

# **JOINT PRESS RELEASE BY AUSTRALIAN WHISTLEBLOWER ORGANISATIONS, WBA & WAG**

## **THE RUDD GOVERNMENT TURNS ON WHISTLEBLOWERS.**

Whistleblowers throughout Australia oppose any assignment of the responsibility for the protection of whistleblowers to the Office of the Commonwealth Ombudsman.

The leaders of both Whistleblower associations in Australia, Whistleblowers Australia and Whistleblowers Action Group, have all condemned the Rudd Government's response to the recommendations of the Dreyfus Inquiry into Whistleblowing.

Secretary of Whistleblowers Australia, Cynthia Kardell, described the Government's response, announced last Wednesday, as 'an appalling loss of an opportunity for genuine reform'.

Kardell explained: 'The Federal Government historically has provided the lead in Australia for reform of the justice system, and they had the recommendation and the opportunity to do that again with whistleblower protection. Whistleblowers do not get protection from investigation bodies, like the Ombudsman, who lose interest in us as soon as we disclose to them our information.

The Dreyfus Committee came to that realization. The Committee did not recommend a Whistleblowers Protection Body, but Recommendation 13 did separate the responsibility for protecting whistleblowers from the responsibility for investigation of the wrongdoing disclosed by whistleblowers. That was the reform unmatched by any State Government.

By rejecting Recommendation 13, Rudd's bill now will be like every other bill in Australia, it will be called a 'Whistleblowers Protection Bill' but it will fail to protect whistleblowers'.

The President of Whistleblowers Action Group, solicitor Gordon Harris, has described the turn against the whistleblower by the Rudd Government as a 'sell out'.

'Separation of the protection function from the investigation function is in the Australian Standard on Whistleblower Protection. Rudd can not honestly claim that the legislation is 'best practice' if it does not comply with Australian Standards. That standard requires the separation of the Investigation body from the Whistleblower protection body – yet the Government has ignored that nationally required standard without offering any explanation.

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Harris was especially critical of the record by the Commonwealth Ombudsman in protecting whistleblowers. 'The Ombudsman already has a role in protecting Defence Whistleblowers, and it is failing them totally. Our Group is currently assisting the family of one Defence Whistleblower to gain an investigation into the performance by the Commonwealth Ombudsman in failing to protect that Defence whistleblower.

Expulsions of defence personnel from their place of duty, without any process, were alleged to the Ombudsman's Office well before the expulsions that occurred on HMAS Success, now before a public inquiry. Defence whistleblowers should be able to get justice in the Defence Force from the Ombudsman acting in its Defence Force role. Defence whistleblowers should not have to rely on their complaints getting into the public media to get an inquiry. The Ombudsman's Office has been lauding the Defence complaint system to other government departments, in spite of Defence's appalling record in the treatment of whistleblowers. That is the track record that the Ombudsman has to date with protecting whistleblowers, and its record could not be worse'.

'The Ombudsman's Office only investigates one in four of the complaints that it receives', Harris added, 'and it sends the rest back to the Department against whom the complaint was made. The public service whistleblower, who obtains no satisfaction within the agency, and applies for the 'last chance' review by the Ombudsman, suddenly finds that their disclosures, and the fact that they have made a disclosure outside the public service agency, has been referred back to the agency.'

'Whistleblowers see that as a 'sell out', a betrayal of them to the wrongdoers. The Ombudsman's Office has lost its way, and has little credibility as an investigation body let alone as a body with sufficient integrity to protect whistleblowers', Harris stated.

Peter Bennett, President of Whistleblowers Australia, finds the whole situation saddening: 'Yes, the Commonwealth Government now has legislation where it had no legislation before. And yes, the provisions regarding disclosures of wrongdoing are progressive in some respects – making 'the public interest' a defence against prosecution is one positive reform. But if there is no protection for whistleblowers, the whole initiative is undermined. The Government response is a major disappointment'.

The Secretary of Whistleblowers Action Group explains it another way. 'The Commonwealth Ombudsman's Office is in a downwards spiral, and whistleblowers have no wish to be sucked into that vortex. The more complaints that the Office of Ombudsman ignores, the more emboldened the agencies become, the more that wrongdoing becomes systemic and entrenched. The available research reports that the Office of Ombudsman has now only half the productivity that it has had under past regimes. Public Service whistleblowers only cause embarrassment to that Office, because their disclosures evidence the failures of that Office to perform its original role'.

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