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5 April 2023

Senator Peter Khalil MP
Chair
Parliamentary Joint Committee on Intelligence and Security
Parliament House
Canberra ACT 2600

By email: pjcis@aph.gov.au

Dear Senator Khalil

**Review of the National Security Legislation Amendment
(Comprehensive Review and other Measures No.2) Bill 2023**

The purpose of the Office of the Commonwealth Ombudsman (the OCO) is to:

- provide assurance that the agencies we oversee act with integrity and treat people fairly
- influence systemic improvement in government administration.

We aim to achieve our purpose by:

- independently and impartially reviewing complaints and disclosures about government administrative action
- influencing government agencies to be accountable, lawful, fair, transparent, and responsive
- providing a level of assurance that law enforcement, integrity and regulatory agencies are complying with legal requirements when using covert, intrusive and coercive powers.

The National Security Legislation Amendment (Comprehensive Review and other Measures No.2) Bill 2023 (the Bill) is a measure to progress implementation of the recommendations of the *Comprehensive Review of the Legislative Framework Governing the National Intelligence Community* by Mr Dennis Richardson AC (the Richardson Review).

Of the 10 recommendations from the Richardson Review that the Bill would implement, only one relates to the OCO's jurisdiction. Specifically, recommendation 167 would formally carve out from the OCO's jurisdiction the six Australian Intelligence Community (AIC) agencies:

- Australia Security Intelligence Organisation (ASIO)
- Australian Secret Intelligence Service
- Australian Geospatial-Intelligence Organisation
- Australian Signals Directorate
- Office of National Intelligence, and
- Defence Intelligence Organisation.

While the OCO currently technically has jurisdiction over five of the six AIC agencies (ASIO is carved out of the OCO's jurisdiction by regulation¹), by convention it does not exercise this jurisdiction. This convention reflects that the Inspector-General of Intelligence Services (the Inspector-General) is already empowered to and does in practice oversight the six AIC agencies under the *Inspector-General of Intelligence and Security Act 1986*. This measure would therefore only formalise the current practices in place between the OCO and the Inspector-General in relation to the oversight of the six AIC agencies.

We currently receive very few complaints about the AIC agencies, and if we do we transfer them to the Inspector-General. If the Bill is passed by Parliament, we would advise any person making a complaint about an AIC agency in future that their complaint needs to be made to the Inspector-General.

Yours sincerely



Iain Anderson
Commonwealth Ombudsman

Influencing systemic improvement in public administration

¹ Regulation 6 of the *Ombudsman Regulations 2017* refers.