

## **Joint Civil Society Submission – Public Interest Disclosure and Other Legislation Amendment (Whistleblower Protections) Bill 2025**

We, the undersigned civil society organisations, welcome the Albanese Government’s commitment to progressing reform to federal whistleblowing laws. Whistleblowers make Australia a better place, and whistleblower protections are a vital part of Australia’s transparency and accountability infrastructure. The Public Interest Disclosure and Other Legislation Amendment (Whistleblower Protections) Bill 2025 (the **Bill**) can go a significant way towards improving whistleblower protections for public servants.

However, in our view, the proposed reforms to the *Public Interest Disclosure Act 2013* (Cth) (**PID Act**) do not yet offer improvements at the level needed to bring about an effective and credible regime, in which whistleblowers and the public can have confidence. The Albanese Government is currently presented with a generational opportunity to ensure Australia has best practice whistleblower protection laws, underpinned by robust oversight, enforcement and support functions. The Bill in its present form does not sufficiently achieve those objectives.

Our organisations support the following changes to the Bill to ensure this reform can fully achieve its purpose.

### **An Effective Whistleblower Ombudsman**

1. The Whistleblower Ombudsman should be established as an independent whistleblower protection office, within the Commonwealth Ombudsman if necessary, but with independent statutory functions and resourcing to ensure effectiveness and prevent conflicts with other functions. It should have expanded enforcement functions to ensure whistleblower protections work in practice.

### **Support for Whistleblowers**

2. The Whistleblower Ombudsman should have the function of facilitating support schemes for whistleblowers, including legal support and psychological support, provided by third party operators. The Whistleblower Ombudsman should be funded to operate these schemes. This would bring the Commonwealth into line with pilot schemes being operated by the New South Wales (**NSW**) Ombudsman.

### **Making ‘No Wrong Doors’ Work**

3. The Whistleblower Ombudsman should have additional functions to ensure the ‘no wrong doors’ approach proposed by the Bill works in practice. The Ombudsman should have a proactive, real-time referral, monitoring and assistance role – rather than the proposed, largely reactive functions. The *PID Act* also needs to be fully extended to parliamentary staff, as recommended by the Australian Human Rights Commission’s *Set the Standard* report.

### **Seamless Protection and Harmonisation**

4. While *PID Act* reform is an important start, the Albanese Government should also articulate a pathway towards harmonising and simplifying *all* of the nine

distinct federal whistleblower protection laws, as has been twice recommended by the Parliamentary Joint Committee on Corporations and Financial Services. Otherwise, reforming the *PID Act* in isolation will only entrench the fragmentation and inconsistency across the whistleblowing landscape, increasing legal and compliance costs, exacerbating injustice and deterring whistleblowers. The Whistleblower Ombudsman should be empowered to oversee and enforce any federal whistleblowing law where relevant to the public sector, including, for example, the *Corporations Act 2001* (Cth), which applies to Commonwealth corporations and contracted service providers.

### **Immunity for Preparatory Conduct**

5. The Bill should provide protection for preparatory or other conduct that is reasonable in association with the act of internal or external disclosure, to address the issues that arose in the case of *Boyle v Commonwealth Director of Public Prosecutions*. This would bring Australia into line with equivalent jurisdictions including the European Union, United Kingdom and United States.

### **Accessible Remedies**

6. The legal thresholds for entitlement to compensation and other remedies for detrimental acts/omissions should be separated from the onerous criminal-style thresholds contained in the current definition of ‘reprisal’. Presently, and unchanged in the Bill, a whistleblower can only access remedies if a respondent’s conscious belief or suspicion about the disclosure was a positive ‘reason’ for the detrimental act or omission – ruling out remedies for damage caused by unidentified persons, through negligence, or through a failure to provide support or a safe work environment.

### **Enforceable Positive Duty to Protect**

7. The ‘in principle’ duty to protect whistleblowers, added to the *PID Act* in 2023, should be made enforceable against agencies that fail to adequately prevent detriment to whistleblowers. Individual whistleblowers and the Whistleblower Ombudsman should be empowered to seek remedies where a failure to fulfil the duty results in harm. This would bring the *PID Act* into line with federal protections for private sector and union whistleblowers, and NSW whistleblower protections.

### **Protection for External and Emergency Disclosures**

8. Pathways for whistleblowers to publicly disclose wrongdoing (for example, to the media) where justified should be further simplified, including a fail-safe entitlement to argue a general public interest defence. The proposed role of the Whistleblower Ombudsman as a gatekeeper for public whistleblowing pathway is unworkable and should be revised.

We urge the Albanese Government and the Attorney-General to seize this moment to ensure that Australia has a public interest disclosure regime that properly meets the needs of the community and our strengthened national integrity system.

## **Signatories**

Human Rights Law Centre

Transparency International Australia

Griffith University School of Government and International Relations

Community and Public Sector Union

Human Rights Watch

Uniting Church in Australia, Synod of Victoria and Tasmania

Australian Democracy Network

Alliance for Journalists' Freedom

Whistleblower Justice Fund

The Australia Institute

Australian Conservation Foundation

Media, Entertainment & Arts Alliance

Environmental Justice Australia

Australian Lawyers Alliance