

2015

(No. 21)



PARLIAMENT OF TASMANIA

**JOINT STANDING COMMITTEE ON
INTEGRITY**

Annual Report 2015

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

MEMBERS OF THE COMMITTEE

Legislative Council

Mr Dean (Chairperson)
Mr Gaffney
Mr Mulder

House of Assembly

Mr Barnett
Ms Giddings
Ms Woodruff

Table of Contents

1	INTRODUCTION.....	2
	Joint Standing Committee on Integrity	2
	Annual Report to Parliament.....	2
2	FUNCTIONS AND POWERS	2
3	ACTIVITIES OF THE COMMITTEE	3
	Overview	3
	Monitoring and Reviewing the Integrity Commission	3
	Monitoring and Reviewing the Office of the Ombudsman	6

1 INTRODUCTION

- 1.1 Pursuant to section 26(1) of the Integrity Commission Act 2009¹ (the Act), the Joint Standing Committee on Integrity (the Committee) has the honour to report its proceedings for 2014-15 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 Honourable Member for Windermere, Mr *Dean* (Chairperson); the Honourable Member for Mersey, Mr *Gaffney*; the Honourable Member for Rumney, Mr *Mulder* (Vice-Chairperson); the Honourable Member for Lyons, Mr *Barnett*; the Honourable Member for Franklin, Ms *Giddings*; and the Honourable Member for Franklin, Mr *McKim*.
- 1.5 There were no changes in membership of the Committee during the reporting period.

Annual Report to Parliament

- 1.6 This report details the proceedings of the Committee for 2014-15 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) to monitor and review the performance of the functions of an integrity entity;
 - (b) to 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) to 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;

¹ Integrity Commission Act 2009 (No. 67 of 2009)

- (d) to 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) to 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) to provide guidance and advice relating to the functions of an integrity entity under this Act;
 - (g) to refer any matter to the Integrity Commission for investigation or advice;
 - (h) to comment on proposed appointments to be made under section 14(1)(e), (f) or (g), section 15 and section 27.²
- 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.³

3 ACTIVITIES OF THE COMMITTEE

Overview

- 3.1 The Committee met on 20 occasions during the reporting period.
- 3.2 In the course of the reporting period, the proceedings of the Committee focused primarily upon consideration of the three year review pursuant to section 24(1)(e) of the Act; appropriately managing its relationships with the prescribed Integrity Entities; and responding to issues raised by members of the public.

Monitoring and Reviewing the Integrity Commission

Three year review

- 3.3 As stated above, Section 24(1)(e) of the Act prescribes that the Committee reviews “the functions, powers and operations of the

² Ibid, section 24(1).

³ Ibid, section 24(2).

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”.

- 3.4 This review was the major focus of the Committee’s activities during the reporting period.
- 3.5 During the reporting period, the Committee received submissions, conducted public hearings and deliberated and finalised the report in respect of the three year review.
- 3.6 The Committee’s report in respect of the three year review was tabled on 24 June 2015.
- 3.7 The Committee’s report is available on the Committee’s website at <http://www.parliament.tas.gov.au/ctee/Joint/Integrity.htm>

Protocol

- 3.8 Communication and coordination between the Committee and the Integrity Commission is managed pursuant to an agreed Protocol.
- 3.9 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.
- 3.10 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 2013-14

- 3.11 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.
- 3.12 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.

