Law Council
OF AUSTRALIA

Inquiry into the *Public Interest Disclosure Bill 2013*

Senate Legal and Constitutional Affairs Committee

3 May 2013

GPO Box 1989, Canberra
ACT 2601, DX 5719 Canberra
19 Torrens St Braddon ACT 2612

Telephone **+61 2 6246 3788**
Facsimile +61 2 6248 0639

Law Council of Australia Limited
ABN 85 005 260 622
www.lawcouncil.asn.au

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Executive Summary

This submission suggests that the protection provided by the Public Interest Disclosure Bill 2013 (Cth) (the PID Bill) is considerably weaker than that proposed by the earlier Public Interest Disclosure (Whistleblower Protection) Bill 2012 (the Wilkie bill).

Both the PID Bill (cl 26) and the Wilkie Bill (cl 17) proceed on the basis that public interest disclosure should be 'internal' unless there is sufficient justification for the disclosure to be 'external'. However, there are significant differences between the PID Bill and the Wilkie Bill in what is defined as internal disclosure and in what is sufficient justification for external disclosure to be protected. These differences highlight weaknesses in the protection proposed by the PID Bill. The protection provided by the PID Bill is so qualified that it is not likely to provide encouragement to individuals to make public interest disclosures in many situations.

This submission recommends, in relation to the PID Bill, that:

- Clause 11(1) should be amended so that it only operates for statements that the discloser knows to be false or misleading.
- Clause 34 should be amended so that protection for disclosure to the Ombudsman is not conditional on there being reasonable grounds for believing that disclosure for investigation was appropriate.
- The definition of 'investigative agency' in cl 8 should be amended to guarantee protection for disclosure to a wider range of integrity and investigative agencies.
- Clause 26 Item 2 should be redrafted taking into account the model provided by the Wilkie Bill in relation to:
  - which government agencies are within the core area of protected public interest disclosure (and this should include disclosures of suspected breaches of state or territory law to relevant state or territory agencies); and
  - clarifying the protection for reasonable and *bona fide* disclosure to journalists and other persons, including Members of Parliament.
- Clause 26 Item 3 of the PID Bill should be considered with cl 31(2) of the Wilkie Bill as the latter provision seems much more likely to encourage disclosures in the public interest.
- Further consideration should be given to protecting contractors that are corporations and partnerships if they have made a public interest disclosure. A possible solution may be for the legislation to provide that decisions to award contracts for which a 'whistleblower' contractor is competing, are subject to external scrutiny for an appropriate period after the disclosure. External scrutiny could be provided by the Australian National Audit Office or from a probity adviser.

A detailed analysis of all aspects of the PID Bill is not provided. In particular, this submission does not attempt to analyse or form a view on the appropriateness of the provisions which are specific to disclosure of intelligence information or intelligence agencies. The silence of this submission on those specific aspects should not be taken as endorsement of those provisions, however.

Introduction

1. The Administrative Law Committee (the Committee) of the Federal Litigation Section has prepared this submission for the Law Council of Australia. Dr Gary Rumble (HWL Ebsworth, Canberra) was the lead author. A profile of the Law Council, including the membership of the Committee, is at Attachment A.

2. In November 2012, the Law Council lodged a submission to the inquiry into the earlier Public Interest Disclosure (Whistleblower Protection) Bill 2012 (Wilkie Bill), and the Public Interest Disclosure (Whistleblower Protection) (Consequential Amendments) Bill 2012.

3. Those Private Members Bills were introduced to the House of Representatives by Mr Andrew Wilkie MP on 29 October 2012, and referred on 1 November 2012 to the House of Representatives Standing Committee on Social Policy and Legal Affairs for inquiry and report. The report of that inquiry has not yet been tabled in the House of Representatives.

4. Some of the issues raised by the Wilkie Bill and some of the comments made in the Law Council's November 2012 submission in response, are also relevant to this inquiry. The Law Council's earlier submission can be accessed at <http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=spla/bill%20public%20interest%20disclosure/subs.htm> and is reproduced at Attachment B.

5. The Law Council's 2012 submission generally supported the Wilkie Bill's detailed whistleblower regime. The submission suggested, with some qualifications, that the regime proposed was a significant improvement on the provisions protecting whistleblowers in the current *Public Service Act 1999* (Cth), in the following aspects:

    - The Wilkie Bill provides more direct support for accountability in government than does the Public Service Act.

    - The Public Service Act does not expressly extend protection to whistleblowers who are contractors or employees of contractors.

