

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

7 July 2025

Inquiry into Whistleblower Protection Authority Bill 2025 (No. 2)

Dear Committee Secretary,

1. Transparency International Australia, the Human Rights Law Centre and Griffith University are pleased to provide this joint submission to the Senate Legal and Constitutional Affairs Committee (the **Committee**) in relation to the Inquiry into Whistleblower Protection Authority Bill 2025 (No. 2) (**the Inquiry**). This joint submission supplements each organisation's individual submission to the Inquiry in relation to the Whistleblower Protection Authority Bill 2025 (No. 2) (**the Bill**).
2. In June 2025, our organisations published *A Fair Go For Speaking Up: Design Principles For Australia's Federal Whistleblower Protection Authority (Appendix 1) (Final Design Principles)*. In the Final Design Principles, we observed:

These design principles were developed by Transparency International Australia, the Human Rights Law Centre and Griffith University, firstly published in Making Australian Whistleblowing Laws Work: Draft Design Principles for a Whistleblower Protection Authority. Feedback on the document was gathered through in-person roundtables and bilateral consultations from a diverse range of stakeholders across Australia.

The shared insights and expertise of representatives from civil society, academia, and the corporate and regulatory sectors—as well as international experience—ensures an informed framework for an authority that can support whistleblowers, organisations managing whistleblowing reports, and regulators across the private, public, and not-for-profit sectors. Together with other overdue law reform, this robust and practical approach will achieve a stronger, fairer framework for protecting public interest whistleblowing in Australia.

3. The Final Design Principles were the culmination of extensive policy work and consultation around the need for a Whistleblower Protection Authority in Australia.
4. In November 2022, our organisations published *Protecting Australia's Whistleblowers: The Federal Roadmap (Appendix 2) (Roadmap)*. The Roadmap set out 12 critical areas of reform for whistleblower protections under federal law. The first area for reform identified was: 'Establish a Whistleblower Protection Authority.' This prioritisation was no accident – our organisations

believe that a whistleblower protection authority is the critical aspect of whistleblowing reform, as the centre-point of more holistic law reform. As the Roadmap explained:

Whistleblower protection is complex. Yet there is little institutional support for whistleblowers to navigate the protections available to them. Unlike other areas of workplace law, where the Fair Work Ombudsman or human rights commissions oversee and enforce employment and anti-discrimination rights, whistleblowers are left alone and unsupported. This can and must change, through institutional and practical reforms to make the protections in all whistleblowing laws actually work.

Much has been done under current laws to require public bodies and companies to implement protections through their own internal procedures. Agencies like the Commonwealth Ombudsman and Australian Securities and Investments Commission (ASIC) monitor for compliance with best practice policies. However, when internal procedures fail or an organisation turns on a whistleblower, there is no federal agency tasked with independent investigation of detrimental actions or enforcement of the legal protections theoretically afforded by the law.

Research shows that a substantial proportion of whistleblowers suffer serious repercussions for doing so, of whom barely a fraction receive any protection ... This injustice has a chilling effect. At state level, only a handful of criminal prosecutions for reprisal have ever been attempted, and none have succeeded. Among the few claims for remedies or compensation brought under any federal law – including less than a dozen cases under the [Public Interest Disclosure Act] since 2013 – almost none have been successful.

First proposed by the Senate Select Committee on Public Interest Whistleblowing in 1994, a whistleblower protection authority was unanimously recommended by the landmark inquiry of the Parliamentary Joint Committee on Corporations and Financial Services into whistleblower protections across the corporate, public and not-for-profit sectors (2017). It was also promised by the Australian Labor Party in February 2019, and incorporated in the design of the crossbench's National Integrity Commission and Australian Federal Integrity Commission Bills in 2018 and 2020.

Transparency International (2018) also recommends an independent enforcement agency as part of national whistleblowing laws. Following the precedent of the US Office of Special Counsel and other North American regulators, the Dutch Whistleblowers Authority (Huis voor klokkenluiders) was established in 2016, with initiatives to establish an Office of the Whistleblower underway in the United Kingdom and elsewhere.

