included per ACTPIDA

The ultimate goal of public interest disclosure legislation is to provide a release valve for defending society against serious wrongdoing, with openness and transparency in organisations as a key part of that defence. This means shining a light on wrongdoing, the purpose of which is to encourage its investigation and to provoke change. This is a feeling strongly held by whistleblowers, who even when they have endured significant personal hardship, have been the victim of reprisal and who have not properly been compensated, still wish for the wrongdoing to cease. In most cases, whistleblowers feel strong loyalty to their organisation and a motivation for coming forward is for that organisation to cure itself of the sickness they have revealed.

In order to ensure that the investigations take place, and that a whistleblower can feel that they are in some manner 'in control' of their disclosure, the following major elements need to be present:

- When a Public Interest Disclosure is made, legislation must make it compulsory, measured against specific criteria, that an investigation take place;
- The results of the investigation must be publically released, and such publication must include reasons for the decision finally arrived at; and
- The process of the investigation must be communicated (in all reasonable circumstances, and to a reasonable degree) to the whistleblower.

In order that this process is ensured, it is best to place the responsibility to investigate, or at least manage investigations by other organisations in a central authority. In the case of the ACT this is managed by the Commissioner of Public Administration. In the case of the Commonwealth PIDA, this is the Ombudsman. Such a central authority in South Australia should ensure that investigations are dealt with by themselves, by the organisation, or by another regulator. Such investigations should be thorough, adhere to strict deadlines, and the consequences of which should be properly explained to the public in general as well as the whistleblower who made the complaint. Transparency of process is critical here.

Blueprint strongly recommends South Australia to follow the model presented in the ACT as the way forward to creating a central authority tasked with investigating, or managing another's investigation, into wrongdoing.

5 Conclusion

Blueprint congratulates South Australia for undergoing a review of its Public Interest Disclosure Act. Australia, through both the ACT and the Commonwealth, has become a world leader in creating whistleblower protection regimes. Increasingly, institutions, organisations and the public at large are realising both the social importance of exposing wrongdoing and corruption. Additionally, they realise the economic significance of another safety valve on our democracy. Strong legal protections for whistleblowers is the hallmark of this changing of a culture, not where whistleblowers are lambasted for being 'troublemakers' or 'dobbers', but rather where the brave men and women who come forward are instead recognised as responsible community members.

APPENDIX A –
Strong community support for whistleblowing and whistleblower law reform across countries

Introduction

The following data is based on questions developed for the World Online Whistleblowing Survey conducted jointly by the University of Melbourne and Griffith University. Eight of the questions were run as random sample general population polls commissioned by Griffith University (Australia), Greenwich University (UK) and Blueprint with the Social Science Research Institute at the University of Iceland (Iceland) in those three countries respectively.

Results of research so far have shown an unequivocal desire to protect whistleblowers and ensure that information that is in the public interest should be in the public domain. Principally, the participants were asked the following questions (a) to (j), with the results speaking for themselves.

(a) When asked whether too much information is kept secret in organisations:

- In **Australia**, 50% said too much information is kept secret in organisations, whereas 26% believe it's about the right amount, 7% say not enough is kept secret and 18% say it's neither or cannot say;
- In the **UK**, 53% said too much information is kept secret in organisations, whereas 22% believe it's about the right amount, 8% say not enough is kept secret and 16% say it's neither or cannot say;
- In **Iceland**, 63% said too much information is kept secret in organisations, whereas 15% believe it's about the right amount, 3% say not enough is kept secret and 19% say it's neither or cannot say;

(b) When asked whether people should be supported for revealing serious wrongdoing, even if it means revealing inside information:

- In **Australia** 81% believe that people should be supported for revealing serious wrongdoing, even if it means revealing inside information, whereas only 9% say people should be punished and 10% say neither or cannot say;
- In the **UK** 81% believe that people should be supported for revealing serious wrongdoing, even if it means revealing inside information, whereas only 6% say people should be punished and 13% say neither or cannot say;
- In **Iceland** 87% believe that people should be supported for revealing serious wrongdoing, even if it means revealing inside information, whereas only 3% say people should be punished and 9% say neither or cannot say;

(c) When asked if whether they observed wrongdoing, they would feel personally obliged to report it to someone in their organisation:

- In **Australia**, 80% agree that they would, whereas only 6% disagree and 14% say neither or cannot say;

- In the **UK**, 75% agree that they would, whereas only 6% disagree and 19% say neither or cannot say;
- In **Iceland**, 95% agree that they would, whereas only 1% disagree and 5% say neither or cannot say;

(d) When asked whether if they reported wrongdoing to someone in their organisation, they would be confident something appropriate would be done about it:

- In **Australia**, 55% agree that they would be confident, whereas 18% disagree and 27% say neither or cannot say;
- In the **UK**, 58% agree that they would be confident, whereas 18% disagree and 24% say neither or cannot say;
- In **Iceland,** 57% agree that they would be confident, whereas 17% disagree and 26% say neither or cannot say;

(e) When asked whether management in their organisation is serious about protecting people who report wrongdoing:

- In **Australia,** 49% agree, whereas 14% disagree and 47% say neither or cannot say;
- In the **UK,** 46% agree, whereas 13% disagree and 41% say neither or cannot say;
- In **Iceland,** 38% agree, whereas 18% disagree and 44% say neither or cannot say;

(f) When asked what the most effective way to stop serious wrongdoing:

- In **Australia**:
  - According to 56% of Australian people, via internal channels;
  - 17% to journalists or news organisations;
  - 6% directly to the public via the internet, Twitter, Facebook or online blogs; whereas
  - 9% believe there is no effective way to report wrongdoing; and
  - 12% either cannot say or believe some other way is most effective.
- In the **UK**:
  - According to 52% of UK citizens, via internal channels;
  - 19% to journalists or news organisations;
  - 7% directly to the public via the internet, Twitter, Facebook or online blogs; whereas
  - 11% believe there is no effective way to report wrongdoing; and
  - 11% either cannot say or believe some other way is most effective.
- In **Iceland**:
  - According to 47% of Icelandic people, via internal channels;
  - 19% to journalists or news organisations;
  - 6% directly to the public via the internet, Twitter, Facebook or online blogs; whereas
  - 18% believe there is no effective way to report wrongdoing; and
  - 10% either cannot say or believe some other way is most effective.

(g) When asked if whether someone in an organisation has inside information about serious wrongdoing, they should be able to use a journalist, the media, or the internet to draw attention to it:

- In **Australia**, 87% believe that they should (7% in any situation, 34% whenever there become specific reasons to do so and 46% as a last resort), whereas only 5% say never and 8% cannot say.
- In the **UK**, 88% believe that they should (10% in any situation, 34% whenever there become specific reasons to do so and 44% as a last resort), whereas only 5% say never and 8% cannot say.
- In **Iceland**, 90% believe that they should (9% in any situation, 27% whenever there become specific reasons to do so and 54% as a last resort), whereas only 4% say never and 6% cannot say.