OFFICE OF THE INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY

Correspondence ref: OIGIS/OUT/2024/1000
File ref: OIG23/1131

Senator Nita Green
Chair
Legal and Constitutional Affairs Legislation Committee
PO Box 6100
CANBERRA ACT 2600

By email to: legcon.sen@aph.gov.au

Dear Senator Green

Review of the provisions of the Oversight Legislation Amendment (Robodebt Royal Commission Response and Other Measures) Bill 2024

Thank you for the opportunity to make this submission to the Legal and Constitutional Affairs Legislation Committee's review of the provisions of the Oversight Legislation Amendment (Robodebt Royal Commission Response and Other Measures) Bill 2024 (the Bill). This submission discusses the key feature of the Bill that relates to the Inspector-General of Intelligence and Security (IGIS) and the implications for the IGIS's role in providing oversight of Australia's intelligence agencies and agencies with intelligence functions. I note that my Office was consulted by the Attorney-General's Department during the development of the Bill on issues relevant to my Office.

While my ordinary practice is not to comment on the policy underlying any Bill, I make an exception on this occasion. This Bill implements the Government's response to recommendations 21.1 and 21.2 of the Report of the Royal Commission into the Robodebt Scheme. Amendments that have the effect of ensuring oversight bodies are strongly positioned to undertake independent, impartial and rigorous investigations into the dealings of government agencies are critical to the improvement and maintenance of public trust in public administration. In the context of my jurisdiction, independent, impartial and rigorous oversight assists the Government in assuring the Parliament and the public that intelligence and security matters relating to Commonwealth agencies (in particular the activities and procedures of intelligence agencies) are open to scrutiny.

Specific to my jurisdiction, this Bill would amend section 14 of the *Inspector-General of Intelligence and Security Act 1986* (IGIS Act) to clarify that the IGIS is entitled to reasonable facilities and assistance when making preliminary inquiries of the head of an intelligence agency. Section 14 of the IGIS Act provides the IGIS with the power to make preliminary

3-5 National Circuit BARTON ACT 2600 Phone (02) 6141 3330 E-mail info@igis.gov.au

FOI and Archives Act warning:
This is an exempt document under the *Freedom of Information Act 1982* and may be an exempt record under the *Archives Act 1983*. Consult the Inspector-General of Intelligence and Security on any FOI or Archives Act request.

inquiries with the heads of intelligence agencies for the purposes of determining whether the IGIS is authorised to inquire into an action or should inquire into an action.

The IGIS Act imposes an obligation on the heads of intelligence agencies to provide all reasonable facilities and assistance that the head of the agency is capable of providing when the IGIS or members of the IGIS's staff are carrying out inspection functions under section 9A of the IGIS Act. The proposed amendment to section 14 will ensure an equivalent obligation is extended to assist the IGIS and members of the IGIS's staff when undertaking preliminary inquiries.

I would like to note I currently receive a very high level of cooperation from the heads of intelligence agencies with respect to the work of my Office across both my inspection and inquiry functions. However, I welcome the improved consistency of the obligations on agency heads in relation to my powers and functions under the IGIS Act that would result from the proposed amendments to section 14 of the IGIS Act.

I trust this information is of assistance to the Committee.

The Hon Christopher Jessup KC
Inspector-General

20 December 2024