

The Hon Dominic Perrottet  
Treasurer  
52 Martin Place  
SYDNEY NSW 2001

Dear Treasurer,

**Audit of Staff hiring arrangements in your office between 1 Sep 2015 to 10 Aug 2020 ("Audit")**

I attach the supplemental report to the Audit dated 7<sup>th</sup> of September 2020 ("**Supplemental Report**") and for completeness also attach Treasury's report on the Audit dated 25<sup>th</sup> of August 2020 ("**Report**").

Further to your request, I also set out below Treasury's recommendations having regard to the findings in the Report and the Supplemental Report:

- **Recommendation 1:** Minister's Office staff and relevant staff of agencies should undertake additional training to ensure that they fully understand and comply with the relevant engagement requirements (such as not seconding or assigning contractors to the Minister's Office and avoiding the administrative process deficiencies identified in this report).
- **Recommendation 2:** Agencies are reminded that they should only be sending Department Liaison Officers to the Minister's Office who have knowledge and skills regarding the operations of the agency from which they are sent consistent with the requirements of the relevant Department of Premier & Cabinet circular.
- **Recommendation 3:** The Minister's Office should ensure that at both on-boarding and on a continuous basis staff who are seconded into political roles and paid for by an agency, are reminded of their obligation to properly complete and update their personal interest declarations and to take reasonable steps to avoid any actual or perceived conflicts of interests between their role and the agency that sent them.

Should you have any questions on the Report, the Supplemental Report or the recommendations, I am available to discuss it with you.

Yours sincerely



**Michael Pratt AM**  
**Secretary**

7 September 2020



## Supplemental Report on audit of staff hiring arrangements in Minister Perrottet's Office between 1 Sep 2015 – 10 Aug 2020

**To:** Michael Pratt, Treasury Secretary

**From:** Charles Cho, General Counsel and Stewart Walters, Chief Financial and Operations Officer

**Date:** 7 September 2020

A handwritten signature in black ink, appearing to be "Charles Cho", written over a horizontal dashed line.

**Charles Cho**  
General Counsel

A handwritten signature in black ink, appearing to be "Stewart Walters", written over a horizontal dashed line.

**Stewart Walters**  
Chief Financial & Operations Officer

## Background

---

The Treasury General Counsel and the Chief Financial & Operations Officer have been requested by the Secretary of Treasury to undertake an audit of staff hiring arrangements in Minister Perrottet's Offices between 1<sup>st</sup> September 2015 to 10<sup>th</sup> of August 2020 ("**Relevant Period**"). This period covers the time from when icare was first established up to the time when the Chief of Staff of the Treasurer's Office recently resigned. During this period, Minister Perrottet held the roles of Minister for Finance, Services and Property; Minister for Industrial Relations and the Treasurer.

Treasury's report on staff hiring arrangements in Minister Perrottet's Offices for the Relevant Period was completed on 25<sup>th</sup> of August 2020 and provided to the Treasurer ("**Report**"). Subsequently, on 3<sup>rd</sup> of September 2020, the Treasurer requested that Treasury undertake a review of whether staff members who had been seconded to the Minister's Office; who had been paid for by an agency for all or any of their time in the office; and who had been acting in a political role during the Relevant Period had completed relevant personal interest declarations.

## Executive Summary

---

Based on our review of the materials and list of staff identified as being members of Minister Perrottet's Office during the Relevant Period, we found one instance of a staff member who was 'seconded' from an agency and paid for by the agency in a political role (although this was not technically correct because they were a contractor). In respect of this now former staff member, we found that they had completed a personal interest declaration when they first joined the Minister's Office as an employee, but they did not appear to have updated this declaration when they ceased to be engaged by the Minister's Office and became a contractor of the agency.

## A. Approach and procedure

---

The same approach and procedure as set out in the Report was followed in undertaking this further work.

## B. Legislation, regulation and policy applicable to personal interest declarations of GSE secondees

---

Clause 35(6) of the *Government Sector Employment Regulation 2014* (NSW) (“**GSE Regulations**”) states that.

*(6) The seconded employee is, while seconded to the staff of a political office holder under this clause, subject to the conditions of employment applying to the members of that staff under Part 2 of the Members of Parliament Staff Act 2013.*

Part 2, section 7 of the *Members of Parliament Staff Act 2013* (NSW) (“**MOPS Act**”) then provides:

### **7 Conditions of employment**

*(1) The Premier may from time to time determine the conditions of employment of persons employed under this Part.*

*(2) The conditions of employment of a person employed under this Part are, except in so far as provision is otherwise made by the person’s written agreement of employment, such as may be fixed by a determination made under this section.*

The Determination by the Premier of Conditions of Employment for Political Office Holders’ Staff is set out in Attachment A of the Minister’s Office Handbook, and paragraph 4.3 of the Determination provides that:

