



**PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL
SERVICES**

Corrigendum

Whistleblower Protections

Correction to Chapter 11, pages 138-139

Currently reads:

Recommendation 11.1

11.58 The committee recommends that a Whistleblowing Protection Act include a reward system and that when imposing a penalty against a wrongdoer, the Whistleblower Protection Authority be required to allocate a 'reward' to any relevant whistleblower to be a proportion of any penalty imposed against the whistleblower's employer in relation to matters raised by the whistleblower or uncovered as a result of an investigation instigated from the whistleblowing.

Recommendation 11.2

11.59 The committee recommends that such a reward should be required to be determined by the Court (or other body) imposing the penalty within a legislated range of percentages, where the specific percentage allocated will be determined by the Court (or other body imposing the penalty) taking into account stated relevant factors, such as:

- the degree to which the whistleblower's information led to the imposition of the penalty;
- the timeliness with which the disclosure was made;
- whether there was an appropriate and accessible internal whistleblowing procedure within the company that the whistleblower felt comfortable to access without reprisal;
- whether the whistleblower disclosed the protected matter to the media without disclosing the matter to an Australian law enforcement agency, or did, but did not provide the agency with adequate time to investigate the issue before disclosing to the media;
- whether the whistleblower received any compensation for adverse action taken against them by their employer (as well as any stipend provided by the Whistleblower Protection Authority); and

- any involvement by the whistleblower in the conduct for which the penalty was imposed, noting that immunity from prosecution, seeking a reduced penalty against the whistleblower etc. is dealt with by separate processes and that a reward would be regarded as a proceed of crime, if the whistleblower had been involved in criminal conduct (i.e. immunity or reduced penalty, not the reward is the benefit and incentive).

Amended to read:

Recommendation 11.1

11.58 The committee recommends that following the imposition of a penalty against a wrongdoer by a Court (or other body that may impose such a penalty), a whistleblower protection body (such as that recommended in Chapter 12) or prescribed law enforcement agencies may give a ‘reward’ to any relevant whistleblower.

Recommendation 11.2

11.59 The committee recommends that such a reward should be determined within such body’s absolute discretion within a legislated range of percentages of the penalty imposed by the Court (or other body imposing the penalty) against the whistleblower’s employer (or principal) in relation to the matters raised by the whistleblower or uncovered as a result of an investigation instigated from the whistleblowing and where the specific percentage allocated will be determined by the body taking into account stated relevant factors, such as:

- the degree to which the whistleblower’s information led to the imposition of the penalty;
- the timeliness with which the disclosure was made;
- whether there was an appropriate and accessible internal whistleblowing procedure within the company that the whistleblower felt comfortable to access without reprisal;
- whether the whistleblower disclosed the protected matter to the media without disclosing the matter to an Australian law enforcement agency or did, but did not provide the agency with adequate time to investigate the issue before disclosing to the media;
- whether adverse action was taken against the whistleblower by their employer;
- whether the whistleblower received any penalty or exemplary damages (but not compensation) in connection to any adverse action connected with the disclosure; and
- any involvement by the whistleblower in the conduct for which the penalty was imposed, noting that immunity from prosecution, seeking a reduced penalty against the whistleblower etc. is dealt with by separate processes and that a reward would be regarded as a proceed of crime, if

the whistleblower had been involved in criminal conduct (i.e. immunity or reduced penalty, not the reward is the benefit and incentive).

Correction to Chapter 12, page 159

Currently reads:

Recommendation 12.2

12.85 The committee recommends that where a whistleblower is the subject of reprisals from their current employer, or a subsequent employer/principal due to their whistleblowing, the Whistleblower Protection Authority be authorised, after consulting with relevant law enforcement agencies to which the conduct relates, to pay a replacement wage commensurate to the whistleblower's current salary as an advance of reasonably projected compensation until the resolution of any compensation or adverse action claim brought by the whistleblower (where such stipend payment would be repaid to the Whistleblower Protection Authority from such compensation once awarded).

Amended to read:

Recommendation 12.2

12.85 The committee recommends that where a whistleblower is the subject of reprisals from their current employer, or a subsequent employer/principal due to their whistleblowing, the Whistleblower Protection Authority be authorized, after consulting with relevant law enforcement agencies to which the conduct relates, to pay a replacement wage commensurate to the whistleblower's current salary as an advance of reasonably projected compensation until the resolution of any compensation or adverse action claim brought by the whistleblower (where such advance payment would be repaid to the Whistleblower Protection Authority from such compensation if awarded).

**Mr Steve Irons MP
Chair**