3.13 The Committee has examined the Integrity Commission's Annual report from the previous year – *Integrity Commission Annual Report 2013-2014*, and noted the following activities of the Integrity Commission during that period:-

- The launch of the *Ethics and Integrity Training Program* in July 2013, which consists of 14 Modules on key misconduct areas and is designed for public sector agencies to deliver in-house training to staff to meet the specific needs of the agency.
- Conducting the second Community Perceptions Survey in July 2013.
- Investigation Report No. 2 of 2013, *An Audit of Tasmania Police Complaints Finalised in 2012*, tabled in both Houses of Parliament in September 2013.
- Input into the Joint Standing Committee on Integrity's three-year review of on the functions, powers and operations of the Integrity Commission.
- Establishing local government resources by employing a Misconduct Prevention (Research and Education) officer specifically dedicated to assisting the local government sector.
- Establishing the Investigator Support Network to provide both support and an opportunity to those in public sector agencies who conduct in-house investigations of misconduct.
- Commencement of the second audit of Tasmania Police complaints.
- Investigation Report No. 1 of 2014, *An Investigation into Allegations of Nepotism and Conflict of Interest by Senior Health Managers*, tabled in both Houses of Parliament in May 2014.
- Continuation of the joint review with Tasmania Police of the internal complaint handling methodology used by Tasmania Police for complaints against police.

Correction of Committee's 2014 Annual Report in respect of the Integrity Commission

- 3.14 The Committee wishes to correct the record in relation to a statement made in its 2014 Annual Report.
- 3.15 The relevant section of the Report stated as follows:
- “3.15 The Committee has continued to receive a number of representations from citizens of Tasmania during the reporting period. Such representations detailed the correspondents’ negative experiences in dealing with the Commission in the apparent expectation that this Committee was itself a form of appeal/review body or investigative authority which had powers and functions that would allow it to independently investigate or revisit such cases and recommend a specific remedy
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- 3.17 In relation to these representations from dissatisfied complainants, the Committee has, on each occasion, referred these matters to the Chief Commissioner to consider the issues raised by the complainant.”
- 3.16 Following the tabling of the that Report, the then Chief Commissioner of the Integrity Commission, Hon Murray Kellam AO wrote to the Committee indicating that in fact during the reporting period the subject of the report (1 July 2013 – 30 June 2014), no such complaints were received.
- 3.17 The Committee acknowledges that this is correct and that no complaints in respect of the Integrity Commission fell within that reporting period. The Committee apologises for this oversight.

Monitoring and Reviewing the Office of the Ombudsman

Protocol

- 3.18 Communication and coordination between the Committee and the Ombudsman is managed pursuant to an agreed Protocol.
- 3.19 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 2013-14

3.20 The Committee has examined the *Ombudsman Annual Report 2013-2014* and noted the following matters highlighted by the Ombudsman:-

- An increase in the proportion of cases resolved in less than three months in the Ombudsman jurisdiction.
- An increase in the proportion of cases resolved in less than three months in the Energy Ombudsman jurisdiction.
- An increase in the proportion of cases resolved in less than three months in the Health Complaints jurisdiction.
- A significant increase in the number of Right to Information reviews, a slight decrease in the number of reviews finalised, and an increase in the number of cases carried forward into the reporting year.
- A significant increase in out of jurisdiction enquiries.
- Continuing budgetary constraints and a subsequent reduction in staffing levels.
- The creation of efficiencies including:
 - adopting a less formal approach to the handling of more straightforward and less complex complaints, by using more direct communications with parties such as meetings, email and telephone rather than the more traditional exchange of correspondence;
 - declining to deal with insubstantial or inconsequential complaints;
 - consulting closely with agencies so that systemic issues are identified and addressed in a timely fashion;
 - regularly meeting with agency representatives, such as management of the Tasmania Prison Service, Aurora Energy and TasWater, to discuss issues and process;
 - significant reductions across non-salary expenditure areas including; maintenance; security; staff amenities; stationary; printing and travel expenditure; and
 - cessation of outreach activities and workshops.
- The formal investigation of, and report into, a complaint regarding the wrongful detention of young person under the *Youth Justice Act 1997*.

- Publication of *Guideline 1/2013 – Distinguishing Between Information and a Document* under the Right to Information Act 2009, which provides guidance on distinguishing between information held by an agency and the document on which the information may be recorded.

Parliament House
HOBART
25 August 2015

Hon. I.N. DEAN MLC
CHAIRPERSON