*4.3 Where it applies, the employee is to complete and lodge the POLITICAL OFFICE HOLDERS’ STAFF PERSONAL INTEREST DECLARATION and to provide updated declarations as required.*

Further reference to the requirement for declarations are set out in the Office Holder’s Code of Conduct (Attachment B of the Minister’s Office Handbook) which also applies to secondees under the GSE Regulations as follows:

*Take reasonable steps to avoid, and in all cases disclose, any actual or potential conflicts of interests (real or apparent), noting that staff are required to provide their Office Holder with a statement of private interests and update accordingly*

### **C. Assessment as to whether requirements set out in legislation, regulation or policies have been met for personal interest declarations by GSE secondees**

---

Treasury found one staff member during the Relevant Period who was 'seconded' from an agency and paid for by the agency in a political role (although this member was one of the staff identified who could not technically be seconded because they were a contractor and not an employee of the relevant agency).

This staff member was previously a MOPS Act employee and then a contractor in the Minister's Office acting in a political role. We found that they had submitted a personal interest declaration when they first started in the office as an employee. Subsequently, this staff member became a contractor of an agency and was paid for by the agency but was 'seconded' from that agency back to the Minister's office in a political role ostensibly for a transition period. However, this staff member continued to work in the Minister's Office and we could not find any evidence that the staff member had updated their personal interest declaration to take into account their new contracting arrangement with the agency.



Treasury

## Report on audit of staff hiring arrangements in Minister Perrottet's Office between 1 Sep 2015 – 10 Aug 2020

**To:** Michael Pratt, Treasury Secretary

**From:** Charles Cho, General Counsel and Stewart Walters, Chief Financial and Operations Officer

**Date:** 25 August 2020

A handwritten signature in black ink, appearing to be "C. Cho", written over a horizontal dashed line.

**Charles Cho**  
General Counsel

A handwritten signature in black ink, appearing to be "Stewart Walters", written over a horizontal dashed line.

**Stewart Walters**  
Chief Financial & Operations Officer

## Background

---

The Treasury General Counsel and the Chief Financial & Operations Officer have been requested by the Secretary of Treasury to undertake an audit of staff hiring arrangements in Minister Perrottet's Offices between 1<sup>st</sup> September 2015 to 10<sup>th</sup> of August 2020 ("**Relevant Period**"). This period covers the time from when icare was first established up to the time when the Chief of Staff of the Treasurer's Office recently resigned. During this period, Minister Perrottet held the roles of Minister for Finance, Services and Property; Minister for Industrial Relations and the Treasurer.

## Executive Summary

---

Based on our review of the materials and list of staff identified as being members of Minister Perrottet's Office during the Relevant Period, the two key findings are:

**Finding 1:** There were three staff members who were identified as contractors of the relevant agencies (two from icare and one from DFSI) and who were purported to be assigned as Department Liaison Officers ("**DLO**") or seconded to the Minister's Office under clause 35 of the Government Sector Employment ("**GSE**") Regulations during the Relevant Period. However, under the relevant requirements, only employees of agencies and not contractors can be assigned as DLOs or seconded under the GSE Regulations and paid for by the agency.

**Finding 2:** There were instances of administrative process deficiencies across the hiring arrangements where requirements were partially met or administrative processes were incomplete reflecting inconsistent application of process and controls.

## A. Approach and procedure

---

The following key steps were taken in planning and implementing the work by the review team;

1. Relevant source requirements (legislative, policy, practice guidance) were identified to enable testing criteria for the categories of staff employed in the Minister's Offices to be established. These were initially obtained from relevant staff within the Department of Premier & Cabinet (DPC) (who coordinate Ministerial staffing arrangements) and advice from the Treasury Office of General Counsel. From this a scoping document was written by the team and approved by the Treasury Secretary and Treasurer.
2. Appropriate staffing for the team secured in parallel and work program developed and project management put in place.
3. The four categories of hiring arrangement were tested as separate work streams by separate team members, i.e. Staff employed directly by the Ministerial Office, DLOs, GSE Seconded Staff and Other (which includes Interns).
4. Primary source of lists and documents were as follows;
  - a. DPC Ministerial Services department staff and records held in relation to the Offices. The employee listing obtained across all employment categories was then shared with the Treasurer's Office to verify completeness
  - b. Staff in relevant agencies supplying DLO staff, i.e. Treasury, icare, the former Department of Finance, Services and Innovation ('DFSI') (now the Department of Customer Service) and Treasury Corporation
  - c. Staff and records in the Office of the Treasurer
5. Primary documents and inputs were checked against the criteria established and follow up questions/verification sought from above sources
6. In some cases, in the time period of this work, some facts and criteria checks have not been able to be verified; this has primarily been a result of the relevant documents not being readily available or relevant staff responsible could not be contacted or were unable to verify conclusively.
7. This audit is intended to be a fact finding audit as to whether the Engagement Requirements have been met for each relevant staff. It is not intended to be a financial audit or performance audit in accordance with Australian Auditing Standards nor is the work provided subject to assurance or other standards issued by the Australian Auditing and Assurance Standards Board, nor is the final report intended to be legal advice subject to legal professional privilege as it is intended to be made public. The use of the word audit does not have the same meaning as under the Australian Auditing and Assurance Board.