A whistleblower protection authority, whether as a standalone agency or an extension of an existing regulatory institution (such as the National Anti- Corruption Commission) would help implement all federal whistleblowing laws, by:

- Being a source of practical guidance and support for whistleblowers;*
- Assisting agencies, companies and regulatory bodies with coordination and management of disclosures (see ‘no wrong doors’ below);*
- Promoting best-practice whistleblowing policies and procedures in collaboration with existing oversight agencies (e.g. the Commonwealth Ombudsman and ASIC);*
- Investigating alleged detrimental action and recommending remedies;*
- Supporting enforcement litigation in strategic cases where whistleblowers deserve remedies in the Fair Work Commission or federal courts; and*
- Administering a rewards scheme for whistleblowers, also unanimously recommended by the 2017 Parliamentary Joint Committee.*

For lawyers and other stakeholders to play their role in ensuring whistleblowers can access their rights, specialist independent legal support is also crucial. Whistleblower protections have gained more use in the USA, and elsewhere, in part because a dedicated ecosystem of lawyers has developed to help make the rights real. Through funding for legal support for whistleblowers, as well as an effective rewards scheme, a whistleblower protection authority will encourage ‘professionalisation’ of whistleblowing supports and help redress the imbalance in power between well-resourced

- 5.** In February 2024, building on the Roadmap, our organisations then published *Making Australian Whistleblowing Laws Work: Draft Design Principles for a Whistleblower Protection Authority (Appendix 3) (The Draft Design Principles)*. In the Draft Design Principles, we observed:

Australia’s whistleblower protection laws are crucial for protecting public integrity, and ensuring all our decision-makers and institutions are upholding the highest standards of good governance and ethical behaviour.

These Draft Design Principles set out a detailed proposal for how to fill the biggest missing link in our federal whistleblower protection systems

– a dedicated, independent agency or office to actually enforce these vital protections, and make the systems work.

...

The Draft Design Principles for a Whistleblower Protection Authority were developed jointly in late 2023 by Transparency International Australia, the Human Rights Law Centre and Griffith University with input from distinguished experts with direct experience of all aspects of whistleblowing, including former senior public servants, whistleblowing hotline providers, expert practitioners from private law firms, and Transparency International Australia corporate members including representatives from mining, finance and professional services.

Most importantly, the Principles have had input and support from members of Transparency International Australia's national whistleblowing advisory group – with direct personal experience of bringing about positive change for integrity and accountability, through the often difficult process of blowing the whistle.

*These are **draft** design principles – we encourage input and discussion among policy, civil society, legal, regulatory and political stakeholders to arrive at the right final design principles for reform.*

In addition to the Attorney-General's ongoing second phase of reform to the PID Act, for the federal public sector and all public contractors, these principles are crucial for the Commonwealth Government's wider whistleblowing reform agenda. There are currently reform processes underway to improve protections for tax-related whistleblowers and whistleblowers in aged care, while the Corporations Act protections for all private sector whistleblowers will be reviewed in 2024. The time is right for discussion about how best to enforce comprehensive, consistent and accessible protections for all whistleblowers under Australian law.

6. We subsequently undertook extensive consultation on the Draft Design Principles, which ultimately led to the Final Design Principles.
7. We note and welcome the close alignment between the Draft Design Principles and the Bill, which was acknowledged by the Members of Parliament and Senators who introduced the Bill. We encourage the Committee to consider the Bill in light of the Final Design Principles, noting the extensive consultation from across the spectrum of stakeholders that is reflected in the Final Design Principles. While there are areas for improvement, as we note in our individual submissions, we commend the Bill as a significant step forward.
8. We encourage the Committee to recommend that it be passed, with some amendments. In the alternative, we encourage the Committee to recommend that the Government develop and introduce its own Bill which meets the Principles, and is informed by the lessons of this inquiry, which achieves the

same ultimate objectives in ensuring the support and protection of whistleblowers.

9. In that latter respect, we note the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services' inquiry 'Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry', which was delivered in November last year. As the Government is yet to respond to that inquiry, which recommended greater support and protection for whistleblowers, including a Whistleblower Protection Authority, the Government's response in that respect, and this inquiry, can together play a useful role in coordinating the next steps in this area of important policy evolution.

10. We would be pleased to provide further assistance to the Committee.

Kind regards,

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