

**Submission
No 3**

REVIEW OF THE INDEPENDENT COMPLAINTS OFFICER SYSTEM (2023)

Organisation: Anti-Discrimination NSW

Date Received: 27 October 2023



Anti-Discrimination
New South Wales

Mr Alex Greenwich MP
Chair
Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics
NSW Parliament House
6 Macquarie Street
Sydney NSW 2000

BY EMAIL: Ethics.Committee@parliament.nsw.gov.au

Dear Mr Greenwich MP,

RE: Review of the Independent Complaints Officer System

Thank you for your kind invitation to make a submission to the Legislative Assembly's Standing Committee on Parliamentary Privilege and Ethics on its review of the Independent Complaints Officer (**ICO**) system, under which the ICO can investigate alleged breaches of the Members' Code of Conduct and allegations of bullying, harassment and inappropriate behaviour by members (not related to conduct in proceedings of the Legislative Council or Legislative Assembly).

I note the anniversary of Ms Rose Webb's appointment as ICO in August 2022 and welcome the Committee's review of the operation, confidentiality, timeliness of the ICO system, together with those provisions relating to a complainant's standing and to retrospectivity under the ICO system. I also note that the Committee will consider possible pathways for the ICO to refer complaints received under the protocol.

In my role as President of the Anti-Discrimination Board of NSW, and together with my staff at Anti-Discrimination NSW (**ADNSW**), I carry out functions under the *Anti-Discrimination Act 1977* (**ADA**) which makes it unlawful to discriminate in specified areas of public life against a person on grounds which include their sex, race, age, disability, homosexuality, marital or domestic status, transgender status, and carer's responsibilities. Sexual harassment, as well as vilification on the grounds of race, transgender status, homosexuality and HIV/AIDS is also unlawful.

ADNSW works to eliminate discrimination in NSW by:

- Answering enquiries
- Resolving complaints
- Raising awareness about discrimination and its impacts
- Managing applications for exemptions from the ADA
- Advising the government about discrimination issues

Relevantly to the Committee's consideration of possible pathways for the ICO to refer complaints received under the protocol, the ADA make sexual harassment unlawful in a wide range of workplaces, including in either House of Parliament. Under the provisions workers including employees, members of Parliament and other workplace participants are all covered by the ADA's protections.

Complaints can be made under the ADA by the aggrieved person or, with their consent, by another person on their behalf. If a complaint is accepted for investigation, Anti-Discrimination NSW will conduct a confidential and impartial investigation and attempt to facilitate a resolution between the parties. Matters that are not resolved may be withdrawn, declined, or referred to the NSW Civil and Administrative Tribunal for hearing. Information about the complaints process and examples of conciliated outcomes can be found on our website www.antidiscrimination.nsw.gov.au. As the State's anti-discrimination authority, I consider ADNSW would be an appropriate pathway for the Committee to consider for referral of complaints alleging sexual harassment.

ADNSW is not in a position to comment on the remainder of the Committee's terms of reference as they relate to the operation, confidentiality and timeliness of the ICO system, nor the provisions relating to standing and retrospectivity, as we have not so far been involved in consultations or discussions about the ICO system. We would of course welcome any opportunities to work with the ICO and with Parliament to prevent and respond to instances of discrimination and harassment in Parliamentary workplaces.

Thank you again for the opportunity to provide input to the Committee's review of the ICO system.

Yours sincerely,



Helen McKenzie
President
Anti-Discrimination Board of NSW
27 October 2023