### Peer Review

A peer review was undertaken by the Acting Director of Internal Audit and Risk. In addition to conversations with the team to understand procedures this included:

- Review of the proposed testing criteria and evidence to be obtained against the identified source requirement, whether legislative or policy and practice.
- Review of characterisation of whether responses met or not the testing criteria for the employees hired under the MOPS Act.

## B. Legislation, regulation and policy applicable to engagement of staff in Ministerial Offices

---

The hiring of staff in Ministerial Offices is subject to legislation, regulations and policy and practice guidance issued by the DPC (“**Engagement Requirements**”). Set out below are the Engagement Requirements that have been identified as part of the audit applicable to the hiring of staff in Ministerial Offices based on categories of staff.

### 1. Staff employed directly by the Ministerial Office

In respect of staff employed directly by the Minister’s Office, the key legal requirements arise under Part 2 of the *Members of Parliament Staff Act 2013* (NSW) (“**MOPS Act**”). The MOPS Act contains requirements regarding hiring arrangement and the procedures that hiring arrangement must adhere to. In addition to the MOPS Act legislative requirements, the Minister’s Office Handbook published by DPC sets out policy and practice guidance that the Minister’s Office should follow when engaging staff, including for example, pre-employment checks.

Staff employed directly by the Ministerial Office must be paid for by the Minister’s office and they can act in a political function.

These MOPS Act legislative requirements and Ministers Office Handbook policy and practice guidance are set out in detail within the table titled “Primary Category 1: Staff employed directly by TO under MOPS Act” of Attachment 1 – Criteria.

### 2. NSW government sector employees seconded from agencies to the Ministerial Office

The key legal requirements for the secondment of NSW government sector employees from agencies to the Minister’s Office are provided under clause 35 of the *Government Sector Employment Regulation 2014* (NSW) (“**GSE Regulations**”). The clause contains procedural requirements for the engagement of the secondee, including that the secondment arrangement must be agreed between the head of the agency and the political officer holder (or their delegates) and the secondee must be assigned a suitable role while seconded to the Ministerial Office. There is also practice guidance under the Minister’s Office Handbook that the secondment requires the approval by the Premier’s Chief of Staff. Secondees must be government sector employees and cannot be contractors of the agency.

Staff seconded under the GSE Regulations can be paid for by either the agency or the Minister’s office (or costs shared) – it is a matter for agreement as part of the secondment arrangement. Staff seconded can act in a political function and are subject to the same code of conduct applicable to MOPS employees.

The GSE Regulations requirements and Ministers Office Handbook practice guidance are set out in detail within the table titled “Primary Category 2: NSW government sector employees seconded from agencies to the TO under clause 35 of the GSE Regulations” of Attachment 1 – Criteria.

### **3. Department liaison officer (“DLO”) assigned from agencies to the Ministerial Office**

The key requirements for DLOs assigned from agencies to the Minister’s Office are set out in the DPC Circular *C2016-03 Department Liaison Officers (DLOs)*. The Circular sets out the role of the DLO (including that the DLO must be politically neutral and impartial), the arrangement in terms of the duration of the assignment, employee-related costs and other procedures which the home agency of the DLO must comply with. DLOs must be government sector employee and cannot be contractors of the agency.

Employee-related costs of DLOs must be met by the home agencies. Other costs, for example, mobile telephone, office equipment, transport and accommodation for official business, are to be met from Minister’s Office budgets. DLOs cannot act in a political function and are subject to their home agency’s code of conduct.

The requirements under the DPC Circular are set out in detail within the table titled “Primary Category 3: Department Liaison Officer (“DLO”) assigned from agencies to TO ” of Attachment 1 – Criteria.

### **4. Other types of staff directly engaged by the Ministerial Office**

Other types of staff directly engaged by the Minister’s Office must follow the policy and practice guidance set out under the Minister’s Office Handbook. In particular, details of the proposed engagements must be approved by the Minister’s Chief of Staff in consultation with the Premier’s Chief of Staff or if before March 2017, by approval of the Premier’s Chief of Staff.

For more details please refer to the table titled “Other types of staff directly engaged by the TO” of Attachment 1 – Criteria.

## C. Assessment as to whether requirements set out in legislation, regulation or policies have been met

---

**Finding 1: There were three staff members during the Relevant Period who could not technically be assigned as DLOs or seconded under GSE Regulations by their home agencies and paid for by those agencies**

As noted earlier, contractors of agencies are not government sector employees and cannot technically be assigned as DLOs or seconded under the GSE Regulations. There were three staff members who were identified as being contractors during the Relevant Period, and therefore should not have been assigned or seconded by the agency and paid for by the agency.

