

## National Campaign Headquarters

### Transparency International Australia: pro-integrity and anti-corruption priorities for an incoming national government

#### 1. Strengthen Commonwealth Parliamentary integrity, for example by:

- **Establishing a joint Parliamentary Committee to develop a legislated code, or codes, of ethics or conduct for Parliamentarians.**
- **Placing the present Ministerial Code of Ethics in legislation.**
- **Establishing within 12 months a Parliamentary Integrity Commissioner, supervised by the Privileges Committees from both houses to:**
  - **Provide advice, administration and reporting on parliamentary entitlements to report to the Parliament.**
  - **Investigate and make recommendations to the Privileges Committees on individual investigations, to provide advice to parliamentarians on ethical issues; and**
  - **Uphold the Parliamentary Code of Conduct and to control and maintain the Government's lobbyists register.**

Federal Labor has introduced significant reforms to support Parliamentary integrity. These reforms help to ensure the Australian people can have confidence in their elected representatives to govern Australia with honesty, integrity and accountability. Key reforms include:

- **Standards of Ministerial Ethics:** In 2007, the Government introduced new Standards of Ministerial Ethics, which hold Commonwealth Ministers to a high standard of conduct. The Standards are underpinned by the principle that Ministers and Parliamentary Secretaries must act with due regard for integrity, fairness, accountability, responsibility and the public interest. The Standards play an important role in ensuring corrupt behaviour is not tolerated at the most senior levels of national government.
- **Lobbying Code of Conduct and Register of Lobbyists:** In 2008, the Government introduced the Lobbying Code of Conduct and Register of Lobbyists to ensure that contact between lobbyists and Government representatives is conducted with transparency, integrity and honesty.
- **The Parliamentary Budget Office:** In 2012, the Government established the Parliamentary Budget Office (PBO) to provide the Parliament with independent and non-partisan analysis of the budget cycle, fiscal policy and the financial implications of policy proposals. The PBO is a separate Parliamentary Department, with an independent statutory office holder – the Parliamentary Budget Officer – responsible for leading and managing the Parliamentary Budget Office.
- **A Code of Conduct for Ministerial Staff:** In 2008 the Government established a Code of Conduct for Ministerial Staff. The Code includes obligations to behave honestly and with

integrity, to act with care and diligence, and to disclose and take reasonable steps to avoid any conflict of interests.

A re-elected Rudd Labor Government will continue to monitor the effectiveness of existing reforms and will also closely consider further measures designed to ensure that Parliamentarians subscribe to high standards of integrity and to improve the Parliament's standing in the eyes of Australians.

## **2. Strengthen oversight of non-criminal misconduct matters across all Commonwealth agencies, for example by:**

- **Establishing a statutory misconduct framework for the Commonwealth public sector covering all agencies and entities.**
- **Providing clearer statutory guidance on forms of misconduct which are best dealt with by Commonwealth agencies and entities themselves, and higher risk official misconduct (especially conduct involving higher corruption risk, eg, conflict of interest, identity fraud and abuse of power) which would be subject to immediate mandatory reporting to an appropriate, and common, independent statutory central agency.**
- **Legislating to provide this central agency with power to oversight the investigation of, and where necessary itself investigate, higher risk criminal and non-criminal official misconduct; set more rigorous standards for investigative responses; and monitor compliance with those standards; acting in cooperation with existing agencies.**
- **Providing this central agency with strengthened resources and coordination capability in respect of corruption-related misconduct intelligence, risk analysis, education and prevention, corruption resistance building, and public reporting.**

Federal Labor recognises the importance of oversight of non-criminal matters across Commonwealth agencies. Our approach ensures proper oversight of agencies to combat corruption and is based on a multi-agency model which vests specialised functions and responsibilities in a number of agencies. This distribution of responsibility is a great strength in Australia's approach to corruption — it creates a strong system of checks and balances.