    - The protections for whistleblowers provided by the Public Service Act are broadly expressed and imprecise, and do not deal with the legal risks of disclosure to which whistleblowers are exposed. Furthermore, the focus of the Public Service Act is on the conduct of the person alleged to have victimised, or discriminated against the whistleblower. The Wilkie Bill set out specific protections and significant remedies for whistleblowers.

    - The Wilkie Bill recognised that disclosure to journalists may be in the public interest, and it provided a fair and balanced set of preconditions for when the protection of the Bill would extend to disclosures to journalists.

    - The Wilkie Bill gave the Ombudsman a central role in the review of general agency processes for handling public interest disclosures and in monitoring and dealing with particular public interest disclosures.

6. The framework for whistleblower protection in the Public Service Act is based on dealing with allegations of Code of Conduct breaches rather than on encouraging the reporting of suspected breaches.

7. If suspected Code of Conduct breaches are not reported, those breaching the Code cannot be called to account.

8. The Wilkie Bill encouraged reporting of corrupt conduct, maladministration, misuse of public money and public property, danger to public health or safety, and danger to the environment (see definition of 'disclosable conduct' in cl 9 of the Wilkie Bill).

9. The Law Council's 2012 submission noted that there was considerable force in Mr Wilkie's assessment that:

   Whistleblowers – in other words, those professional people who take a stand and speak truth to power – are every bit as crucial to a healthy democracy as an independent media and judiciary. But whistleblowers are too often left with an unbearable personal cost …

10. The Law Council's submission expressed a belief that it is fundamental to maintaining accountability and probity that conduct in government which may be improper is reported and investigated. The risks for individuals in organisations considering reporting suspected improper conduct are significant.

11. The Committee believes that it is fundamental to encouraging the reporting of suspected improper conduct to protect the persons who make such disclosures.

The Public Interest Disclosure Bill 2013

12. The Public Interest Disclosure Bill 2013 (the PID Bill) provides some protection to individuals making public interest disclosures. The central provision is cl 10 which declares 'immunity from liability' for individuals making public interest disclosures.

13. This submission does not provide a detailed analysis of all aspects of the PID Bill. In particular, it does not attempt to analyse or form a view on the appropriateness of the provisions which are specific to disclosure of intelligence information or intelligence agencies. The silence of this submission on those specific aspects of the PID Bill should not be taken as endorsement of those provisions.

14. However, even on a high level and limited analysis, it is apparent that the protection provided by cl 10 is weakened by:

    - the declaration in cl 11 of the circumstances in which cl 10 does not apply; and
    - by the definition of 'public interest disclosure' in cl 26.

15. It is also apparent that the protection provided by the PID Bill is considerably weaker than that proposed by the Wilkie Bill.

16. The protection provided by the PID Bill is so qualified that it is not likely to provide encouragement to individuals to make public interest disclosures in many situations.

17. Clause 11 denies cl 10 protection for public interest disclosure if the disclosure statement was 'false or misleading'.

18. The limitations in clause 10 – discussed further below – mean that it only provides protection for disclosures made when the discloser believes on reasonable grounds that the information disclosed may concern one or more instances of disclosable conduct.

19. However, cl 11(1) removes immunity under cl 10 from:

    … civil, criminal or administrative liability (including disciplinary action) for making a statement that is false or misleading.

20. In some contexts, the term 'false' could be construed as meaning 'known to be untrue'. However, there is a substantial risk that 'false' and 'misleading' in cl 11 would be construed as meaning 'not true' or 'causing to have an incorrect belief' regardless of whether the discloser knew the statement was untrue or would cause an incorrect belief.

21. The possibility that those terms could be so construed is confirmed by the provisions of the Criminal Code referred to in cl 11(2) itself which make offences of making statements 'knowing' that they are 'false' or 'misleading'. The express addition of the reference to 'knowing' in these provisions indicates that the terms 'false' and 'misleading' in those Criminal Code provisions do not have any inherent element of knowledge.

22. Clause 11(1) would have the result that if any aspect of the discloser's statement turned out to be false (untrue) or misleading (causing to have an incorrect belief) then the discloser would lose the protection of cl 10 even if the discloser had reasonable grounds for believing that the information being disclosed may indicate disclosable conduct.

23. This is a very significant weakening of the protection provided by cl 10 and of the PID Bill generally and is likely to discourage individuals from making public interest disclosures.

