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**Submission to the Australian Government 'Inquiry into whistleblowing protections within the Australian Government Public Sector'**

1 VALUES

There needs to be an expression of underpinning values, eg. equity, dignity, open-ness, and goodwill – or whatever value standards the Committee may deem appropriate. Without such values it is difficult to know whether or not any new legal requirement is worthy of consideration, and consistent with the intent of the legislation. Transparency International has the basic principle that corruption flourishes in secrecy.

Example, if a proposed new principle is that (say) that potential whistleblowers receive counselling before blowing the whistle is that consistent with (say) the preservation of privacy, the possible indignity of assuming that there is a problem with the whistleblower that requires attention.

It is by stating the investing values that any inquiry can exercise the human judgement that invariably accompanies dilemma resolution. We recognise that the reach of the any proposed Act will make assessments about the value to be attached to such factors as finance, reputation, social costs, the environment, and reputations.

It is recommended that consideration be given that any such Act have a preliminary section that states the values which the legislation addresses.

2 SERIOUSNESS OF THE OFFENCE

A prescription of seriousness (gradations) to be applied to offences, and to sanctions. For example, taking home paperclips does not compare in seriousness to the acceptance of substantial bribes. To this end it is proposed that some form of gradation be used for assessing both the seriousness of an offence, and for the matching sanctions. In this respect actions motivated of malice on the part of the whistleblower or the defenders be sanctioned.

It is recommended that the Committee consider a means of grading seriousness, or having the relevant body or persons apprised of the need to consider seriousness.

3 INFORMATION / ADVICE FOR POTENTIAL WHISTLEBLOWERS

We need to recognise that there are a myriad of informal ways that whistleblowers may be made to suffer for reporting.

To keep an equitable balance between the needs and principles of public service, and of open-ness and honesty, it is recommended that an advice sheet be available for those contemplating blowing the whistle. Included in such a document would be:

- an alert to the consequences of being a whistleblower
- drawing attention to the Act which governs whistleblowing
- a set of actions that should be contemplated before blowing the whistle (see attached sheet for suggested inclusions)
- an assurance that if their complaint is vindicated they will be protected both formally and informally.

A draft list of advice that might be included for the potential whistleblower is attached.

Note:

These proposals are made in good faith. The ideas contained in them are not copyright but, it is understood, they may be used for whatever purpose the Committee may find helpful.

Professor Ronald D. Francis  
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