

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department of the Prime Minister and Cabinet

Budget Estimates Hearing 24 May-3rd June 2010

Question: PM74a-b

Topic: Whistleblower legislation

Type of Question: Written

Date set by the committee for the return of answer: 8 June 2010

Number of pages: 2

74(a) - The ongoing debacle facing the Australian Taxation Office with regards to the implementation of its new IT program is a prime example of employees who have information that could be useful to the Inspector-General's Review into the Change Program, however are fearful they'll be penalised if they do so. How would this legislation address their concerns?

74(b) - Did the Department consider including penalties for victimisation and compensation for whistleblowers, in line with the United States' whistleblower's protections? What did these penalties include?

Answer:

74(a): On 17 March 2010 the then Cabinet Secretary and Special Minister of State, Senator the Hon Joe Ludwig, tabled in the Senate the Government's response to the House of Representatives Standing Committee on Legal and Constitutional Affairs Report – *Whistleblower Protection: A Comprehensive Scheme for the Commonwealth Public Sector* and made a related ministerial statement.

The Introduction to the response set out the Government's commitment to providing best-practice legislation to ensure that there are appropriate processes in place, and protections offered, to facilitate the disclosure of wrongdoing, misconduct and corruption. The Introduction also stated that it is intended that the proposed legislation will "facilitate public interest disclosures in the Australian public sector being made by public officials where they have an honest and reasonable belief that a public interest disclosure should be reported."

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The Introduction indicates that it is intended that a disclosure would ordinarily be reported to the public official's agency and be investigated by that agency, if the public interest disclosure is serious. The Introduction also indicates that the legislation will include oversight and investigation by an external agency. The response to recommendation 17 of the report indicates that, where a discloser is unsatisfied with the outcome of the responsible agency's investigation, or where it is inappropriate for the responsible agency to investigate, the Commonwealth Ombudsman or the Inspector-General of Intelligence and Security will undertake its own investigation of the public interest disclosure.

74(b): In providing advice to Government, the Department considered a wide range of options for protecting whistleblowers, including those available in the United States of America. As the Government stated in its 17 March 2010 response, further consideration is being given to the details of such protections. Substantial progress has been made on preparing a draft bill, in consultation with relevant agencies. As agreed between the Prime Minister and Mr Wilkie on 2 September 2010, the Government is seeking to have the legislation introduced and passed by 30 June 2011.