

**INQUIRY INTO PROPOSAL FOR A COMPLIANCE
OFFICER FOR THE NSW PARLIAMENT**

Name: NSW Ombudsman

Date Received: 3 February 2021

29 January 2021

The Hon Peter Primrose, MLC
Chair, Privileges Committee
NSW Parliament
Parliament House
SYDNEY NSW 2000

By email: privilege@parliament.nsw.gov.au

Dear Mr Primrose

Inquiry into proposed Compliance Officer for the NSW Parliament

Thank you for the opportunity to make a submission about the proposed establishment of a Compliance Officer for the NSW Parliament.

We note the following for the Committee's consideration:

- (a) The conduct of Parliament and its members and officers are excluded from the Ombudsman's ordinary complaints-handling and investigations jurisdiction by Schedule 1 of the *Ombudsman Act 1974*. Our jurisdiction covers most other NSW public authorities and public officials. Once the new Compliance Officer is established, we would be pleased to meet with the office-holder to ensure that appropriate arrangements are put in place to ensure that any misdirected complaints (received either by them or by us) are able to be efficiently redirected or referred between us.
- (b) Parliament (including the Department of Parliamentary Services, the Department of the Legislative Assembly and the Department of the Legislative Council, as well as Members of Parliament and their staff) comes within the remit of the public interest disclosures (PID) scheme established by the *Public Interest Disclosures Act 1994* (PID Act).

The NSW Ombudsman is the lead oversight agency for that Act, and our functions include the receipt of PIDs, the provision of information, assistance and training to public authorities, and the monitoring and audit of agencies' compliance with requirements under the PID Act.

As you may be aware PIDs can be made by 'public officials' about a range of workplace wrongdoing, including corrupt conduct, maladministration, and serious and substantial waste. It is therefore possible that a complaint to a Compliance Officer for the NSW Parliament might also constitute a PID. Given this possibility the Committee may wish to consider how the proposed role of Compliance Officer would fit with existing PID arrangements, and whether existing PID policies may need to be revised if the Compliance Officer role is established.

For example, some issues the Committee may wish to consider are:

- nomination of the Compliance Officer as a 'disclosure officer' under relevant PID policies,
- processes to ensure that the Compliance Officer properly assesses complaints to determine whether they are also PIDs, and
- in cases where a complaint is (or might be) a PID, arrangements to ensure that it is dealt with in compliance with the PID Act and expected standards of practice.

If a decision is made to establish a role of Compliance Officer for the NSW Parliament, our PID Unit is available to provide advice and guidance in relation to the above matters.

- (c) As you know, the NSW Ombudsman's Office has a depth of expertise in public sector complaint handling and investigations, and we would also be very pleased to provide any practical advice or assistance the Parliament or the proposed Compliance Officer may require when setting up the office and developing systems and processes.

If you have any questions in relation to this material, or would like further information please contact Kate Smithers, Executive Strategy Officer, on

Yours sincerely

Paul Miller
Acting NSW Ombudsman