

31 August 2023

Dr Sean Turner
Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600
By email: corporations.joint@aph.gov.au

Dear Dr Turner,

Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry

Governance Institute of Australia

Who we are

Governance Institute of Australia (Governance Institute) is a national professional association, advocating for our network of 43,000 governance and risk management professionals from the listed, unlisted, public, not-for-profit and charity sectors.

As the only Australian provider of chartered governance accreditation, we offer a range of short courses, certificates and postgraduate study. Our mission is to drive better governance in all organisations, which will in turn create a stronger, better society.

Our members have primary responsibility for developing and implementing governance frameworks in public listed, unlisted and private companies, as well as not-for-profit organisations and the public sector. They have a thorough working knowledge of the operations of the markets and the needs of investors. We regularly contribute to the formation of public policy through our interactions with Treasury, the Attorney General's Department, ASIC, APRA, ACCC, ASX, ACNC and the ATO.

This submission is confined to Items 2(i) and 3(d) of the Committee's Terms of Reference namely, consideration of any gaps and international best practice in relation to access to whistleblower protections and gaps and overlaps across service and entity types for whistle-blower policies and established pathways to report.

Whistleblower protection

Governance Institute has consistently advocated for the strengthening of whistleblower protections for some years and was involved in making submissions to this Committee during its 2017 Inquiry into Whistleblower Protections.¹ We participated in the consultations leading up to the passage of the amendments to the Corporations Act and the Taxation Administration Act in 2019 which introduced an

¹ See Submission [Inquiry into whistleblower protections in the corporate, public and not-for-profit sectors](#), Governance Institute of Australia, 10 February 2017.

expanded corporate whistleblowing scheme and a new tax affairs whistleblowing scheme. Governance Institute was also a supporter of the Griffiths University [Whistling While They Work 2: Improving managerial responses to whistleblowing in public and private sector organisations Project](#).

The 2019 amendments to consolidate and broaden the protections and remedies for corporate and financial sector whistleblowers in the Corporations Act, were an important first step in improving the Australian regime. However, the Australian whistleblower protection regime remains piecemeal: the Corporations Act applies to companies, there is a separate regime for tax affairs, the disability and aged care sectors are covered by separate pieces of legislation and the legislation applicable to the public sector is different again.

Australia still lacks a comprehensive whistle-blower protection mechanism and is therefore far behind the rest of the world. Our members consider there continues to be a need for a stand-alone, general whistleblower protection regime in its own Act (applicable to the private sector), as recommended by this Committee in 2017, rather than the current approach across multiple pieces of legislation applicable to different sectors.²

Given the complexities involved in whistleblower protections our members consider there is a need for an independent whistleblower protection authority. This is not a new suggestion, having been recommended by a Senate Select Committee in 1994, this Committee in 2017 and then as part of previous national integrity commission designs.³ A stand-alone whistleblower protection authority would have the ability not only to enforce whistleblower protection legislation but could also play an important role in giving practical support to whistleblowers, providing guidance and educating organisations about their obligations. It would also reduce the complexity and potential for confusion involved in knowing which pathway a whistleblower should take where there is an issue. We have previously suggested that this would be a useful role for the national anti-corruption body which would not only enhance its ability to fight corruption but also fill an important gap in the current Australian whistleblower protection regime.⁴

Governance Institute continues to **support and recommend**:

- A stand-alone, general whistleblower protection regime in its own Act, applicable to the private sector, and
- The establishment of a whistle-blower protection authority to undertake the whistleblower protection role and implement the new scheme.

Please contact me or Catherine Maxwell, GM Policy and Research if you have any questions in connection with this submission.

Yours sincerely,



Megan Motto

CEO

² See Report [Whistleblower protections](#), September 2017, Parliamentary Joint Committee on Corporations and Financial Services, Recommendation 3.1.

³ See Report at Footnote 2 above Recommendation 12.1.

⁴ See [Submission on Commonwealth Integrity Commission Bill – Exposure Draft](#), Governance Institute of Australia, 12 February 2021.