24. This aspect of the PID Bill is to be contrasted with cl 8(2)(a) of the Wilkie Bill which takes out of the definition of public interest disclosure a disclosure of information by a person 'that the person knows is false or misleading'.

25. Clause 48(1)(a) of the Wilkie Bill has its own problems in providing for the protection of the Bill to be forfeited if 'the discloser has given information to a person investigating the disclosure that is false or misleading' without any reference to an element of knowledge.

26. It is submitted that cl 11(1) should be amended so that it only operates for statements that the discloser knows to be false or misleading.

<u>The limitations in the cl 26 definitions of public interest disclosure</u>

27. The definitions of public interest disclosure in cl 26 include requirements that the discloser believes on reasonable grounds that the information disclosed may concern one or more instances of the disclosable conduct listed.

28. The Wilkie Bill (cl 8) similarly provided that a public interest disclosure could be disclosure that the discloser 'honestly believes on reasonable grounds tends to show disclosable conduct' (cl 8(1)(a)(i)).

29. The Wilkie Bill provided in the alternative that public interest disclosure could be disclosure that 'tends to show disclosable conduct regardless of whether the [discloser] honestly believes on reasonable grounds the information tends to show the conduct' (emphasis added) (cl 8(1)(a)(ii)).

30. The PID Bill does not contain a provision like the Wilkie Bill cl 8(1)(a)(ii).

31. The rationale for this aspect of the Wilkie Bill is not readily apparent. Nor is it apparent that it is necessary to extend protection to individuals making the disclosure who had no honest belief on reasonable grounds about public interest when they made the disclosures, even if disclosures happened to turn out to be in the public interest.

32. Accordingly, the fact that the PID Bill does not contain a provision like the Wilkie Bill's cl 8(1)(a)(ii) is not of particular concern.

33. Both the PID Bill (cl 26) and the Wilkie Bill (cl 17) proceed on the basis that public interest disclosure should be 'internal' unless there is sufficient justification for the disclosure to be 'external'.

34. However, there are significant differences between the PID Bill and the Wilkie Bill in what is defined as internal disclosure and in what is sufficient justification for external disclosure to be protected. These differences highlight weaknesses in the protection proposed by the PID Bill.

<u>Internal disclosure</u>

35. Under the PID Bill, 'internal disclosure' (Item 1 of cl 26(1)) is limited (see cl 34) – for agencies other than intelligence agencies) to:

    - the agency to which the disclosure relates (cl 34 Item 1(a))
    - the agency to which the discloser belongs or last belonged (cl 34 Item 1(b))
    - if the discloser believes on reasonable grounds that it would be appropriate for the disclosure to investigated by the Ombudsman (cl 34 Item 1(c))
    - if an investigative agency (other than the Ombudsman or the IGIS) has the power to investigate the disclosure otherwise than under this Act – the investigative agency (cl 34 Item 1(d)).

36. Under cl 26 Item 1, the disclosure will only be protected disclosure if the individual honestly believes on reasonable grounds that the information may concern one or more instances of disclosable conduct.

37. There is no apparent reason why protection for the individual who makes disclosure to the Ombudsman should be subject to the further requirement under cl 34 Item (1)(c) that there be reasonable grounds for believing that the matter was appropriate for disclosure to the Ombudsman. The Wilkie Bill does not contain any such limitation on the protection for disclosure to the Ombudsman.

38. Disclosure to the Ombudsman of information about conduct relating to government agencies does not represent any threat to good government. The Ombudsman knows how to deal discreetly with sensitive information.

39. It is recommended that cl 34 is amended so that protection for disclosure to the Ombudsman for investigation should not be conditional on there being reasonable grounds for believing that disclosure was appropriate.

40. Second, although the reference in cl 34 Item 1(d) to investigative agencies appears to be quite general, this term is limited by cl 8's definition of 'investigative agency' as:

    - the Ombudsman; or
    - the Inspector-General of Intelligence and Security (IGIS); or
    - an agency that is prescribed by the PID rules to be an investigative agency for the purposes of this Act.

41. Accordingly, the only agencies – other than the Ombudsman and IGIS – for which disclosure will be protected, will be those in relation to which the Minister chooses to make PID rules under cl 83.

42. The office of the Ombudsman does not have unlimited resources and does not have full capability across all issues which might be raised by a public interest disclosure. There is no guarantee that the Minister will prescribe any agencies as investigative agencies under the PID rules.