### First Individual

- icare initially advised that one individual was intended to be seconded to the Minister's Office purportedly as a senior policy advisor under the GSE regulations. Documentation for the secondment was also not prepared at the time and was belatedly provided by icare to the Minister's Office in recent weeks. However, icare then acknowledged that the proposed secondment under the GSE regulations was not technically correct because the individual was a contractor.
- GSE secondment engagements also need to be approved by the Premier's Chief of Staff, prior to commencement. Briefs relating to the secondment of the above individual were not provided. No other documentary evidence was provided that the Premier's Chief of Staff had given approval.
- Notwithstanding that icare appears to have intended for this individual to be seconded under the GSE Regulations, that individual was erroneously advised to DPC for registration as a DLO. Contractors cannot be assigned as DLOs so this was also incorrect.

### Second Individual

- One staff member from icare was assigned as a DLO during the Relevant Period even though they were a contractor.
- This person was initially engaged as a receptionist for icare as a contractor. After approximately 2 months at icare they were then assigned as a DLO for a period of approximately 6 weeks in the Minister's Office.

### Third Individual

- One staff member from DFSI was assigned as a DLO during the Relevant Period even though they were a contractor. Limited information was available about this individual other than that they were a contractor and started as a DLO on 25 January 2017.

### **Finding 2: Administrative Process Deficiencies (see Attachment 2)**

The key findings and administrative process deficiencies are included in Attachment 2, listed separately under the four categories above.

There were administrative process deficiencies noted from the work carried out across the four categories of hiring arrangements;

- DLOs
- Staff employed directly by the Ministerial Office ('MOPS' employees')
- Secondees
- Other (which includes interns)

Thematically these deficiencies are spread across many of the criteria required but are principally evidenced by absence of signature on documents, absence of the date when a document is signed or approved or delay in signing/dating a document.

### **Peer Review**

Comments and observations that were identified in the peer review were not substantial in nature.

Further queries were raised by the team to the relevant officers (generally DPC) where applicable and all items identified were satisfactorily resolved through further clarification or minor amendments to the testing strategy or testing worksheet.

### **Attachments**

- [Attachment 1 – Criteria](#)
- [Attachment 2 – Findings and Administrative Process Deficiencies](#)



Treasury

Attachment 1 – Criteria

## CRITERIA – AUDIT OF STAFF HIRING ARRANGEMENTS IN THE TREASURER’S OFFICE (“TO”)

<b>Primary Category 1: Staff employed directly by TO under MOPS Act</b>				
<b>Document</b>	<b>Description</b>	<b>Reference</b>	<b>Type</b>	<b>Evidence</b>
<b>Members of Parliament Staff Act 2013 (NSW) (“MOPS Act”)</b>	Employ the person under a written agreement	s.5(1) & s.6(2)	Legal Requirement	Signed contract
	Employment in accordance with arrangements approved by the Premier and the exercise of the power to employ staff is subject to such conditions as are determined by the Premier.  Premier may make determinations as to conditions of employment of persons employed under MOPS Act (See Minister’s Office Handbook and Attachments reference below)	s.5(3) s.7(1)	Legal Requirement	Check conditions of employment in contract or other engagement papers for either reference to Attachment 1 of Handbook and other relevant conditions and/or reiteration of those conditions
	Employment agreement is in the form of the model agreement approved by the Premier for the employment of staff	s.6(1), 6(2)	Legal Requirement	Contract template provided by DPC
	Any variations to model agreement on a case by case or wholesale basis must be approved by the Premier	s.6(2) & (3)	Legal Requirement	Evidence of approval of variations in brief or otherwise
	A political office holder may delegate to a member of the political office holder’s staff any of the office holder’s functions under Part 2.	s.12	Legal Requirement	Delegation instrument under s.12 to Chief of Staff by Treasurer

Primary Category 1: Staff employed directly by TO under MOPS Act				
Document	Description	Reference	Type	Evidence
	Premier may delegate expenditure power under the GSF Act to a member of staff of a political office	s.13(2)	Legal Requirement	Delegation instrument under s.13 to Chief of Staff by Treasurer
<b>Minister's Office Handbook</b>	<p>Prior to any employment contract or other employment arrangement being agreed, approval must be granted by the Premier's Chief of staff on a case-by-case basis</p> <p><i>* In meeting with DPC on 11/8/20 they advised that obtaining Premier's Chief of Staff approval applied to staff employed under the MOPS Act and those seconded under the GSE regulations but not DLOs.</i></p>	"Staff Categories" section of Employment Policy within the Minister's Office Handbook	Policy & Practice	Brief signed off by Premier's Chief of Staff
	Employment subject to criminal records check	"Criminal Records Checks and Security Clearances" section of Employment Policy within the Minister's Office Handbook	Policy & Practice	Evidence of completion of criminal records checks in file papers
	Security clearance required where the Minister or their delegate determines it is necessary for performing the duties of their role	"Criminal Records Checks and Security	Policy & Practice	Check with DPC whether this has ever been applied in appointments to the TO

