

Preface

Whistleblowing or public interest disclosure schemes rest on the premise that individuals who make disclosures serve the public interest by assisting in the elimination of fraud, impropriety and waste. An effective whistleblowing scheme is a necessary part of maintaining a good public administration framework.

Over the past decade there has been growing recognition in Australia of the need for whistleblowing legislation for the Commonwealth public sector. While the *Public Service Act 1999* provides some coverage for Commonwealth public sector whistleblowers, the Act only applies to about half of the Commonwealth public sector.

The objective of the proposed legislation, the Public Interest Disclosure Bill 2001 [2002], is to provide a comprehensive Commonwealth public sector whistleblowing scheme. The Bill aims to enable a person to report improper conduct in the knowledge that the allegation will be duly investigated and that he or she will not suffer from reprisals on account of disclosing such information.

The Committee is aware that gaining the confidence of those considering whistleblowing is an essential part of a successful public interest disclosure scheme. If potential whistleblowers are not confident that a scheme will ensure the investigation of their disclosure and their protection, then they will not make disclosures and the scheme will not be used.

The Committee supports a number of elements of the proposed legislation that it believes are effective elements of a whistleblowing scheme that will encourage public confidence. Such measures include the enabling of any person to make a disclosure, the reporting provisions, the ability to prosecute unlawful reprisals and the ability to sue for damages should reprisals be suffered.

However, a number of other elements of the Bill require further consideration, such as the definition of its jurisdiction, the lack of a requirement to investigate anonymous disclosures and the definition of unlawful reprisal. Of particular concern to the Committee is the omission of the Commonwealth Ombudsman as an independent authority to receive disclosures, an aspect of the Bill that works against cultivating public confidence in the proposed scheme.

This report presents a careful evaluation of the Bill's provisions in light of evidence to the inquiry and research on whistleblowing, at the conclusion of which the Committee recommends that the Public Interest Disclosure Bill 2001 [2002] not proceed in its current form. Nevertheless, the Committee recognises the need for separate legislation addressing the matter of whistleblowing and supports the general intent of the Bill. Senator's Murray's Bill is a welcome continuation of debate on this important matter.