43. In this aspect the PID Bill is to be contrasted with the Wilkie Bill which provides (cl 17) for public interest disclosure to be made to a range of agencies and officials depending on the circumstances of the public interest disclosure.

44. In the Wilkie Bill, public interest disclosures may be made to an integrity agency which has the function of receiving, investigating or taking action in relation to the information of the kind being disclosed (cl 17(b)(iv)). 'Integrity agency' is defined in cl 10(3) of the Wilkie Bill to include:

    - the Ombudsman
    - the IGIS
    - the Integrity Commissioner holding office under the Law Enforcement Integrity Commissioner Act 2006
    - the Auditor-General
    - the Australian Public Service Commissioner
    - the Merit Protection Commissioner.

45. Disclosures may also be made to a disclosure officer, which includes 'an investigative agency who has the function of receiving, investigating or taking action in relation to the information of the kind being disclosed' (cl 17(b)(v)). Investigative agency is defined in cl 10(4) of the Wilkie Bill to include:

    - for suspected breaches of the *Criminal Code Act 1995* (Cth) or the criminal law of the Commonwealth – the Australian Federal Police;
    - for suspected breaches of the *Corporations Act 2001* (Cth) – Australian Securities and Investment Commission (ASIC);
    - for suspected breaches of the *Competition and Consumer Act 2010* (Cth) – the Australian Competition and Consumer Commission (ACCC).

46. The approach taken in the Wilkie Bill which guarantees that public interest disclosures are protected when made to any one of a range of relevant integrity and investigative

agencies is generally more likely to protect and encourage disclosure and to result in effective investigation and accountability than the approach in the PID Bill.

47. Accordingly, the PID Bill should be amended to guarantee protection for disclosure to that wider range of relevant integrity and investigative agencies.

48. One issue which the Wilkie Bill does not address is the possibility of disclosing a suspected breach of state or territory law.

49. The PID Bill should also address issues relating to protecting disclosures of suspected breaches of state or territory law to relevant state or territory agencies.

<u>What other disclosure is protected as public interest disclosure</u>?

50. Under cl 26 of the PID Bill there are two main kinds of disclosure which can come within the definition of 'public interest disclosure' and – as such – attract the protection of cl 10 and the general provisions for responses to public interest disclosures. These are:

    - 'External disclosure' in cl 26 Item 2; and
    - 'Emergency disclosure' in cl cl 26 Item 3.

51. These contemplate disclosure to 'Any person other than a foreign public official'.

52. However, as noted above, there is no guarantee that the Minister will prescribe any agencies as investigative agencies under the PID rules so as to bring disclosure to those agencies into Item 1 of the cl 26 category of public interest disclosure.

53. So until PID rules prescribe them as investigative agencies and bring them within the definition of 'authorised internal recipient' for the purposes of Item 1 of cl 26, disclosure to agencies such as the Auditor-General, ASIC, the ACCC etc. may only qualify as 'public interest disclosure' protected by cl 10 if it can meet the requirements of cl 26 Item 2 or 3.

54. For either Item 2 or Item 3 to apply, the discloser must believe on reasonable grounds that the disclosed information may concern relevant conduct (cl 26 Items 2(a) and 3(a)). For emergency disclosure, the discloser's belief must be about a 'substantial and imminent danger to the health or safety of one or more persons'.

55. Both of these categories of public interest disclosure have significant cumulative requirements and preconditions.

<u>Clause 26 – Item 2 External Disclosure</u>

56. For cl 26 Item 2 External Disclosure there has to have been:

    - Previous internal disclosure (Item 26(b)); and
    - Either or both the internal disclosure process has been completed or the investigation has not been completed within the time set under the PID Bill (Item 26(c)); and
    - The investigation was 'inadequate' and/or the response to the investigation was 'inadequate' (Item 26(d)); and

- The disclosure is not ‘on balance contrary to the public interest’ (Item 26(e)); and
- No more information is disclosed than is reasonably necessary in the public interest (Item 26(e)); and
- The disclosure is not contrary to a designated publication restriction (Item 26(g)); and
- The disclosure does not consist of, or include, intelligence information (Item 26(h)); and
- None of the conduct with which the disclosure is concerned relates to an intelligence agency (Item 26(i)).

57. Unless all of these conditions are met, Item 2 will not apply and the discloser will not be able to rely on cl 10 protection. It is not sufficient that the discloser has a belief on reasonable grounds that these preconditions have been met. Whether or not all of these preconditions have been met would ultimately be a matter for decision by a court.