Primary Category 1: Staff employed directly by TO under MOPS Act				
Document	Description	Reference	Type	Evidence
		Clearances" section of Employment Policy within the Minister's Office Handbook		
<b>Determination by the Premier of Conditions of Employment for Political Office Holders' Staff under s.7 of MOPS Act</b>	A person is not to be employed by a political office holder unless the person is: a) an Australian citizen, or b) a permanent resident of Australia, or c) a New Zealand citizen with a current New Zealand passport, or d) a citizen of another country with a current visa that allows the person to work in Australia	Cl 5.1 of Attachment A of Minister's Office Handbook	Legal Requirement	Evidence that citizenship, residence or visa status of employees checked
	A person is not to be offered employment by a political office holder for a period that exceeds any limitation imposed by or in accordance with law as to the time that the person is permitted to work in Australia	Cl 5.2 of Attachment A of Minister's Office Handbook	Legal Requirement	Check for any staff member that is working under a visa
	An employee will be employed at a salary point within the salary range contained at Schedule 1	Cl 8.1 of Attachment A of Minister's Office Handbook	Legal Requirement	Salary compared to salary schedule

Primary Category 1: Staff employed directly by TO under MOPS Act				
Document	Description	Reference	Type	Evidence
<b>Minister's Office Handbook – Attachment F “Relocation Assistance for Political Office Holders' Staff”</b>	Where a person is recruited from outside Australia, relocation expenses may only be met from the point of arrival in Australia. See “Expenses Covered” and “Value of Assistance” sections	Point 2 of “Principles” section	Policy & Practice	Relocation assistance arrangements are included in the offer of employment
	Financial assistance is funded from the political office holder's cost office budget	Point 3 of “Principles” section and Point 4 of “Process” section	Policy & Practice	Check with DPC re arrangements for financial assistance
	The prospective employee must have attributes that are highly desirable for the role and cannot be matched by other candidates	Point 1 of “Eligibility” section of Attachment F of Minister's Office Handbook	Policy & Practice	If relocation, evidence that unique attributes have been considered as part of engagement
	Assistance is agreed in the employment negotiations and arrangements are included in the offer of employment	Point 3 of “Eligibility” section of Attachment F of	Policy & Practice	Relocation assistance arrangements are included in the offer of employment

Primary Category 1: Staff employed directly by TO under MOPS Act				
Document	Description	Reference	Type	Evidence
		Minister's Office Handbook		
	Prospective employee must be offered a contract with a length of 12 months or more	Point 4 of "Eligibility" section of Attachment F of Minister's Office Handbook	Policy & Practice	If relocation, contract length at least 12 months
	For Ministers only, the Premier's Chief of Staff needs to be consulted prior to the offer of relocation assistance to prospective new employees	Point 1 of "Process" section	Policy & Practice	If relocation, evidence of consultation of Premier's CoS in relation to reimbursement of relocation costs
	Financial assistance is paid by way of reimbursement of expenses incurred by the new employee, supported by receipts and 3 quotations from service providers, certified by the Corporate and Ministerial Services Branch and approved for payment by the political office holder's Chief of Staff.	Point 2 and Point 3 of "Process" section	Policy & Practice	Signed approval by CoS of invoices consistent with relocation assistance set out in employment contract

Primary Category 1: Staff employed directly by TO under MOPS Act				
Document	Description	Reference	Type	Evidence
<b>Minister's Office Handbook – Attachment G "Policy on severance payments for Political Office Holders' Staff"</b>	Employees who accept a severance payment cannot be re-employed or re-engaged in any capacity in a NSW Government sector service within the period covered by the severance payment.	"Re-employment or Re-engagement" section	Policy & Practice  Contractual	Evidence of checks that the proposed employee is not the subject of a current redundancy agreement

Primary Category 2: NSW government sector employees seconded from agencies to the TO under clause 35 of the GSE Regulations				
Document	Description of requirement	Reference	Type	Evidence
<b>Government Sector Employment Regulation 2014 (NSW) ("GSE Regulation")</b>	Secondment of government sector employee by agreement between the head of the agency in which the person is employed and the Minister (or their delegate)	s.35(2)	Legal Requirement	Agreement signed by agency head and minister or delegate  OGC to confirm that the relevant agency is part of the "government sector" as defined under the GSE Act.  Verify with agency that the person is an employee of the agency for the relevant duration

**Primary Category 2: NSW government sector employees seconded from agencies to the TO under clause 35 of the GSE Regulations**

