

Whistleblowers get protection in federal legislation

Chris Merritt, Legal affairs editor The Australian March 18 2010

The federal government has accelerated its push for a more open system of government by introducing the first federal law protecting public servants who reveal maladministration.

It plans to reverse decades of government secrecy by protecting public servants who reveal serious wrongdoing to the media.

The new scheme is intended to encourage whistleblowers in the federal public service by giving them the nation's most extensive system of legal protection and support.

Cabinet secretary Joe Ludwig, who unveiled the scheme in parliament yesterday, was praised last night by whistleblowers and legal academics for delivering a scheme that goes beyond the more limited schemes in force in the states. "It is close to world's best practice," said legal academic A.J. Brown.

"It will change the culture of government," said Peter Bennett, president of Whistleblowers Australia.

The scheme will be contained in a planned public interest disclosure act that will fulfil Labor's promise to address the problems in the legal system highlighted by the case of convicted whistleblower Allan Kessing.

Senator Ludwig declined to discuss the Kessing case last night, but lawyers believe the government's scheme could have been enough to prevent Mr Kessing being convicted in 2007 over the disclosure of long-ignored flaws in security at Sydney Airport.

"This is not a scheme to legitimise leaking in general - it is a scheme to protect whistleblowing through appropriate channels," Senator Ludwig said.

The government plans to introduce an internal system for handling public interest complaints within the bureaucracy that will involve every agency in the federal public service. If that system fails to address concerns about serious matters in a "reasonable" time, public servants will be given legal protection if they tell the media or anyone else.

The scheme would also protect what is expected to be a smaller category of public servants who bypass the internal system and go directly to the media with public interest disclosures about serious matters. Direct approaches to the media would be protected whenever exceptional circumstances exist, in cases where a public servant believes on reasonable grounds that there is a substantial and imminent threat to people's lives, health or safety.

Senator Ludwig said the scheme would be the first stand-alone system of whistleblower protection for the commonwealth public service.

It has been unveiled a week after Senator Ludwig and Attorney-General Robert McClelland welcomed a report from the Australian Law Reform Commission calling for the repeal of part of the Commonwealth Crimes Act that imposes criminal penalties for unauthorised disclosures by public servants.

The whistleblower scheme would mean complaints about wrongdoing would usually be made to a public servant's own agency and if necessary to an external agency such as the Commonwealth Ombudsman or the Inspector-General of Intelligence and Security.

The government aims to have the public interest disclosure act in force by next January.

<http://www.theaustralian.com.au/politics/whistleblowers-get-protection-in-federal-legislation/story-e6frqczf-1225842083099>