58. This leaves the individual who is considering making a disclosure in a most uncertain position. Whether he or she does benefit from the protection intended to be afforded by cl 10 and related provisions of the Bill may depend on a court’s assessment at some time in the future and with more information than is available to the individual when they make their disclosure about broad and imprecise concepts:

    - Whether the investigation was ‘inadequate’;
    - Whether the response was ‘inadequate’; and
    - Whether disclosure was ‘on balance’ contrary to the public interest – by reference to a long list of matters in cl 26(3) which are to be taken into account in considering public interest.

59. These provisions do not adequately support disclosures in the public interest because they do not give sufficient clarity about when there will be protection.

60. It is not realistic to expect individuals to make decisions about whether or not to make a disclosure in the public interest with this level of uncertainty about whether or not they will be protected by the provisions of the legislation, and having regard to the high risks those individuals face if the legislation does not protect them.

61. Because of the uncertainty referred to above about whether any investigative agencies will be prescribed under the PID rules, the provisions of Item 2 may be the provisions which determine whether there is protection even for disclosure to many government investigative agencies.

62. This reinforces the point already made above – the Committee believes that the PID Bill should be amended to guarantee protection for disclosure to a wider range of relevant integrity and investigative agencies (including state and territory law enforcement agencies).

63. However, these provisions of the PID Bill relate to disclosure to ‘Any person other than a foreign public official’ and accordingly also relate to disclosure to persons and entities other than government agencies.

64. These provisions would also be relevant to disclosure to Members of Parliament and journalists.

65. The comments made above about the operation of Item 2 are also relevant to the operation of Item 2 in relation to disclosure to journalists and Members of Parliament – it is not appropriate or realistic to expect individuals to make decisions about whether or not to make disclosures with this level of uncertainty about whether or not they will be protected by the provisions of the legislation.

66. The provisions of the Wilkie Bill in clauses 31–33 show how there can be tighter drafting giving both certainty and a fair and balanced approach to govern the extent to which disclosure to journalists and others – including Members of Parliament – should be protected.

67. The Committee recommends that cl 26 Item 2 be redrafted taking into account the model provided by the Wilkie Bill both in relation to guaranteeing which government agencies are within the core area of protected public interest disclosure and in relation to clarifying the protection for reasonable and *bona fide* disclosure to journalists and other persons including Members of Parliament.

<u>Clause 26 – Item 3 Emergency Disclosure</u>

68. This Item operates by reference to whether the discloser had a belief on reasonable grounds and does not – unlike Item 3 - add a further requirement that disclosure also meet some court-determined level of sufficient public interest.

69. However, Item 3 only applies to disclosure of information that concerns a 'substantial and imminent danger to the health or safety of one or more persons'.

70. It is not clear why this 'emergency disclosure' protection is limited to situations of substantial and imminent danger to health or safety. There may be other situations calling for urgent response where there may be a substantial and imminent threat to other public interests such as protection of public moneys or public assets.

71. For example, an individual may be aware of some improper aspect of a decision process leading up to award of a major tender. It seems to be in the public interest for there to be a framework for protecting emergency disclosure which prevents the Commonwealth being committed to an expensive contract which could be very difficult to unravel once it is entered into.

72. Item 3 is further limited (cl 26 Item 3 (c)) to the extent that it only applies to disclosure where there has not been prior internal disclosure if there are 'exceptional circumstances justifying the discloser's failure to make such an internal disclosure'.

73. This seems to set a very high standard as a precondition for protection for making a disclosure about health or safety and where the discloser must also have a belief on reasonable grounds.

74. This is to be contrasted with the Wilkie Bill cl 31(2) which allows disclosure to a person outside the government agencies listed in cl 17 if the discloser 'honestly believes on reasonable grounds that'

    - The discloser has information that tends to show disclosable conduct; and

- There is a significant risk of detrimental action of victimisation to the public official or someone else if a disclosure is made to a person mentioned in cl 17; and
- It would be unreasonable in all the circumstances for the public official to make a disclosure to a person mentioned in cl 17.

75. The Committee recommends consideration of the Wilkie Bill cl 31(2) approach which seems to be much more likely to encourage disclosures in the public interest than does the PID Bill cl 26 Item 3.

Other issues

76. The Committee has not attempted to analyse and comment on all of the provisions of the PID Bill.

77. The absence of any comment on any aspect of the PID Bill should not be taken as endorsement of that aspect of the PID Bill.

