



PARLIAMENT OF TASMANIA

**JOINT STANDING COMMITTEE ON
INTEGRITY**

Annual Report 2023

*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

Ms Armitage (Deputy Chair)
Ms Palmer
Mr Valentine (Chair)

House of Assembly

Ms O'Byrne
Mr Shelton
Mr Street

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1 INTRODUCTION

- 1.1 Pursuant to section 26(1) of the *Integrity Commission Act 2009*¹ (the Act), the Joint Standing Committee on Integrity (the Committee) has the honour to report its proceedings for 2022-23 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 Hobart, Mr *Valentine* (Chair); the Honourable Member for Launceston, Ms *Armitage* (Deputy Chair); the Honourable Member for Rosevears, Ms *Palmer*; the Honourable Member for Franklin, Mr *Street*; the Member for Bass, Ms *O'Byrne*; and, the Honourable Member for Lyons, Mr *Shelton*.
- 1.5 There was a change to the role of Deputy Chair during the reporting period with Ms *Armitage* taking over the role from Ms *Palmer* 22 November 2022.

Annual Report to Parliament

- 1.6 This report details the proceedings of the Committee for 2022-23 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.

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

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;
 - (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 27.²
- 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

² *Integrity Commission Act 2009*, section 24(1).

³ *Ibid*, section 24(2).

3 ACTIVITIES OF THE COMMITTEE

Overview

- 3.1 The Committee met on eleven occasions during the reporting period.
- 3.2 During 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 Reports

- 3.3 The Committee tabled an Annual Report for the 2021-22 financial year on 23 November 2022.

Review of Members Code of Conduct

- 3.4 As discussed in last year's annual report, the Committee did commence a review of the Members Code of Conduct in June of 2022. The Committee wrote to all Members, as well as the Parliamentary Standards Commissioner, the Hon Sue Smith AM, and the CEO of the Integrity Commission, Mr Michael Easton, for comment on the current code. The closing date for submissions was in August 2022.
- 3.5 Shortly following the receipt of submissions on the Code of Conduct, the *Motion for Respect: Report into Workplace Culture in the Tasmanian Ministerial and Parliamentary Services* was handed down. This report made a number of recommendations including those regarding the content of the Members' Code of Conduct. Subsequently, the Committee decided, in an effort to avoid confusion, it would cease its review into the Code of Conduct until the recommendations arising from the deliberations of the Workplace Oversight Committee on the Motion for Respect Report were made known. At that point in time, the Committee will re-visit the need for further review of the Member's Code of Conduct.

Public Meetings with Integrity Entities

- 3.6 The Committee has considered for some time holding public meetings with the integrity entities it oversees. The Committee has over the reporting year discussed this concept with integrity entities and wishes to pursue this idea further. The Committee's intention is to hold next year's annual report meetings with the integrity entities in public to allow the community an insight into the work of the Committee and the integrity entities it oversees.

Monitoring and Reviewing the Integrity Commission

Protocol

- 3.7 Communication and coordination between the Committee and the Integrity Commission is managed pursuant to an agreed Protocol.
- 3.8 The Protocol provides for regular meetings between the Committee and the Integrity Commission with an agreed agenda. While having regard to section 24(2) of the Act, under the Protocol the Commission is to provide to the Committee information as to the volume and the nature of the work being undertaken and details of any suggested legislative amendments.
- 3.9 The Protocol also prescribes the communication process to be utilised by the Committee and the Commission in dealing with such complaints and representations regarding the Commission from members of the public. It also covers those circumstances when the Committee seeks information from the Commission on a specific subject.
- 3.10 In accordance with the Protocol, the Committee held two meetings with the Commission during the reporting period.

