



DR PATRICK HODDER
COMMITTEE SECRETARY
PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES
PARLIAMENT HOUSE CANBERRA 2600

29.05.2017

Dear Dr Hodder

Re: Inquiry into Whistleblower protections in the corporate, public and not-for-profit sectors

In the course of giving evidence before your Committee, I undertook to respond to a question posed by Senator Xenophon in which he asked whether the whistleblower protections incorporated into the *Fair Work (Registered Organisations) 2009 Act* (the Act) should be considered a “minimum benchmark” when determining the protections that should be afforded to Whistleblowers in the corporate, public and not-for-profit sectors.

Having reviewed the relevant legislation, our short answer is, ‘yes’.

Senator Xenophon then went on to ask if this ‘benchmark’ could be improved.

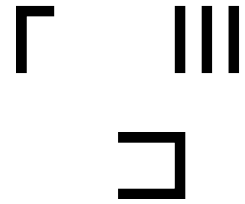
In general terms, we think that the protections afforded by the Act are sufficiently comprehensive and effective. However, in terms of disclosure, it will be necessary to identify different classes of persons to whom protected disclosures can be made, in good faith.

Apart from there being a person within each organisation who is nominated to perform this function, provisions should be made for protected disclosures to be made to:

- Police – in matters involving an alleged crime,
- Auditors – when the alleged wrongdoing involves financial mismanagement or impropriety,
- Regulators – when the alleged wrongdoing involves a breach of formal public standards (e.g. environmental regulations),
- Inspectors General – where such roles exist and within their areas of jurisdiction,
- Ombudsmen – where the alleged wrongdoing involves maladministration or mismanagement within the public sector,
- Members of Parliament

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In exceptional circumstances, where all other internal and external mechanisms have been exhausted, a disclosure should be protected if made to a journalist. However, the law should require that any journalist publishing information derived from such a disclosure first be satisfied, on the balance of probability, that the publishable information is:

- True,
- Disclosed without malice and in good faith, and
- Disclosed as a 'last resort' after all other attempts to disclose (to those listed above) have been exhausted.

We hope that these brief comments assist the Committee.

**DR SIMON LONGSTAFF AO FCPA
EXECUTIVE DIRECTOR**