

# Chapter 1

## The Committee's Inquiry

### Establishment of the inquiry

1.1 On 27 June 2001, Senator Andrew Murray introduced into the Senate a Private Senator's Bill, entitled Public Interest Disclosure Bill 2001. On presenting this proposed legislation, he stated:

This Bill is based on one simple principle. That principle is that those who have the courage to speak out against corruption and impropriety deserve protection.<sup>1</sup>

1.2 The object of the legislation is to ensure that this principle is applied and observed throughout the Commonwealth public sector. The Bill intends to establish procedures to facilitate the making of public interest disclosure in the public sector, to protect persons who make an authorised public interest disclosure from reprisals, and to provide remedies if a person has suffered a detriment from an unlawful reprisal.

1.3 On 8 August 2001, the Senate adopted the recommendation of the Selection of Bills Committee that the Bill be referred to the Senate Finance and Public Administration Legislation Committee for report by 18 April 2002 to determine whether in its current form the Bill provides:

- credibility, that is, would instil confidence in those who need to use it that their disclosures will receive proper consideration and investigation;
- procedures that facilitate the correction of identified cases of maladministration and/or misconduct; and
- appropriate public accountability reporting of processes commenced under the proposed legislation.

1.4 The Bill lapsed with the issue of the writs on 8 October 2001 for the federal election which was held on 10 November. On 13 February 2002, after the commencement of the 40<sup>th</sup> Parliament, Senator Murray's Bill was restored to the Notice Paper. Subsequently, on 21 March the matter was re-referred to the Committee with a reporting date of 27 June 2002. On 25 June 2002 the Committee sought and obtained an extension of the reporting date to 26 September 2002.

### Conduct of the inquiry

1.5 In the previous Parliament the Committee advertised the inquiry in all Australian capital cities and in the *Weekend Australian* on Saturday, 1 September

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<sup>1</sup> Senator Andrew Murray, *Senate Hansard*, 27 June 2001, p. 25238.

2001, calling for submissions to be lodged with the Committee by 21 September. The Committee also wrote to all government ministers drawing attention to the inquiry and inviting submissions. In addition, the Committee advised various trade unions, academics, organisations and people interested in matters dealing with public interest disclosure about the inquiry.

## **Hearing and evidence**

1.6 The Committee received thirty-five submissions to the inquiry which are listed in **Appendix 1**. For the purpose of acquiring background information for the inquiry, the Committee also wrote to a selection of agencies inviting them to provide information about procedures under section 16 of the *Public Service Act 1999*. Sixteen agencies, listed in **Appendix 2**, supplied information to the inquiry.

1.7 The Committee held one public hearing in Parliament House, Canberra on 16 May 2002, at which representatives of key organisations with a particular interest in public interest disclosure gave evidence. The hearing took the form of a round table discussion. Witnesses who presented evidence before the Committee are listed in **Appendix 3**. Documents tabled during the public hearing are listed at **Appendix 4**.

1.8 Apart from the material contained in written submissions and in oral evidence presented to it, the Committee drew on information contained in reports from various committees of inquiry, from comments and articles by people directly involved with similar or related legislation, and from studies on public interest disclosure.

1.9 On 21 June 2002 the Minister Assisting the Prime Minister for the Public Service, the Hon Tony Abbott MP, announced that the Public Service and Merit Protection Commission (PSMPC) would be changing its name to the Australian Public Service Commission (APS Commission). As the proposed Bill was drafted, and the majority of the inquiry conducted, during the existence of the PSMPC the report retains its references to this entity.

## **Structure of the report**

1.10 The report consists of six chapters. Chapter two considers current public interest disclosure arrangements under section 16 of the *Public Service Act 1999*. In the remainder of the report the Committee examines the Bill, with chapters addressing:

- the purpose and scope of the Bill;
- who can receive and investigate a disclosure;
- procedures for investigating disclosures; and
- provisions relating to unlawful reprisals.

## **Acknowledgments**

1.11 The Committee is grateful to, and wishes to thank, all individuals, organisations and government departments that assisted with its inquiry.