Document	Description of requirement	Reference	Type	Evidence
	Agreement to set out: a. period of secondment b. financial responsibilities relating to the employee's entitlements c. procedure to be followed on completion of secondment d. circumstances in which secondment may be terminated and the form of notice to be given to terminate the secondment before the end of the agreed period of secondment	s.35(3)	Legal Requirement	Agreement includes: <ul style="list-style-type: none"> <li>• Period of secondment</li> <li>• Financial responsibilities</li> <li>• Procedure to be followed on completion of secondment</li> <li>• Matters re termination</li> </ul>
	Copy of agreement to be provided to seconded employee	s.35(4)	Legal Requirement	Seek evidence that a copy of agreement was provided to seconded employee by agency head, TO or by DPC on behalf of the office
	Minister is responsible for ensuring employee is to be assigned a suitable role while seconded to that office	s.35(5)	Legal Requirement	Seek confirmation from the TO
	Minister may delegate to a member of the Minister's staff any of the Minister's functions under this clause	s.35(11)	Legal Requirement	Confirm delegation to Treasurer's Chief of Staff is in place
	Chief executive of a LHD or specialty network governed health corp may not be seconded to the staff of a political officer holder under this clause without the concurrence of the Health Secretary	s.35(12)	Legal Requirement	By exception

**Primary Category 2: NSW government sector employees seconded from agencies to the TO under clause 35 of the GSE Regulations**

Document	Description of requirement	Reference	Type	Evidence
<b>Minister's Office Handbook</b>	<p>Prior to any employment contract or other employment arrangement being agreed, approval must be granted by the Premier's Chief of staff on a case-by-case basis*</p> <p><i>* In meeting with DPC on 11/8/20 they advised that obtaining Premier's Chief of Staff approval applied to staff employed under the MOPS Act and those seconded under the GSE regulations but not DLOs</i></p>	"Staff Categories" section of Employment Policy within the Minister's Office Handbook	Policy & Practice	Brief signed off by Premier's Chief of Staff

**Primary Category 3: Department Liaison Officer ("DLO") assigned from agencies to**

Document	Description	Reference	Type	Evidence
<b>DPC Circular C2016-03 Department Liaison Officers</b>	DLO is an assignment of a government sector employee from a government sector agency within the Minister's portfolio	Page 1	DPC Circular	OGC to confirm that the agency is a government sector employee and the agency was within the Minister's portfolio at the time
	The role of the DLO is to provide the Minister's office with a readily accessible source of knowledge and skills regarding the operations of the government sector agency within the Minister's portfolio	Page 2	DPC Circular	Seek confirmation from home agency of when the employee started at the agency and calculate the period of service before commencing as DLO

Primary Category 3: Department Liaison Officer (“DLO”) assigned from agencies to				
Document	Description	Reference	Type	Evidence
	DLO remains employees of home agency under agency terms and conditions of employment.	Page 2	DPC Circular	Seek confirmation from home agency that they remain employees of home agency
	Employee-related costs of DLOs met from budgets of home agencies	Page 2	DPC Circular	Seek confirmation from home agency
	During assignment to a Minister's office, the DLO's home agency Code of Conduct will continue to apply. DLOs must be politically neutral and impartial while assisting Ministers to achieve their objectives. They must also avoid party political activities in the performance of their duties.	Page 2	DPC Circular	Seek confirmation from TO that internal processes operated within the TO to ensure that DLOs remain politically neutral (e.g. being excluded from meetings when political matters were discussed)  Check if letter of engagement references this requirement.
	DLOs should be identified by government sector agencies having regard to the skills, knowledge and experience required, in accordance with the relevant employment framework applying to the government sector agency.	Page 2	DPC Circular	Seek confirmation (Y/N) from a relevant authority in the agency (e.g. senior HR or Ministerial Services Officer) that the hiring rules for that agency have been followed in the appointment of the DLO

Primary Category 3: Department Liaison Officer (“DLO”) assigned from agencies to				
Document	Description	Reference	Type	Evidence
	Commencing DLOs should be advised in writing, and accept the terms and conditions applying to the assignment (for example, pay rate, employment status and end date).	Page 2	DPC Circular	Seek confirmation from home agency that there is a letter issued to the employee regarding their appointment as DLO
	The duration of DLO assignments usually should not exceed 18 months, but longer assignments may be approved by the agency head.	Page 3	DPC Circular	Seek confirmation from home agency
	DLOs may be assigned to perform administrative support roles, agency contact roles, or specialist advisor roles.	Page 3	DPC Circular	Confirm with home agency if there is a role description for the DLO
	The Department of Premier and Cabinet must be notified of all DLO assignments. Notifications must include commencement date, employment status, salary, emergency contact details and end date (DLO Notification Form attached)	Page 3	DPC Circular	Verify with DPC  Where available – check notification form or other form of notification. See also below reference to notification by email.
	Where a DLO assignment is extended beyond 18 months, the Department of Premier and Cabinet must be notified. Commencements, extensions and departures should be	Page 3	DPC Circular	Verify with DPC

**Primary Category 3: Department Liaison Officer (“DLO”) assigned from agencies to**

Document	Description	Reference	Type	Evidence
	notified via email to macs.employment@mins.dpc.nsw.gov.au.			

