



Community and Public Sector Union

Melissa Donnelly ♦ National Secretary

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Committee Secretary
Senate Finance and Public Administration Committees
PO Box 6100, Parliament House
Canberra ACT 2600

by email: fpa.sen@aph.gov.au

Dear Committee Secretary,

National Integrity (Parliamentary Standards) Bill 2019

As the primary union representing Members of Parliament Staff (staff) the Community and Public Sector Union (CPSU) is committed to providing a strong voice for our members in key public policy and political debates.

We welcome the opportunity to make a submission to *National Integrity (Parliamentary Standards) Bill 2019*. The CPSU is supportive of a national integrity commission and measures that improve trust in our public institutions, however, we have concerns about the proposed Bill proceeding in its current form and as a standalone piece of legislation.

Our concerns relate to the:

- Application of the code of conduct to Members of Parliament staff;
- Interactions with existing frameworks; and
- Privacy and confidentiality.

Furthermore, the CPSU notes that the Bill was previously moved as part of a package of Bills¹ to create a national integrity commission and it is unclear why this Bill was moved separately.

The code of conduct must distinguish between parliamentarians and their staff

The CPSU believes there needs to be a clear distinction between the responsibility of staff and parliamentarians in relation to a code of conduct. Parliamentarians are elected and have significantly greater power over decisions and actions than the staff working for them. While all people working in our parliamentary system, either elected or employed, should do so with integrity and transparency and understand standards and procedures, any code needs to reflect this difference. Within the code of conduct and how it would be applied, there also needs to be clearer distinctions between staff themselves as there are different levels of responsibility and control, for example, between a Chief of Staff and an Electorate Officer A or B.

¹ When referring to “package of Bills” we mean the National Integrity Commission Bill 2018 [Provisions], National Integrity (Parliamentary Standards) Bill 2018 [Provisions], and National Integrity Commission Bill 2018 (No. 2)

The CPSU has concerns about how relevant sections of Part 2 relate to staff, such as '(a) declare any actual or perceived conflict of interest, including when speaking or voting in parliamentary proceedings'. This clause is one of many clauses that are not relevant to staff.

There needs to be greater clarity about the ramifications if staff are found to not be compliant with this code of conduct and how that would apply to staff, as it is not defined. Rather than a single code of conduct applicable to both Members of Parliament and their staff, we recommend a consultation around the code of conduct for staff with staff.

Implementation of the Bill within existing frameworks

There are currently a range of measures in place such as the Independent Parliamentary Expenses Authority (IPEA) and ministerial codes, and agencies that currently have accountability and transparency roles such as the Commonwealth Ombudsman, Auditor General, Australian Public Service Commission, Australian Federal Police - Fraud Anticorruption Centre, Australian Criminal Intelligence Commission and State & Territory Anti-Corruption Agencies and international anti-corruption bodies such as the Australian Securities and Investments Commission, Australian Transaction Reports and Analysis Centre and Financial Action Task Force.

There needs to be clarity around how the creation of Parliamentary Integrity Commissioner and advisor will be distinct and how it will interact with what is currently already in place. Furthermore, if the aforementioned measures administered by the various agencies are inadequate in their current format it would be important to understand the pitfalls of those mechanisms as clarity is an important feature of ensuring our members safety so that they can purposefully adhere to the policies.

It is also not clear how the creation of the roles for the Parliamentary Integrity Advisor and Commissioner will work within the current parliamentary requirements such as the register of interests. There may be overlap with some of the roles that Independent Parliamentary Expenses Authority currently undertakes.

In our view, the proposed legislation should be passed with a range of other measures, including a national integrity commission. The existing patchwork of bodies monitoring these issues, particularly as they relate to parliamentarians, creates confusion and overlapping responsibilities. Passing one piece of legislation instead of a comprehensive package risks creating more confusion and overlap, rather than resolving these issues.

It is critical that we see no diminution of parliamentary privilege for parliamentarians and their staff. The protection is incredibly important for staff and it is unclear how this legislation will interact with parliamentary privilege.

Furthermore, the implementation of the code of conduct raises questions with the Commonwealth Members of Parliament Staff Enterprise Agreement and concerns that there is a possibility of retrospective changes to the terms and conditions of staff employment with the implementation of this code of conduct.

Whistleblowing protection

The separation of this Bill from the other related National Integrity Bills would see the proposed standards and code of conduct introduced without what CPSU members consider to be the much needed whistle blower protections that were proposed in the earlier package of Bills.

Privacy and confidentiality

While the Bill has assurances of incorporating safeguards to protect the right to privacy and reputation, there are concerns about confidentiality based on Clause 25. Clause 25 states a parliamentarian or leader of political party, or the Prime Minister can request advice. There needs to be clear safeguards that ensure confidentiality in the information that is sought, so it does not end up with another staff member of the respective parliamentarian or the party leader. The annual reporting mechanisms for the advisor and commissioner needs to ensure that cases must be de-identified which is not currently accounted for in this current iteration of the Bill.

Conclusion

The CPSU supports the establishment of National Integrity Commission. We have previously indicated our broad support for the model proposed in the package of Bills introduced in the last parliament to establish such a Commission, whilst advocating for some changes in the submissions we made at that time. However, we do not support this Bill in its current form and as a stand-alone piece of legislation. Instead we recommend that Parliament revisit the full package of Bills and that a code of conduct be developed with staff, rather than the framework for parliamentarians being simply applied to people working for them.

As the primary union representing Members of Parliament (Staff), we want to ensure our members are safe at work and that decisions that impact their work are made in consultation with them. Any legislation that impacts on their work, especially one that has such far reaching implications as this, should be designed in such a way as to allow our members to continue the good and vital work they do in supporting their respective parliamentarians in Australian communities. The CPSU would welcome the opportunity to work in consultation with Members and Parliamentary Services (MaPS), the Employee Consultative Group (ECG) and IPEA to ensure the best outcome for our members working for federal parliamentarians.

In closing, we also want to re-affirm the long held CPSU support for a federal integrity/anti-corruption body. Like other stakeholders in this area we believe this is long overdue, but that more work needs to be done to get the model right.

For further information in relation to the matters raised in this submission, please contact Osmond Chiu, Senior Policy and Research Officer, at

Yours sincerely

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NATIONAL SECRETARY