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PARLIAMENT OF TASMANIA

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**JOINT STANDING COMMITTEE ON  
INTEGRITY**

**Annual Report 2017**

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*Laid upon the Tables of both Houses of Parliament  
pursuant to section 26 of the Integrity Commission Act 2009*

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**MEMBERS OF THE COMMITTEE**

**Legislative Council**

Mr Dean (Chairperson)  
Mr Gaffney (Deputy Chairperson)  
Mr Valentine

**House of Assembly**

Ms Giddings  
Mr Shelton  
Ms Woodruff

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## 1 INTRODUCTION

- 1.1 Pursuant to section 26(1) of the Integrity Commission Act 2009<sup>1</sup> (the Act), the Joint Standing Committee on Integrity (the Committee) has the honour to report its proceedings for 2016-17 to the Legislative Council and the House of Assembly.

### **Joint Standing Committee on Integrity**

- 1.2 The Committee is established pursuant to section 23 of the Act.
- 1.3 The Committee consists of six Members of Parliament, comprising: three appointed by the Legislative Council; and three appointed by the House of Assembly.
- 1.4 As at the end of the reporting period, the membership of the Committee on the part of the Legislative Council and the House of Assembly respectively were the Member for Windermere, Mr Dean (Chairperson); the Member for Mersey, Mr Gaffney (Vice-Chairperson); the Member for Hobart, Mr Valentine; the Member for Lyons, Mr Shelton; the Member for Franklin, Ms Giddings; and the Member for Franklin, Dr Woodruff.
- 1.5 There was one change in membership of the Committee during the reporting period, Mr Valentine replaced Mr Mulder.

### **Annual Report to Parliament**

- 1.6 This report details the proceedings of the Committee for 2016-17 and is made pursuant to section 26(1) of the Act which prescribes that the Committee reports its activities to both Houses of Parliament by 30 November of each year.

## 2 FUNCTIONS AND POWERS

- 2.1 The Committee has the following functions:
  - (a) monitor and review the performance of the functions of an integrity entity;
  - (b) report to both Houses of Parliament, as it considers appropriate, on the following matters:
    - (i) matters relevant to an integrity entity;
    - (ii) matters relevant to the performance of an integrity entity's functions or the exercise of an integrity entity's powers;
  - (c) examine the annual reports of an integrity entity and any other report of an integrity entity and report to both Houses of Parliament on any matter appearing in or arising out of such reports;

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<sup>1</sup> Integrity Commission Act 2009 (No. 67 of 2009)

- (d) report to the Legislative Council or House of Assembly on any matter relevant to an integrity entity's functions that is referred to it by the Legislative Council or House of Assembly;
- (e) review the functions, powers and operations of the Integrity Commission at the expiration of the period of 3 years commencing on the commencement of this section and to table in both Houses of Parliament a report regarding any action that should be taken in relation to this Act or the functions, powers and operations of the Integrity Commission;
- (f) provide guidance and advice relating to the functions of an integrity entity under this Act;
- (g) refer any matter to the Integrity Commission for investigation or advice; and
- (h) comment on proposed appointments to be made under section 14(1)(e), (f) or (g), section 15 and section 27.<sup>2</sup>

2.2 The Committee is not authorised to:-

- (a) investigate any matter relating to a complaint that is being dealt with by the Integrity Commission; or
- (b) review a decision of the Integrity Commission to investigate, not investigate or discontinue an investigation or inquire into or not inquire into a particular complaint; or
- (c) make findings, recommendations, determinations or decisions in relation to a particular investigation or inquiry of a complaint that is being or has been dealt with by the Integrity Commission.<sup>3</sup>

### **3 ACTIVITIES OF THE COMMITTEE**

#### **Overview**

- 3.1 The Committee met on 12 occasions during the reporting period.
- 3.2 In the course of the reporting period, the proceedings of the Committee focused primarily upon appropriately managing its relationships with the prescribed Integrity Entities and responding to issues raised by members of the public.

#### **Committee Report**

- 3.3 The Committee tabled on 16 November 2016 its report “A Code of Conduct for Members of Parliament”, which recommended the introduction of a Code of Conduct for all Members of Parliament in Tasmania.

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<sup>2</sup> Ibid, section 24(1).

<sup>3</sup> Ibid, section 24(2).

## Monitoring and Reviewing the Integrity Commission

### *Protocol*

- 3.4 Communication and coordination between the Committee and the Integrity Commission is managed pursuant to an agreed Protocol.
- 3.5 The Protocol provides for regular meetings between the Committee and the Integrity Commission with an agreed agenda. Whilst having regard to section 24(2) of the Act, the Protocol provides that the Commission will provide to the Committee information as to the volume and the nature of the work being undertaken by it and details of any suggested legislative amendments.
- 3.6 The Protocol also prescribes the communication process to be utilised by the Committee and the Commission in dealing with such complaints and representations about the Commission from members of the public, and also for those circumstances when the Committee seeks information from the Commission on a specific subject.