**Other types of staff directly engaged by TO**

Document	Description	Reference	Type	Evidence
<b>Minister’s Office Handbook</b>	<p>In addition to the three primary categories of staff in Minister’s Office above, people may be employed or engaged under other arrangements with Minister’s offices. This includes interns, volunteers, agency temporary staff, contractors, secondments not covered by the GSE Regulations, and any other person identified to work in a Minister’s office.</p> <p>Details of any such proposed engagements need to be approved by the Minister’s Chief of Staff on a case-by-case basis in consultation with the Premier’s Chief of Staff, prior to commencement. Unless otherwise provided, the NSW Office Holder’s Staff Code of Conduct applies in all cases.</p>	“Other types of employment” section of the Employment Policy	Policy & Practice	In the first instance, check brief for sign off by Treasurer’s CoS and any reference to consultation with Premier’s CoS

## Attachment 2 – Finding 2: Administrative Process Deficiencies

### Primary Category 1: Staff employed directly by the Ministerial Office

A total of 38 staff employed directly by and funded by the Ministerial Office were identified to be in the Minister's Office in the Relevant Period.

The summary of findings and administrative process deficiencies is set out below:

1. An employment agreement is required for each appointment. Across the 38 staff engaged under the *Members of Parliament Staff Act 2013* (MOPS Act), there was an employment agreement for each of the 38. A signed copy of the agreement was not available for appointments relating to four staff and, in the instance of one staff, the agreement copy was signed but the copy was missing pages. In this instance, a copy of the full unsigned agreement was made available. In 21 instances, whilst there were appropriate agreements in place, there were process deficiencies with signing and dating of the document after the date of commencement or missing contract execution dates.
2. All employment is to be in accordance with arrangements approved by the Premier. An assertion of compliance with arrangements approved by the Premier was included in briefs for the majority of appointments for which briefs were sighted. There were two instances where the brief was silent on the issue. For three arrangements, we were unable to verify that a brief had been prepared and processed.
3. For all contracts examined, the contract template was consistent with the model agreement approved by the Premier for the employment of staff.
4. Appropriate delegations were in place for delegation of employment function by the Treasurer's Chief of Staff under s.12 of the MOPS Act
5. The Minister's Office Handbook requires prior approval of appointments by the Premier's Chief of Staff on a case by case basis. This approval is evidenced by the Premier's Chief of Staff approval of a brief provided by DPC for appointment of the proposed staff member. For 29 staff, there were instances of appointment and/or reappointment for which a copy of the signed brief was not available. DPC advised that all papers associated with the appointment of staff are forwarded to the Premier's Chief of Staff for approval in the first instance prior to being forwarded by DPC for completion by the Treasurer's Chief of Staff and the proposed staff member.
6. Criminal checks and security clearances are only required when the employer determines they are necessary for the role as per Attachment A of the Minister's Office Handbook. We understand DPC have not been asked to complete a check for any of the Treasurer's Office staff.
7. All salaries were within Bands MS1 to MS6 in accordance with approved Salary Schedules. We note, however, that whilst the Ministerial Handbook requires salaries to be within the

scheduled bands, we could not verify that there is any additional regulation or guidance as to how the bands are to be applied.

8. Relocation assistance was provided for two staff. It is a requirement for the reimbursement of relocation expenses that consideration is made of the unique attributes of those staff members that could not be matched by other candidates. Written evidence of this consideration was evidenced for one of these staff members but not the second staff member. This is not to say that such consideration was not made as the form of consideration is not prescribed.
9. To be eligible for relocation expense reimbursement, prospective employees must be offered a contract with a length of 12 months or more. The visa conditions of one employee prohibited engagement for a period longer than 6 months. However, the employee was re-engaged for a subsequent period to a total engagement period of longer than 12 months. A determination was made by the Premier's, then, Chief of Staff that 'it was intended that the term of his employment would satisfy this requirement if legally possible and it is fair and reasonable to extend the benefit of the policy in the particular circumstances...'. The employment agreement for the second staff member did not define a contract end date, outside of reference to section 8 of the MOPS Act. The staff member did, however, remain engaged for 12 months or longer.
10. There is no specific question asked of prospective employees whether they are the subject of a NSW government severance payment.
11. Secondary employment declarations are required to be completed by the employee upon commencement. Secondary employment declarations were not sighted. DPC advised that the responsibility is on the employee to declare if they have or will commence in secondary employment. Where a staff member advises DPC that they are undertaking secondary employment, DPC request that they seek Treasurer's Chief of Staff ('CoS') approval. DPC then saves that approval on file.

### **Primary Category 2: Secondments**

There was one staff Secondment identified in the Minister's Office in the Relevant Period.

