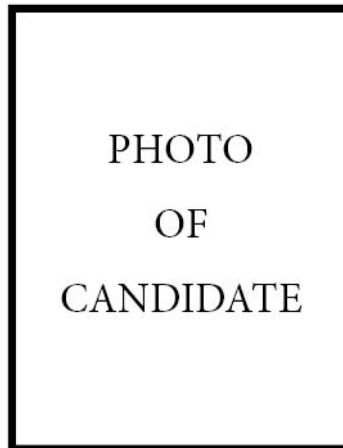


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GREG McMAHON

**INDEPENDENT SENATE CANDIDATE for QUEENSLAND
FEDERAL ELECTION - 2 JULY 2016**

Why Australia needs whistleblower protection legislation

In addition to protecting whistleblowers against retribution, the establishment of a Whistleblower Protection Agency in Australia would significantly address some of the unsatisfactory responses of the bodies and agencies obliged to investigate disclosures made by whistleblowers, Queensland Senate candidate, Greg McMahon, said today.

"This is an issue that requires specific attention in legislation," Mr McMahon said.

Mr McMahon said some of the unsatisfactory responses that have been used against whistleblowers by watchdog bodies include:

1. Referral of complaints against agencies back to the agencies themselves, and then allowing the agencies involved to breach standards of reasonable procedure in their conflicted investigations;
2. Switching complaints: investigating disclosures that were not made instead of the disclosures that were made;
3. Using rogue legal constructs, interpretations of legislation and of standards of procedure that are unreasonable interpretations, not supported by legal precedents nor by the intent of laws, regulations and documented practices;
4. Disposing of or destroying evidence;
5. Excusing wrongdoing by labelling it as 'technical' or 'good faith' wrongdoing;
6. Refusing to give reasons for decisions, forcing any appeal to be undertaken without any knowledge of the basis for the decision under appeal;
7. Denying the status quo to remain in place until matters are investigated, or adversely changing the circumstances of the whistleblower, and then making a declaration of

- recognised whistleblowing, such that the 'status quo' is regarded to be the adverse circumstances;
8. Failing to investigate, or delaying an investigation until employment termination is effected, and then terminating the investigation because the whistleblower is no longer a public servant;
 9. Failing to investigate fairly by appointing a person with a conflict of interest in the matter;
 10. Failing to interview witnesses;
 11. Wilful blindness, by not referring to the document/s that contain the evidence of the wrongdoing;
 12. The refusal to act, based on a belief that public servants would never behave in the way alleged;
 13. The 'Reading-for-purpose' claim, meaning that a watchdog can only read a document for one purpose, and that prevents the watchdog from recognising any other indications raised by that document outside of the purpose for which the document was read.

Mr McMahon also said whistleblowers were concerned about situations in which two or more watchdogs cooperated to frustrate investigation of disclosed wrongdoing.

"A common example," he said, "is where one watchdog authority refuses to investigate a disclosure claiming that the investigation is the responsibility of a second authority, and the second authority refuses to investigate, claiming that the first watchdog has the responsibility."

Mr McMahon said whistleblower protection legislation needed to be developed to create offences and penalties for those within agencies and investigation watchdogs who acted to unreasonably frustrate the implementation of whistleblower protection programs or breached established procedures for the treatment of whistleblowers, and for the investigation of their disclosures.

"Further, any attempts by government to frustrate a newly established Whistleblower Protection Body by underfunding the body need to be prevented by legislation," Mr McMahon said.

"Funding of the Whistleblower Protection Body needs to be drawn from the budgets of the agencies of government on a two-tier basis ... a basic contribution by all agencies proportional to agency size, and a second fee for workload contribution from those agencies causing use of the Whistleblower Protection Body's resources.

"This will provide a financial incentive for agencies to properly and quickly address whistleblower disclosures and protection issues," Mr McMahon said.

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