Annual Report 2022-23 – Integrity Commission

- 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 The Committee has examined the Integrity Commission’s Annual Report from the previous year – *Integrity Commission Annual Report 2022-2023*, and noted the following activities during that period:-
 - 3.12.1 Greg Melick AO continued as the Chief Commissioner and Michael Easton continued as the Chief Executive Officer;
 - 3.12.2 Luppo Prins (APM), Phil Foulston, and Robert Winter all continued their roles on the Commission’s Board;
 - 3.12.3 The Commission released their Annual Report and six public reports were released in the public interest;
 - 3.12.4 Of the complaints received by the Commission in 2022-23, 109 were dismissed, 54 were referred for action and 24 were accepted for assessment;
 - 3.12.5 Of those complaints dismissed at triage, 50 were found not to be in the public interest to investigate, 28 deemed an unjustifiable use of resources, and 33 found to lack substance or credibility;

- 3.12.6 Twenty-six assessments were concluded by the Commission in 2022-23, of which twenty-one were dismissed, three were referred and two were accepted for investigation;
- 3.12.7 The median number of working days to complete assessments for 2022-23 was 43. The Commission aims to complete such assessments within 40 working days;
- 3.12.8 The Commission commenced two investigations during the reporting period and concluded four investigations. The median number of working days for investigations concluded in 2022-23 was 225;
- 3.12.9 There was one own-motion investigation commenced during the reporting period;
- 3.12.10 As part of the Commission's police oversight program, the Commission audited four complaints managed by Tasmania Police. No own-motion investigations into police misconduct were undertaken;
- 3.12.11 The percentage of anonymous complaints received was 16.8%, a decrease from 21.8% in the previous year;
- 3.12.12 There was a continuation of misconduct awareness and prevention workshops and presentations. A total of 65 training sessions were delivered to a total of 954 attendees, in 10 public authorities;
- 3.12.13 Most training sessions were held in the states South and were predominantly delivered to Tasmanian State Service employees, Local Government, and Police; and
- 3.12.14 The Commission's online training program, *Integrity in the Public Service*, was completed by 1,846 public officers from twenty public authorities across the State.

Monitoring and Reviewing the Office of the Ombudsman

Protocol

- 3.13 Communication and coordination between the Committee and the Ombudsman are managed pursuant to an agreed Protocol.
- 3.14 The Protocol also prescribes the communication process to be utilised by the Committee and the Ombudsman in dealing with complaints and representations concerning the Ombudsman from members of the public, and also for those circumstances when the Committee seeks information from the Ombudsman.

- 3.15 The Committee met with the Ombudsman on one occasion during the reporting period.

Annual Report 2022-23 – Office of the Ombudsman

- 3.16 The Committee examined the Ombudsman Tasmania *Annual Report 2022-23* and noted the following activities during that period:-

- 3.16.1 The Ombudsman received a total of 756 complaints in 2022-23 down from 907 in 2021-22;
- 3.16.2 Complaints relate largely to State Government departments (55%), followed by Local Government (10%), public authorities (9%), public interest disclosures and personal information protection matters (4%). Out-of-jurisdiction complaints accounted for 22%;
- 3.16.3 The Justice Department continues to receive the highest level of all state agency complaints, with many coming from prisoners. Prisoner concerns cover topics such as diet, lost property, sentence calculations and appeals against prison offence findings. Lockdowns are also frequently raised;
- 3.16.4 Complaints received relating to Local Government include issues such as bee management, noise, business operating hours and animals, as well as complaints relating to stormwater management and drainage;
- 3.16.5 The Ombudsman team continue to work with public authorities to assist in improving administrative actions and how requests for information from the Ombudsman are processed;
- 3.16.6 The large percentage of complaints are dealt with by the Ombudsman in one week or less (45%), with 24% taking eight to thirty days, 27% taking one to six months, and 4% taking longer than six months;
- 3.16.7 Of the complaint activity to the Ombudsman, 756 were opened in the reporting period and 769 closed.
- 3.16.8 Of those complaints closed by the Ombudsman, twelve were discontinued, 243 found no defective administration, 81 were fully or partially substantiated or a determination made, and 400 complaints were either declined, referred, out-of-jurisdiction or withdrawn;
- 3.16.9 The Ombudsman noted during the reporting year a Senior Investigation Officer (Public Interest Disclosures) was appointed to assist with the early resolution of complaints in this space and

to investigate and assess complaints under the *Ombudsman Act 1978*. This officer is primarily responsible for disclosures and other procedures under the Act;