78. Apart from the issues already addressed the Committee does draw particular attention to the following aspect of the PID Bill.

Contractors and detrimental action

79. The PID Bill – like the Wilkie Bill – provides a fairly detailed package of protections and remedies for APS employees and for the employees of contractors and subcontractors (cl 10–30).

80. However, the Bill provides very little protection for contractors.

81. Clause 10 only protects 'individuals' and would not seem to give any protection to contractors which are corporations and may not give protection to contractors which are partnerships (albeit made up of individuals).

82. Furthermore, for many contractors, repeat business with the Commonwealth is a significant aspect of their financial viability. Most contractors operate in competitive environments with no guarantee of any level of work.

83. The general definition of 'detrimental action' in cl 13 may catch a situation where employees of an agency decide not to give any more contract work to a contractor because the contractor or its employees or officers have made a public interest disclosure. However, it would be extremely difficult to prove that a failure by the contractor to win any new contract work with an agency was based on a decision to punish the contractor for a public interest disclosure.

84. Administrators who wish to avoid the accountability from the rigour of the Bill's protections for public interest disclosers who are APS employees may deliberately use contractors.

85. As with the Wilkie Bill, this is a major weakness in the legislation that needs further consideration not only to protect the interests of contractors, but also to ensure that the effectiveness of the Bill to advance the public interest through disclosure of improper conduct is not undermined.

86. A possible solution might be for the legislation to provide that – for an appropriate period after a contractor (or subcontractor/employee/officer etc) disclosure – decisions

to award contracts for which they are competing are subject to scrutiny from outside the agency.

87. That scrutiny could, perhaps, come from a representative of the Audit office or from a probity adviser. The scrutiny would need to be applied during the procurement process, i.e. before decisions are made, because once contracts have been awarded it is very difficult to give an effective remedy.

Attachment A: Profile of the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian state and territory law societies and bar associations and the Large Law Firm Group, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Independent Bar
- The Large Law Firm Group (LLFG)
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of approximately 60,000 lawyers across Australia.

The Law Council is governed by a board of 17 Directors – one from each of the Constituent Bodies and six elected Executives. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected

Executive, led by the President who serves a 12 month term. The Council's six Executive are nominated and elected by the board of Directors. Members of the 2013 Executive are:

- Mr Joe Catanzariti, President
- Mr Michael Colbran QC, President-Elect
- Mr Duncan McConnel, Treasurer
- Ms Fiona McLeod SC, Executive Member
- Mr Justin Dowd, Executive Member
- Ms Leanne Topfer, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.

Each of the Law Council's five specialist Sections are responsible for the provision of professional development opportunities and for the development of submissions on behalf of the Law Council. In this way, the Sections contribute to the achievement of each of the Law Council's identified strategic objectives.

The members of the Federal Litigation Section's Administrative Law Committee that developed this submission are as follows:

- Mr Michael Will (Chair), HWL Ebsworth, Canberra
- Ms Margaret Allars, Wentworth Chambers, Sydney
- Ms Robin Creyke, AAT, Canberra
- Mr Simon Daley, Australian Government Solicitor, Sydney
- Mr Cameron Jackson, Selbourne Chambers, Sydney
- Mr Graeme Johnson, Freehills, Sydney
- Mr Geoff Kennett, Barrister, Sydney
- Mr Tony Kuhn, Allens Arthur Robinson, Melbourne
- Ms Fiona McKenzie, Foley's List Pty Ltd, Melbourne
- Mr Stephen Moloney, Owen Dixon Chambers East, Melbourne
- Dr Gary Rumble, HWL Ebsworth, Canberra

The Law Council Secretariat Officer assisting the Committee is Hanna Jaireth.

Attachment B: November 2012 Law Council Submission on Wilkie Bill

Submission 009

Law Council
OF AUSTRALIA

Inquiry into the *Public Interest Disclosure (Whistleblower Protection) Bill 2012* and the *Public Interest Disclosure (Whistleblower Protection) (Consequential Amendments) Bill 2012*

Standing Committee on Social Policy and Legal Affairs

Submission by the Administrative Law Committee of the Federal Litigation Section of the Law Council of Australia

30 November 2012

GPO Box 1989, Canberra
ACT 2601, DX 5719 Canberra
19 Torrens St Braddon ACT 2612

Telephone +61 2 6246 3788
Facsimile +61 2 6248 0639

Law Council of Australia Limited
ABN 85 005 260 622
www.lawcouncil.asn.au