

Dear Committee Secretariat

Further to the Committee's hearing on this bill last week, we wish to offer Committee members the attached suggestion on the terms of a preferred amendment to implement the proposed filter on purely/solely personal workplace grievances, consistently with our written submission and oral evidence on this issue.

The attached suggestion is based directly on the corresponding provision in the Corporations Act, also adding the key missing word 'solely' (and a clarifying 'otherwise').

For total consistency these small changes would need to be added later to the Corporations Act, when also reviewed.

If the Committee or Government want to consider another much simpler provision (at the cost of greater consistency with the Corporations Act), then the recent new sub-s. 26(3) of the Public Interest Disclosures Act 2022 (NSW) would also be preferable to the amendment as currently proposed, in our view.

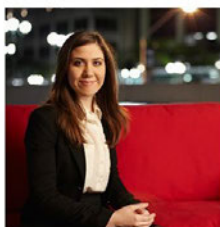
We hope this may be of some final assistance to the Committee.

cheers

AJ

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PID Act amendment

After section 31, insert:

31A Personal work-related grievances

- (1) To avoid doubt, conduct is not *disclosable conduct* to the extent that the information disclosed:
 - (a) solely concerns a personal work-related grievance of the discloser; and
 - (b) does not concern a contravention, or an alleged contravention, of sections 14, 15 or 19 that involves detriment caused to the discloser or a threat made to the discloser.
- (2) For the purposes of subsection (1), the information disclosed solely concerns a ***personal work-related grievance*** of the discloser if:
 - (a) the information concerns a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally; and
 - (b) the information:
 - (i) does not have significant implications for an agency, or agencies, that do not relate to the discloser; and
 - (ii) does not otherwise concern conduct, or alleged conduct, referred to in section 29.

Examples of grievances that may be personal work-related grievances under paragraph (a) (but subject to paragraph (b)) are as follows:

- (a) an interpersonal conflict between the discloser and another employee;
- (b) a decision relating to the engagement, transfer or promotion of the discloser;
- (c) a decision relating to the terms and conditions of engagement of the discloser;
- (d) a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

Corporations Act amendment (now or whenever possible)

In the following section, insert the highlighted words 'solely' and 'otherwise':

1317AADA Personal work-related grievances

- (1) Subsections 1317AA(1) and (2) do not apply to a disclosure of information by an individual (the ***discloser***) to the extent that the information disclosed:
 - (a) **solely** concerns a personal work-related grievance of the discloser; and
 - (b) does not concern a contravention, or an alleged contravention, of section 1317AC that involves detriment caused to the discloser or a threat made to the discloser.

Note: A disclosure concerning a personal work-related grievance that is made to a legal practitioner may qualify for protection under this Part under subsection 1317AA(3).

- (2) For the purposes of subsection (1), the information disclosed **solely** concerns a ***personal work-related grievance*** of the discloser if:
 - (a) the information concerns a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally; and
 - (b) the information:
 - (i) does not have significant implications for the regulated entity to which it relates, or another regulated entity, that do not relate to the discloser; and

- (ii) does not otherwise concern conduct, or alleged conduct, referred to in paragraph 1317AA(5)(c), (d), (e) or (f).

Examples of grievances that may be personal work-related grievances under paragraph (a) (but subject to paragraph (b)) are as follows:

- (a) an interpersonal conflict between the discloser and another employee;
- (b) a decision relating to the engagement, transfer or promotion of the discloser;
- (c) a decision relating to the terms and conditions of engagement of the discloser;
- (d) a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.