- 3.16.10 Complaints received in relation to the *Personal Information Protection Act 2004* were nineteen, with seventeen closed;
- 3.16.11 With respect to Right to Information (RTI) activity, the team was understaffed in the first half of the financial year with a number of vacant positions. However, staffing stabilised in the second half of the financial year, resulting in significant progress on reducing the historical backlog of external review applications;
- 3.16.12 The Ombudsman highlighted a number of challenges in the RTI space including that 86% of his decisions varied or set aside a public authority's findings, showing a high error rate in decision-making; a need for increased training of RTI decision makers; and a lack of engagement from some public authorities to resolve matters with the RTI team; and
- 3.16.13 The amount of complaint activity to the Energy Ombudsman decreased from the previous year to 182 complaints, compared to 240 in the previous year. Energy complaints largely reflect issues with high bills and delays in bills received by Aurora energy customers, largely resulting from its new billing system.

Annual Report 2021-22 – Office of the Ombudsman

- 3.17 Due to time constraints on reporting, the Committee was unable last year to consider the Ombudsman Annual Report for 2021-22. Subsequently, the Committee has, this year, also examined the *Ombudsman Annual Report 2021-2022* and noted the following matters highlighted by the Ombudsman:-
 - 3.17.1 An increase of 27% on the previous year (2020-21) in the number of complaints opened in the Ombudsman jurisdiction (715 to 907);
 - 3.17.2 There were 887 complaints closed, with 384 of those declined, referred or found to be out of jurisdiction, 98 were fully or partially substantiated, 336 were found to have no defective administration action, and 47 were discontinued;
 - 3.17.3 The majority of complaints (92%) continued to be resolved within 90 days in the Ombudsman jurisdiction;
 - 3.17.4 As noted in previous Ombudsman reports, the Department of Justice continues to be the government department most complained about. The percentage of government department

- cases that relate to the Department of Justice has increased from 42% to 51%;
- 3.17.5 The majority of complaints involving the Department of Justice continue to be with the Tasmanian Prison Service. Complaints from prisoners have increased from the previous year from 122 to 221;
 - 3.17.6 Complaints regarding Local Government councils increased slightly from the previous year from 77 to 88. The most common complaints were related to building, general administration, nuisance and rates and charges;
 - 3.17.7 The amount of complaint activity to the Energy Ombudsman increased from the previous year (145 from 135);
 - 3.17.8 There was a decrease on the previous year to 47 from 70, in the number of RTI external review applications received;
 - 3.17.9 It was noted the highest number of RTI review requests related to the Department of Health and Communities;
 - 3.17.10 There has been improvement on the clearing of the backlog of external review RTI requests, however this has been at the expense of formal training for public authorities in 2021-2022. The return to training will hopefully be restarted in 2022-2023; and
 - 3.17.11 The Ombudsman received nine disclosures under the *Public Interest Disclosures Act 2002* regarding improper conduct. No disclosure was determined to be a public interest disclosure.

Monitoring and Reviewing the Office of the Custodial Inspector

Annual Report 2022-23 – Office of the Custodial Inspector

- 3.18 The Committee has examined the Custodial Inspector’s Annual report from the previous year – *Office of the Custodial Inspector Tasmania, Annual Report 2022-23* and noted the following matters highlighted by the Inspector:-
 - 3.18.1 In 2022-23 three thematic inspections were undertaken of adult custodial settings and two at Ashley youth Detention Centre. These inspections were as follows; Wellbeing – Adult Custodial Services; Wellbeing – Youth Custodial Centres; Custody: Reception to Release – Adult Custodial Centres; Physical Healthcare and Substance Use Management – Adult Custodial Centres; and Physical Healthcare and Substance Use Management – Youth Custodial Centres. These inspections

