Dreyfus has work to do to get whistleblower protection right

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SOMETIMES the best reforms take time to brew.

Whistleblower protection for federal public servants has taken nearly 20 years.

A Liberal-led Senate committee of 1994 first recommended comprehensive legislation.

Fifteen years later, it was a House of Representatives committee led by Mark Dreyfus — now Attorney-General — which mapped out a bipartisan blueprint for how it should be done.

Like many initiatives, the Public Interest Disclosure Bill, finally introduced by the government in March, has had a rocky road. It was not consistent with the 2009 report, nor the government’s own policy positions.

But there is good reason for optimism. Dreyfus is committed to making the bill a best-practice piece of legislation. A House of Representatives committee is about to report on how it might be fixed, with a Senate committee following close behind.

Apart from ensuring the scheme is clear and workable for public servants, there are still some big challenges.

Coming on the heels of world-leading ACT legislation, developed by Labor and the Greens, the final bill will be the first national law to detail — hopefully simply — the situations where we expect a public servant to be able to go public with information about wrongdoing, and not be punished for it.

The bill still includes such high hurdles for this they will simply not work. These fail the best-practice test, when compared with the ACT or even Britain.

It’s also vital that these tests apply equally across all public agencies, even Defence, security and intelligence — and that special exemptions should apply only if the information’s release would actually pose a threat to valid security interests.

But all this public exposure should only be as a last resort, or in exceptional circumstances.

For example, where there are no safe internal reporting

Continued on Page 26

Dreyfus still has work to do

Continued from Page 25

channels, or those channels can’t or don’t, properly address the suspected wrongdoing.

To make this work, the bill will also need clearer obligations on agencies to recognise, support and protect whistleblowers in the first instance.

And to be taken seriously, it will also need stronger and clearer powers for the Ombudsman and Inspector-General of Intelligence and Security to monitor, fill the gaps, and investigate for themselves whether agencies have handled whistleblowers properly where agencies are too close to the problem to solve things alone.

There is public support for these. Research led by Griffith University last year, with the University of Melbourne, shows 81 per cent of Australian adults believe it is more important to support and protect people for revealing serious wrongdoing than to punish people for revealing such information. These are the real-world tests for the legislation.

Previous legislation like the ACT’s, Britain’s, and the federal private member’s bill introduced by Andrew Wilkie just last October, show it can be done.

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