The summary of findings and administrative process deficiencies is set out below:

1. Secondment of government sector employees must be by agreement between the head of the agency in which the person is employed and the Minister (or their delegate). One secondment was advised to Treasury. A copy of the agreement must be provided to the seconded employee. Treasury was provided with copies of two similar agreements. One agreement was signed by the Treasurer's Chief of Staff. A signed letter from DPC to the seconded employee refers to the secondment agreement attached thereto. The seconding agency has confirmed the secondee was an employee at the commencement of the

secondment. There was no evidence the agreement had been signed by the Secretary of the seconding agency.

2. As for MOPS employees, prior to any employment contract or other employment arrangement being agreed, approval must be granted by the Premier's Chief of staff on a case-by-case basis. No documentary evidence has been provided to Treasury that the secondment was approved by the Premier's Chief of staff.
3. Treasurer's Office staff verbally confirmed the secondee was utilised in a suitable role.

### **Primary Category 3: Department Liaison Officers**

A total of 42 DLOs were identified to be in the Minister's Office in the Relevant Period from TCorp, Treasury, icare and the former DFSI.

The summary of findings and administrative process deficiencies as it relates to DLOs is set out below:

1. Three staff members who were listed as DLOs were contractors and therefore should not have been assigned as DLOs. We have not assessed whether these staff met other criteria for DLOs as they did not meet the initial threshold for being DLOs.
2. TCorp, Treasury, icare and DFSI are each government sector agencies who are able to assign DLOs to Ministerial Offices. There was one staff member on the DPC DLO List as being from DFSI that DFSI indicated was not in Minister Perrottet's Office during the Relevant Period but in Minister Dominello's instead.
3. Two staff members on the DPC DLO List and an additional staff member identified by an agency were not able to be attributed to a specific government sector agency during the Relevant Period so we were not able to verify the details for these staff.
4. Six staff members were identified as having been directly appointed to fulfil the DLO role, and for another five staff their term of employment with the home agency before they were appointed as a DLO was not able to be verified.
5. Each home agency has confirmed that the DLO remained employees of home agency under agency terms and conditions employment, and that employee-related costs of DLOs were met from budgets of home agencies (except for one who was continued to be paid for by their previous agency because of MOG arrangements). DPC has also confirmed that other costs as set out in the Circular (for example, mobile telephone, office equipment, transport and accommodation for official business) were met from Ministers' office budgets.
6. For staff who have been confirmed as employees of the home agencies, the agencies code of conduct would continue to apply to them as employees including the requirement to remain politically neutral. Furthermore, the Treasurer's Office has confirmed that internal processes operated within the office to ensure that DLOs remain politically neutral (such as being required to leave meetings with political content). In our audit we found that for seven staff members the letters of engagement specifically referenced the home agencies code of

- conduct. For the remainder either letters were not provided by the home agencies for verification or the letters did not specifically reference the agencies code of conduct.
7. Each home agency confirmed that hiring rules for that agency have been followed in the appointment of the DLO except for four staff members for whom records could not be located about whether the rules were applied.
  8. Letters from agencies to DLOs setting out the terms and conditions applying to the assignment (for example, pay rate, employment status and end date) was not able to be located or provided by the home agencies in many instances. Some of this was noted to be due to legacy HR systems.
  9. The DLO arrangements were mostly under 18 months. However, there were 3 staff who agencies identified as having the arrangement extend for beyond 18 months (two of whom for which agency head approval was not able to be confirmed). In addition, for 8 staff members the home agency advised that they could not verify whether the arrangement extended beyond 18 months due to disparities between legacy HR systems.
  10. For many of the DLOs, the home agencies were unable to locate and provide role descriptions for the DLOs.
  11. Under the DPC circular agencies were to notify by email the appointment of DLOs and any extension to DPC by email. However, DPC advised that usual practice was for Ministerial Offices to update the relevant DPC DLO register instead of agencies sending notifications. DPC advised that updating the register was taken to be notification, and we identified just one instance where this notification by update did not appear to have been done.

### **Other**

A total of six staff hired under the 'Other' category were identified to be in the Minister's Office in the Relevant Period. They were all short-term interns (varying from circa one to four weeks).

The summary of findings and administrative process deficiencies as it relates to the 'Other' category is set out below:

1. Details of proposed engagements need to be approved by the Minister's Chief of Staff on a case-by-case basis in consultation with the Premier's Chief of Staff, prior to commencement. Six internships were advised to Treasury. In two instances, forms were provided relating to the internship that were signed by the intern, but not the Treasurer's Chief of Staff.
2. Briefs relating to the interns were not provided.
3. In two instances, the Treasurer's Chief of Staff signed the internal form after the commencement date, but during the secondment period.
4. In one instance, there was no documentary evidence provided that the Treasurer's Chief of Staff had approved the arrangements.
5. In all instances, documentary evidence was not provided that the Premier's Chief of Staff was consulted.