- resulted in a number of similar findings, with the Custodial Inspector highlighting, in particular, the impact of lockdowns;
- 3.18.2 The Custodial Inspector noted his intention to review the inspection standards. This review has been initiated, and consultation will commence in 2023-24;
 - 3.18.3 The Custodial Inspector highlighted the need for a number of legislative changes to the *Custodial Inspector Act 2016*. It was noted that changes suggested from 2020-21 and 2021-22 annual reports had not been actioned, and the Inspector also proposed new areas for change;
 - 3.18.4 The first area for legislative reform highlighted by the Custodial inspector was concerning no protection being in place for those who come forward to report issues to the Custodial Inspector. It is suggested similar provisions to those outlined in the *OPCAT Implementation Act 2021* be considered;
 - 3.18.5 The Custodial Inspector also highlighted the limited information sharing provisions in the *Custodial Inspector Act 2016* are in need of review. The Inspector notes he has no information sharing provisions in relation to the Health Complaints Commissioner, the Anti-discrimination Commissioner or the Commissioner for Children and Young People. Such provision would allow them to raise issues of concern as they occur. Again, the Inspector highlighted that the *OPCAT Implementation Act 2021* was a good template for change;
 - 3.18.6 A further recommendation for legislative change was to allow the Inspector to delegate certain functions to consultants to allow access to enter custodial centres at anytime;
 - 3.18.7 Section 17 of the *Custodial Inspectors Act 2016* was also flagged as needing change by the Custodial Inspector to allow custodial inspector staff to speak with and write to prisoners and detainees. The Act as currently written specifies only the Custodial Inspector. For the avoidance of doubt, the Custodial Inspector recommended the section also include references to his officers; and
 - 3.18.8 Finally, several key observations were made in the custodial report including issues with telephone access, lockdowns, escapes, support for Aboriginal prisoners and detainees and the ability of remandees and prisoners sentenced to less than three years to vote in elections.

Public representations

- 3.19 The Committee has received a number of representations from citizens of Tasmania during the reporting period.
- 3.20 As reported in previous years, the Committee continues to receive representations from the public that detail their negative experiences in dealing with the Ombudsman and Integrity Commission. These representations often wrongly assume the Committee is able to review and independently investigate their case. The Committee is working to assist complainants in their understanding of the Committee's role, functions and powers.
- 3.21 It is noted that section 24(2) of the Act, however, proscribes the Committee from: investigating any matter before the Integrity Commission; reviewing a decision of the Commission regarding its investigatory powers; or make findings, recommendations, determinations or decisions in relation to investigations or inquiries of the Commission.
- 3.22 In relation to these representations from dissatisfied complainants, the Committee has on each occasion, referred these matters to the Commission to consider the issues raised by the complainant.
- 3.23 The Committee is unable to take any further action to investigate complaints against the Integrity Commission beyond writing to the Integrity Commission, given the restrictions placed on the Committee's level of oversight by section 24(2) of the Act.

**Parliament House
HOBART
16 November 2023**



**Hon. Rob Valentine M.L.C.
CHAIRPERSON**

Appendix 1 - Joint Standing Committee on Integrity Meeting Attendance 2022-2023

| Meeting Date | In attendance | |
|---------------------------|---|---------------------------------------|
| | Legislative Council | House of Assembly |
| Thursday 18 August 2022 | Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair) | Mr Shelton Ms O'Byrne |
| Tuesday 6 September 2022 | Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair) | Mr Shelton Mr Street Ms O'Byrne |
| Tuesday 27 September 2022 | Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair) | Mr Shelton Mr Street Ms O'Byrne |
| Tuesday 25 October 2022 | Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair) | Mr Shelton Ms O'Byrne |
| Tuesday 9 November 2022 | Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair) | Mr Shelton Mr Street |
| Tuesday 22 November 2022 | Ms Armitage (Deputy Chair) Ms Palmer Mr Valentine (Chair) | Mr Shelton Mr Street Ms O'Byrne |
| Monday 6 February 2023 | Ms Armitage (Deputy Chair) Ms Palmer Mr Valentine (Chair) | Mr Shelton Mr Street Ms O'Byrne |
| Thursday 23 February 2023 | Ms Armitage (Deputy Chair) Ms Palmer Mr Valentine (Chair) | Mr Shelton Mr Street Ms O'Byrne |

| Meeting Date | In attendance | |
|-----------------------|---|---------------------------------------|
| | Legislative Council | House of Assembly |
| Thursday 9 March 2023 | Ms Armitage (Deputy Chair) Ms Palmer Mr Valentine (Chair) | Mr Shelton Mr Street |
| Tuesday 28 March 2023 | Ms Armitage (Acting Chair) | Mr Shelton Ms O'Byrne |
| Tuesday 23 May 2023 | Ms Armitage (Deputy Chair) Ms Palmer Mr Valentine (Chair) | Mr Shelton Mr Street Ms O'Byrne |