

Whistleblower Protection

AUSTRALIAN DEMOCRATS ACTION PLAN WHISTLEBLOWER PROTECTION ACCOUNTABILITY

Whistleblowers are people who, by reason of their employment, come across information that reveals corruption, dishonesty or improper conduct in government or in private organisations. They play a vital role in ensuring the accountability of government, and in detecting wrongdoing in the public or private sectors. Whistleblowers who make disclosures often put their careers and livelihoods at risk, particularly if legislative protection is weak or lacking. This is particularly so for Commonwealth public officials, because they are virtually unprotected. They need much more protection.

Our Action Plan

Continue our long-standing campaign to have strong whistle blowing protection laws implemented for public officials at the Commonwealth level, via the Democrats *Public Interest Disclosures Bill 2007*.

Why whistleblowers deserve protection

When in all good conscience whistleblowers reveal corruption, dishonesty or improper conduct in an organisation, they do us all a favour. Often the only way evidence of improper or corrupt conduct can be brought to the attention of proper authorities is by employees 'blowing the whistle.' However such action can lead to victimisation, and protection is needed so that if a person is bullied, defamed, demoted or sacked because they made a genuine and warranted disclosure, then they need processes that allow for investigation, and restitution or damages.

People should be encouraged to draw attention to wrongdoing, not punished. They should not have to risk their livelihoods, or endure personal suffering. Fortunately people of conscience continue to make disclosures in the public interest, but nowhere near the number that could if there were better disclosure systems. It is no coincidence that the maxim of Whistleblowers Australia is the quote attributed to Edmund Burke; that evil prospers when good people do nothing.

Issue one: the private sector

In June 2004, whistleblower protection became available for the private sector in the *Corporations Act* and the *Workplace Relations Act*. The first is the Government's doing, the second the Democrats doing. However, while corporations, unions and employer organisations all now have reasonable statutory provisions for employees

"The willingness of public officials to voice concerns on matters of public interest is increasingly recognised as fundamental to democratic accountability and public integrity. At the same time, 'whistleblowing' is one of the most complex, conflict-ridden areas of public policy and legislative practice."

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Last updated 31/08/2007

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who make disclosures, unincorporated associations and the not-for-profit sector still lack protection.

Various authorities, agencies and large corporations have invested significantly in processes and systems to provide for genuine whistle blowing, because they recognise its contribution to minimising wrongdoing and waste.

Issue two: the public sector

While all the States and Territories have reasonably comprehensive legislation for public officials making disclosures, in the case of the Commonwealth, public sector whistleblowers are afforded little protection. There is no specific legislation and the *Public Service Act* provisions are very limited and problematic.

The Commonwealth does not have a proper disclosure framework in place. In federal law secrecy prevails over the public interest. So a leak to the media resulting in a review and major upgrade of Australia's airport security resulted in a conviction for the official accused of the leak. Such outcomes are perverse and mean that the active disclosure of corruption and wrongdoing is inhibited.

Issue three: the answer

To solve this problem, the Democrats introduced the *Public Interest Disclosure Bill 2001*. A Committee review saw it reworked as the *Public Interest Disclosure (Protection of Whistleblowers) Bill in 2002*. Five years later, and building on experience with similar legislation elsewhere, Senator Murray reformulated this bill and tabled it as the *Public Interest Disclosures Bill 2007*.

The *Public Interest Disclosures Bill 2007* draws on the drafting and implementation successes and shortcomings of previous federal, state and territory legislative frameworks. It incorporates three principles: it creates a framework to facilitate the disclosure of information in the public interest; it creates a framework that ensures such disclosures are properly dealt with; and it provides – including relief from legal liability and workplace victimisation – practical protection for people who disclose information in the public interest.

In this way, the Bill follows the life-cycle of a disclosure from initial reporting to appropriate people and authorities, through the investigation process and ultimately to the resolution of the issue. It supports the role of parliamentarians and journalists in the whistle blowing process.

This Bill recognises that genuine whistleblowers perform a valuable and essential public service. Without them, much corruption and impropriety would go undetected. Importantly, it is designed to ensure that when public sector officials 'blow the whistle', they are afforded powerful protections.

In the interest of the health and integrity of our democracy, the Democrats' *Public Interest Disclosures Bill 2007* deserves political support. It should be passed in the public interest and for the greater good.



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