There are currently several agencies with strong investigative powers which currently promote accountability and integrity at the Commonwealth level. The Auditor-General, as an independent officer of the Parliament, may review or examine any aspect of the operations of the Commonwealth public sector. The Ombudsman has the power to investigate administrative actions of Commonwealth agencies, either from a complaint or by own motion. Apparent breaches of the Australian Public Service Code of Conduct by a public servant can be investigated by the relevant agency head. The Public Service Commissioner has a similar role in respect to agency heads. Where biased or dishonest conduct may amount to an offence under Commonwealth law, the Australian Federal Police (AFP) has all necessary powers to investigate and, in doing so, acts independently. The Australian Commission for Law Enforcement Integrity (ACLEI) can investigate possible corrupt conduct in Australian Government agencies with law enforcement functions.

Federal Labor has recently made significant reforms to ACLEI to improve our ability to prevent, detect and respond to corruption. This includes a significant increase in the number of agencies that are now under the independent scrutiny of the ACLEI. From July 2013, staff from CrimTrac, the Australian Transaction Reports and Analysis Centre (AUSTRAC), and prescribed staff in the Department of Agriculture, Fisheries and Forestry (DAFF) came under the jurisdiction of ACLEI. The Government has also introduced targeted integrity testing for officers of the Australian Federal Police, the Crime Commission and Australian Customs and Border Protection (Customs). In particular reference to Customs, the Federal Government has established the Customs Reform Board to aggressively target corruption and oversee staged reform within Customs to improve its law enforcement capacity, its business operations and its integrity culture.

The Rudd Labor Government continues to work on the National Anti-Corruption Plan to bring integrity agencies together under a cohesive framework and strengthen the Federal Government's capacity to identify and address corruption risks. The Government has carried out extensive public consultation, as well as comprehensive whole-of-government consultation, in developing the Plan. The Government has given very careful consideration to the findings of this consultation process and is focused on developing a series of new measures designed to specifically address the vulnerabilities in the Commonwealth's anti-corruption framework identified during the consultation process, including the need for better coordination and governance structures to fight corruption at a federal level.

### **3. Strengthen the capacity to review and report on alleged failures in corruption prevention, for example by:**

- **Developing an independent standing capacity for education and prevention as well as systemic forensic investigation, review and reporting of prima facie failures in corruption prevention across all areas of Commonwealth employment and responsibility, including Ministers, judiciary and Members of Parliament.**

The Rudd Labor Government is committed to a strong integrity framework for government. The basis of that framework is the attitudes and behaviours of the individuals who work within it. For public servants, the attitudes and behaviours that define a professional public servant are articulated in the Australian Public Service Values. Recent amendments to the Public Service Act include replacing the previous 15 Australian Public Service Values with a shorter set of Values that are intended to be more meaningful, memorable and effective in driving changes. While the Values introduced in the primary legislation in 1999 have, on the whole, served the public service well to date, there have been criticisms. The old Values are long, difficult to remember and insufficiently focused on contemporary requirements.

The amendments also provide for stronger arrangements for handling misconduct — such as when false information is provided at recruitment. Agencies can also investigate misconduct by former employees if there is a public interest in doing so. The Australian Public Service Commissioner also has new powers, including power to evaluate whether agencies uphold the Values and Employment Principles, and whether their systems ensure compliance with the APS Code of Conduct, power to

investigate suspected breaches of the Code of Conduct by current and former APS employees and the ability to undertake 'special reviews' of any matter relating to an agency at the direction of the Prime Minister.

Federal Labor has established Standards of Ministerial Ethics, which hold Commonwealth Ministers to a high standard of conduct. The Standards are underpinned by the principle that Ministers and Parliamentary Secretaries must act with due regard for integrity, fairness, accountability, responsibility and the public interest. The Standards play an important role in ensuring corrupt behaviour is not tolerated at the most senior levels of national government. In addition, the Federal Government has put in place a Code of Conduct for Ministerial Staff. The Code includes obligations to behave honestly and with integrity, to act with care and diligence, and to disclose and take reasonable steps to avoid any conflict of interests.

