

# Protecting Australia's Whistleblowers

## The Federal Roadmap

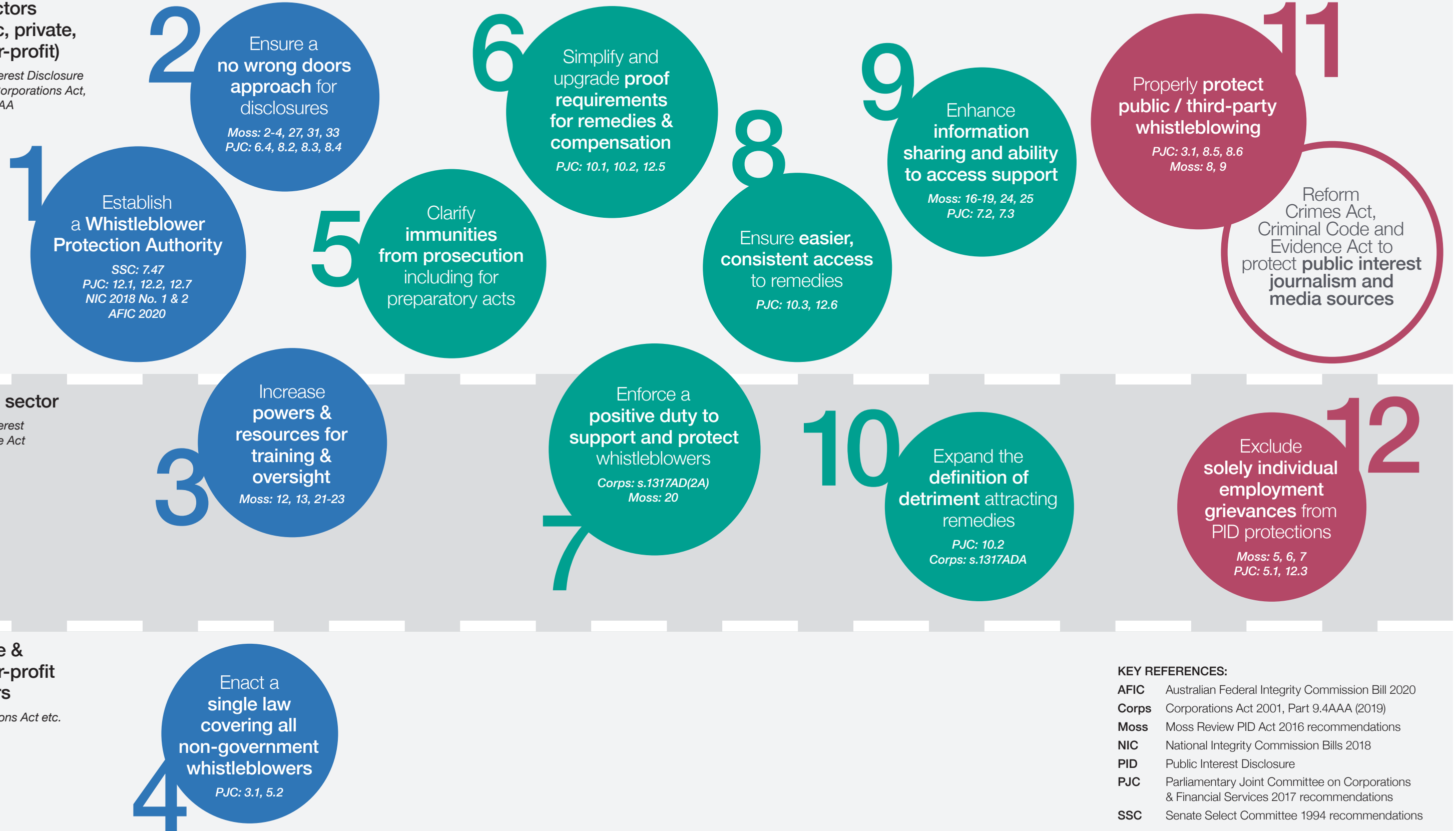
### Effective administration and enforcement

### Best practice protections

### Workable thresholds and limitations

#### All sectors (public, private, not-for-profit)

Public Interest Disclosure Act and Corporations Act, Part 9.4AAA



#### Public sector

Public Interest Disclosure Act

#### Private & not-for-profit sectors

Corporations Act etc.

#### KEY REFERENCES:

<b>AFIC</b>	Australian Federal Integrity Commission Bill 2020
<b>Corps</b>	Corporations Act 2001, Part 9.4AAA (2019)
<b>Moss</b>	Moss Review PID Act 2016 recommendations
<b>NIC</b>	National Integrity Commission Bills 2018
<b>PID</b>	Public Interest Disclosure
<b>PJC</b>	Parliamentary Joint Committee on Corporations & Financial Services 2017 recommendations
<b>SSC</b>	Senate Select Committee 1994 recommendations



# How Australian whistleblowing remedies compare

## KEY:

### Grounds for seeking remedies:

- A** Detriment was 'because' or 'due to the fact of' the disclosure (broad)
- B** Detriment was caused 'in the belief' of a disclosure (subjective element)
- C** 'Reason' for detrimental conduct must be or include the 'belief or suspicion' of the disclosure (subjective element required) (narrow)

### Scope of detriment:

- 1** Remedies for damage flowing from failure to fulfil a duty to prevent detriment (broad)
- 2** Remedies for detrimental conduct including acts *and* omissions
- 3** Remedies for detrimental actions 'taken' due to disclosure (implied direct reprisals only)
- 4** Remedies for 'victimisation' only

### Additional elements:

- Burden of proof reverses to respondent
- Constructive knowledge allowed for ('should have known')
- Disclosure must be at least a 'substantial' reason for the detriment
- 'Good faith' required, no anonymity allowed