### Annual Report 2015-16 – Integrity Commission

- 3.7 The Integrity Commission is required by section 11 of the Act to report to Parliament “on or before 31 October” each year. Pursuant to section 26, the Committee is required to provide its annual report by 30 November each year.
- 3.8 This prescribed time frame provides very little time to enable the Committee to adequately examine the report of the Commission and include in its own annual report any findings and or recommendations on any matter appearing in or arising out of the report of the Commission.
- 3.9 The Committee has examined the Integrity Commission’s Annual report from the previous year – *Integrity Commission Annual Report 2015-2016*, and noted the following activities during that period:-
  - Mr Greg Melick AO succeeded the outgoing inaugural Chief Commissioner, the Hon Murray Kellam AO;
  - Ms Diane Merryfull retired as Chief Executive Officer and was replaced by Mr Michael Easton as the Acting Executive Officer;
  - Ex-officio board member Mike Blake retired from his role as Auditor General and, as a result, from the Commission’s Board;
  - Investigation Report No. 1 of 2015, *An own motion investigation into policies, practices and procedures*

*relating to receiving and declaring of gifts and benefits in the Tasmanian State Service, tabled in both Houses of Parliament in 2015;*

- Contributed substantially to the development of new model codes of conduct for local government elected members;
- Produced a submission to the Independent Five Year Review of the Commission;
- Budget cutbacks, first introduced in the 2014–15 period, resulted in limitations on the scope of operations in investigations and misconduct prevention, education and research activities;
- Continuing budgetary constraints and a subsequent reduction in staffing levels. Staffing reduction included:
  - Not filling the General Counsel position and a 0.6 FTE Communications Officer role when they became vacant during 2014-15; and,
  - Three employees elected to work reduced hours;
- Continued complaint handling:
  - 111 misconduct complaints received, with the most common allegations relating to code of conduct breaches; and,
  - Six complaints accepted for assessment and conducted five investigations (including an own motion);
- A significant increase in notification by public authorities of complaints of misconduct received;
- Completion of its own motion investigation, Operation Kilo, on policies, practices and procedures of State Service agencies regarding gifts and benefits;
- Completion of audit of complaints finalised by Tasmania Police and tabled in Parliament;
- Commencement of 15 audits of actions taken by public authorities in dealing with complaints of misconduct;
- Continued development of the Commission’s website;
- Continued engagement with local government sector with fourteen councils signing up for the ‘Speak Up’

campaign and nine councils adopting the 'Thanks is Enough' campaign; and

- Conducted training modules for elected members, 'Managing Ethical Risks on Council', was delivered to 8 councils and for council staff, conducted 'Ethical Decisions at Work' training sessions for five councils.

## **Monitoring and Reviewing the Office of the Ombudsman**

### *Protocol*

- 3.10 Communication and coordination between the Committee and the Ombudsman is managed pursuant to an agreed Protocol.
- 3.11 The Protocol also prescribes the communication process to be utilised by the Committee and the Ombudsman in dealing with such complaints and representations about the Ombudsman from members of the public, and also for those circumstances when the Committee seeks information from the Ombudsman on a specific subject.

### *Annual Report 2015-16 – Office of the Ombudsman*

- 3.12 The Committee has examined the *Ombudsman Annual Report 2015-2016* and noted the following matters highlighted by the Ombudsman:
- Continued work on establishment of a Tasmanian Custodial Inspector attached to the Office of the Ombudsman, including the drafting of the *Custodial Inspector Bill 2016*;
  - Relocation of the Ombudsman office into a lower rent premises;
  - Continuing budgetary constraints and relocation costs resulted in temporary suspension of filling vacant positions but now most budgeted positions have been filled, including a 0.9FTE Senior Investigation and Review Officer;
  - A 35% decrease of out of jurisdiction enquiries received;
  - A 27% decrease in general enquiries received;
  - A 27% increase in complaints received;
  - A slight decrease in complaints resolved within 90 days, continuing the trend from the previous year;
  - A significant decrease in complaints received by the Energy Ombudsman jurisdiction, continuing the trend from the previous year;

- An increase in the number of cases assessed outside the required 90-day period by the Health Complaints jurisdiction; and
- The number of Right to Information reviews received remained steady, with the majority of matters remaining to be complex. With a new 0.9 FTE role commencing work, the RTI jurisdiction remains under resourced and there are significant delays in processing of reviews and a backlog of applications.

**Parliament House  
HOBART  
30 November 2017**

**Hon. I.N. DEAN MLC  
CHAIRPERSON**