Federal Labor taken measures to strengthen and protect the integrity of our judiciary. In 2012, the Federal Government enacted legislation to enhance public confidence in Australia's federal judicial system by improving the way in which complaints against federal judges are handled. The Judicial Misbehaviour and Incapacity Act 2012 and the Courts Legislation Amendment Act 2012 ensure complaints against federal judicial officers are handled fairly and transparently, while maintaining the constitutional independence of the judiciary. The legislation also enables Parliamentary Commissions to be established to investigate the most serious allegations, where a judge's misbehaviour or capacity may warrant their removal from office.

A re-elected Rudd Government will continue to consider ways to strengthen the capacity to review and report on alleged failures in corruption prevention at the Commonwealth level.

#### **4. Continue the momentum towards strong and effective national whistleblower protection laws, including by:**

- **Extending the recent Public Interest Disclosure Act 2013, or other equivalent legislation, to protect whistleblowers who disclose wrongdoing by Ministers, Members of Parliament, and federal judicial officers.**
- **Protecting staff of Commonwealth Members of Parliament if they blow the whistle on wrongdoing.**
- **Restricting the exclusion of intelligence agencies and intelligence information from the Public Interest Disclosure Act 2013 to that information whose publication would pose a direct and concrete risk to an identifiable intelligence, security, defence or law enforcement interest.**
- **Increasing funding to the Commonwealth Ombudsman to ensure effective implementation of the Public Interest Disclosure Act 2013.**
- **Completing a full review of Part 9.4AAA of the Corporations Act with a view to enacting comprehensive whistleblower protection legislation for employees and contractors in the private and civil society sectors.**

Following the Labor Government's passage of the Public Interest Disclosure Act, the Commonwealth is no longer the only Australian jurisdiction without dedicated legislation to facilitate the making of public interest disclosures or to protect those who make them.

This is an historic achievement of Federal Labor and one that will stand as a lasting example of what can be achieved when governments work together with civil society, including Transparency International, to produce significant reforms.

The Public Interest Disclosure Act provides a clear set of rules for agencies to respond to allegations of wrongdoing made by current and former public officials, and strengthens protections against victimisation and discrimination for those speaking out. The Act strikes the right balance to achieve a comprehensive and effective framework to ensure that disclosures of wrongdoing are properly investigated and dealt with and to ensure protection for public officials who make public interest disclosures. It will encourage a pro-disclosure culture, by facilitating disclosure and investigation of wrongdoing and maladministration in the Commonwealth public sector.

According to the Public Interest Disclosure Act, a review of the operation of the Act will be undertaken two years after the commencement of the Act. This review will be the appropriate time at which the above provisions should be considered.

#### **5. Introduce best practice anti-bribery laws and enforcement practice, for example by:**

- **Providing clear incentives for companies to encourage early and full co-operation and disclosure of suspected bribery.**
- **Reviewing and clarifying the foreign bribery provisions of the Criminal Code with a view to resolving doubts as to their application to all subsidiaries and intermediaries in the supply chain of Australian companies.**
- **Taking out the limited defence for 'facilitation payments'.**
- **Publishing a guide for corporations similar to the UK Guidance Statement with its 6 principles.**
- **Reviewing the technical hurdles to achieving successful prosecutions in foreign bribery cases.**
- **Initiating a discussion about the benefits of establishing a specialist government agency similar to the UK Serious Fraud Office.**

The Rudd Labor Government takes foreign bribery very seriously. Australia has strong laws to combat foreign bribery, and Federal Labor is continuously examining possible measures to improve Australia's anti-foreign bribery regime. In 2011 the Federal Government launched a public consultation paper on possible amendments to Australia's anti-foreign bribery regime. The paper sought the views of civil society, business and other stakeholders.

A re-elected Rudd Labor Government will give careful consideration to the different views on this issue and continue to engage closely with stakeholders in determining next steps.

