

Additional Comments by Labor Senators

Public Interest Disclosure

1.1 The Chair's report provides a comprehensive description of the Bill, including the views of submissions supporting the bill. The report also provides arguments against the proposed changes.

1.2 Labor Senators are particularly concerned with the disclosure of information when it comes to mistake of fact and/or misinformation.

1.3 In the Department of Veterans' Affairs (DVA) submission it was stated that:

The Department is aware of instances where misinformation or claims that are not factual have damaged the integrity of programmes or prevented veterans from taking up assistance from the Department, often leading to wide spread distress among veterans. In these instances, the Department has not got the ability to correct the misinformation or mistake of fact as it may include the disclosure of information about a veteran or class of veterans. Often in these circumstances, the misinformation or mistake of fact can often have consequences which are detrimental to some veterans' mental health conditions or lead to some veterans cancelling their contact with the Department. These outcomes may have been prevented were DVA able to provide limited information to the public regarding circumstances where mistake of fact or misinformation has caused distress in the veteran community.¹

1.4 Whilst there is merit in regards to DVA's explanation, the Office of the Australian Information Commissioner stated:

I think any agency needs to be extraordinarily cautious when it is going to release information and, as our colleagues from the Ombudsman's Office have said, particularly when it is sensitive information.²

1.5 They further stated:

When you get to areas such as correcting factual information, it can get into an area where there is potential for an individual's extremely sensitive personal information to be made more widely known.³

1.6 The Australian Ombudsman has also raised concerns:

The Ombudsman is concerned that the release of an individual's personal information has the potential to adversely affect veterans and ex-service personnel, particularly those who are already vulnerable.⁴

1 Department of Veteran's Affairs, *Submission 2*, p. 8.

2 Mr Timothy Pilgrim PSM, Privacy Commissioner, Office of the Australian Information Commissioner, *Proof Committee Hansard*, 16 February 2017, p. 4.

3 Mr Timothy Pilgrim PSM, Privacy Commissioner, Office of the Australian Information Commissioner, *Proof Committee Hansard*, 16 February 2017, p. 4.

1.7 Labor Senators remain concerned with the following observation of the Office of the Australian Information Commissioner:

...when you look at it overall, the initial disclosure process does seem broad.⁵

1.8 From the evidence presented during the public hearing, DVA made the point when referring to mistake of fact and/or misinformation that there were 12 occasions where this provision could have been used in the past 4 years:

We went back through our records and we found about 12 cases over four years. So, if you have the number, about three or four a year would be about where we would be looking at it.⁶

1.9 It is the view of Labor Senators that for such a small number of cases, the Minister already has the ability to correct the record in the chamber under Parliamentary Privilege.

Recommendation

1.10 Labor Senators recommend that mistake of fact and misinformation be removed from the Public Interest Disclosure provisions of the bill.

Senator Alex Gallacher
Deputy Chair

Senator Claire Moore

4 Ms Doris Gibb, Acting Deputy Ombudsman, Office of the Commonwealth Ombudsman, *Proof Committee Hansard*, 16 February 2017, p. 4.

5 Mr Timothy Pilgrim PSM, Privacy Commissioner, Office of the Australian Information Commissioner, *Proof Committee Hansard*, 16 February 2017, p. 4.

6 Ms Carolyn Spiers, Principal Legal Adviser, Department of Veterans' Affairs, *Proof Committee Hansard*, 16 February 2017, p. 4.