

INQUIRY INTO PROTECTION OF PUBLIC SECTOR WHISTLEBLOWER EMPLOYEES

Organisation: Ministry of Transport

Name: Mr Jim Glasson

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Mr Frank Terenzini, MP
Chair
Parliamentary Committee on the
Independent Commission Against Corruption
Parliament House
Macquarie Street
SYDNEY NSW 2000

14 MAY 2009

Dear Mr Terenzini

I refer to your letter dated 12 March 2009 attaching a discussion paper outlining major issues and areas of reform arising out of the Inquiry into the protection of public sector whistleblower employees.

The Ministry has reviewed the discussion paper and makes the following comments regarding the reform proposals:

Proposal 1 - Agreed. Suggest that it should be possible for an investigating agency to voluntarily report any protected disclosure to this oversight body (without breach of confidentiality) to allow the agency to demonstrate probity and transparency in its processes (similar to what is now done in respect of ICAC).

Proposal 2 - Agreed.

Proposal 3 - Agreed. Suggest however, that similar constraints to those which apply to an employee are applied in respect of a contractor. That is, that a protected disclosure cannot be made to avoid legitimate action pursuant to the relevant contract.

Proposal 4 - No comment on this proposal.

Proposal 5 - Agreed. Suggest that any complaint / disclosure should be in respect of conduct which will constitute misconduct or criminal behaviour, as with "corrupt conduct" under the Independent Commission Against Corruption Act 1988.

Proposal 6 - Agreed, but suggest that the approval of the Attorney General be obtained before any such action is commenced.

Proposal 7 - Not agreed. The Ministry's strong view is that there should not be any expectation of financial gain on the part of a complainant. Such a potential could motivate the making of unwarranted disclosures.

Proposal 8 - Agreed.

Proposal 9 - Agreed.

Proposal 10 - Agreed, subject to usual proofs being required.

Proposal 11 - Agreed.

Proposal 12 - Agreed.

Proposal 13 - Agreed.

Proposal 14 - Agreed.

Proposal 15 - Agreed. Suggest that any report back should be limited to general terms of action taken and it should be possible in very serious matters that no report back is made to a complainant. In such cases a report could possibly be made to the Ombudsman instead.

Proposal 16 - Agreed, but with serious reservations about reporting 'outcomes' without some qualification in the terms. It would in my view be preferable that details of outcome be reported to the Ombudsman.

Thank you for providing the opportunity to comment.

Yours sincerely

A handwritten signature in black ink, appearing to read "J. Glasson".

Jim Glasson
Director General