**6. Reform the existing donation, disclosure and funding laws for political parties and election campaigns, for example by introducing legislation similar to the lapsed Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010:**

- **Set the donation disclosure threshold level to a flat rate of \$1,000, lowering it from the current threshold of \$11,500, applicable equally to all participants in the electoral process, including donors, registered political parties and candidates.**
- **Ban all anonymous donations except where the donation is \$50 or less.**
- **Ban foreign donations.**
- **Prevent donation-splitting, by no longer treating separate divisions of a political party as separate entities for the purposes of disclosing donations.**
- **Require disclosure of political donations and expenditure to be made within 8 weeks.**
- **Tie public election funding to actual election expenditure.**

The Government supports these reforms.

Labor has consistently argued for greater transparency in relation to political donations. On multiple occasions since 2008, Labor has sought to legislate to:

- reduce the disclosure threshold from the current \$12,400;
- ban donations of foreign property; and
- introduce a low cap on anonymous donations.

These efforts were opposed by the Coalition and repeatedly thwarted by minor parties in the Senate.

While the disclosure threshold legislated by the Howard Government is currently \$12,400 and rising, Labor's policy is that all donations over \$1,000 should be disclosed. Indeed, even though it is not required by law, Labor publicly discloses all donations it receives over \$1,000.

Moreover, unlike the Liberal Party, Labor does not accept donations from tobacco companies.

**7. Strengthen the disclosure requirements on lobbying, for example by legislation to:**

- **Regulate lobbyists and lobbying entities, including in the definition of entities required to register all industry peak bodies, charities and corporations that lobby on their own behalf.**
- **Have an independent body, eg, the Parliamentary Integrity Commissioner, maintain the Lobbyists Register.**
- **Develop a Commonwealth public sector-wide enforceable code about the conduct of meetings with lobbyists, the making of records of these meetings, and the making of records of telephone conversations.**
- **Require the Register to include real time (eg, weekly) disclosure of meetings between Ministers, departmental secretaries and lobbyists, identifying the lobbying**

**entity/lobbyist, the clients they represent and the policy issue or major decision about which representation is being made.**

- **Broaden the prohibition on former ministers and parliamentary secretaries from engaging in any lobbying activity relating to any matters they had official dealings with in their last 18 months in office to prohibit them lobbying on any matter, and extend this prohibition to former ministerial and parliamentary secretary staff and senior public sector executives.**

Federal Labor has already shown leadership in the regulation of lobbyists. It was Federal Labor that established the Lobbying Code of Conduct and Register of Lobbyists to ensure that contact between lobbyists and Government representatives is conducted with transparency, integrity and honesty.

A re-elected Rudd Labor Government will continue to consider measures to strengthen the disclosure requirements on lobbying, building the good work that has already been done.

#### **8. Strengthen FOI laws to enable the anti-corruption function of government to be adequately discharged, for example by:**

- **Bringing all government agencies and government-owned or largely government funded corporations or entities within the scope of the Act.**
- **Recognising as a relevant public interest that disclosure could reasonably be expected to reveal misconduct or negligent, improper or unlawful conduct.**
- **Qualifying the absolute exemptions in the Act by requiring consideration of any competing public interest in disclosure of corruption.**

The Rudd Labor Government remains committed to openness and access to government information, the principles which drove the Government's 2010 Freedom of Information (FOI) reforms. These reforms together constituted the biggest overhaul of Australia's Freedom of Information Act 1982 since its inception. Key reforms included establishing the Office of the Australian Information Commissioner and two new, independent office holders, the Australian Information Commissioner and the FOI Commissioner, establishing a single public interest test for many exemptions to FOI, which favours disclosure, abolishing application fees and reducing FOI charges, and reducing the 'open access period' for most Commonwealth records to give the public the right to access after 20 years, instead of 30 years. Thanks to these FOI reforms, public sector information is now increasingly regarded as a national resource that must be shared and made available for public purposes.

The Attorney-General, Mark Dreyfus MP QC, has tabled the report on freedom of information laws prepared by former senior public servant and diplomat Dr Allan Hawke AC. Dr Hawke's report follows his review of the operation of the Freedom of Information Act and the Australian Information Commissioner Act and the extent to which these and related laws provide an effective framework for access to government information. This is an important report which finds that recent changes to freedom of information law are broadly working well to improve transparency but it also identifies areas requiring fine-tuning for further reform. The report highlights the need to

ensure that the right of access to government-held information remains as comprehensive as possible. The report makes forty recommendations, covering a wide range of aspects of freedom of information law.

The Rudd Labor Government has been examining Dr Hawke's recommendations carefully and a re-elected Government will continue to give serious consideration to this issue and consult with stakeholders before providing a formal response.

#### **9. Strengthening Australia's laws and practices in addressing safe havens and illicit financial flows, for example by:**

- **Taking action against the stock of foreign corruption proceeds currently held in Australia and giving higher priority to preventing Australia from being a haven for the proceeds of foreign corruption.**
- **Raising the level of co-operation with other countries in the seizure of the proceeds of corruption particularly those in the Pacific region.**
- **Improving the implementation and enforcement of legislation and treaty powers and obligations relating to the seizure of the proceeds of corruption particularly in relation to financial institutions.**
- **Ordering and publishing an independent assessment of the performance of the Commonwealth agencies concerned with implementation and enforcement of such legislation and international treaty powers and obligations.**
- **Refusing entry to Australia by known corrupt foreign nationals.**

The Rudd Labor Government is committed to combating corruption and ensuring that Australia is not a safe haven for the proceeds of corruption. Australia has a robust framework to deter and detect money laundering. Banks and other regulated businesses are required to have appropriate controls to counter the money laundering risk posed by corrupt foreign officials and politicians. Australian authorities continue to work with banks and other regulated businesses to raise awareness of the risks posed by corrupt foreign officials and politicians and improve compliance with their anti-money laundering obligations.

Consistent with its commitment to tackle corruption domestically and overseas, Federal Labor supports the work of the Government in Papua New Guinea (PNG) to address corruption and stands ready to continue providing assistance to strengthen PNG's capacity to combat corruption. Australia's law enforcement agencies work closely and cooperatively with PNG authorities on a range of complex issues relating to anti-corruption. For example, in May 2013 the Australian Government announced Phase III of the Australia-PNG Policing Partnership for increased policing support. Foreign Minister Bob Carr has discussed with Foreign Minister Rimbin Pato, plans for further strengthening this cooperation by building PNG police capacity and supporting PNG's Fraud and Anti-Corruption Directorate. Australia also provides ongoing training and mentoring on anti-money laundering and proceeds of crime to PNG law and justice officials. This includes work with the Proceeds of Crime Unit and PNG prosecutors to increase capacity to pursue the proceeds of corruption under PNG law, providing case-specific mentoring on PNG proceeds of crime matters,

and working with PNG Department of Justice to jointly review the PNG Proceeds of Crime Act to strengthen PNG's capacity to detect and recover proceeds of crime.

If re-elected, a Rudd Labor Government will continue to work domestically, and with our partners in the region, to create a hostile environment to the flow of illicit funds to Australia.

**10. Supporting ongoing independent and expert monitoring of the strength and effectiveness of Australia's national integrity systems, for example by:**

- **Committing to support and participate in Australia's second National Integrity System Assessment, Transparency International's primary diagnostic assessment on the quality and effectiveness of integrity and anti-corruption policies.**
- **Contributing funding to a second National Integrity System Assessment.**
- **Undertaking to respond to and, where possible, implement the recommendations of a second National Integrity System Assessment.**

If re-elected, the Rudd Labor Government will consider its support of the National Integrity System Assessment, building on the work that was done by Transparency International in 2005.

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