

2014

(No. 22)



PARLIAMENT OF TASMANIA

**JOINT STANDING COMMITTEE ON
INTEGRITY**

Annual Report 2014

*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
Mr McKim

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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 2013-14 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 During the reporting period, the membership of the Committee changed following the House of Assembly General Election held in March 2014.
- 1.5 Prior to the dissolution of Parliament on 12 February 2014, Members serving on the Committee on the part of the Legislative Council and the House of Assembly respectively were: the Honourable Member for Windermere, Mr *Dean*; the Honourable Member for Pembroke, Dr *Goodwin* (Chairperson); the Honourable Member for Derwent, Mr *Farrell*; the Honourable Member for Bass, Mr *Booth* (Vice Chairperson); the Honourable Member for Lyons, Mr *Hidding*; and the Honourable Member for Lyons, Ms *White*.
- 1.6 Following the House of Assembly General Election and the opening of the new Parliament on 6 May 2014, the Legislative Council and House of Assembly each appointed Members to the Committee. The Members now serving on the Committee on the part of the Legislative Council and the House of Assembly respectively are 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*.

Annual Report to Parliament

- 1.7 This report details the proceedings of the Committee for 2013-14 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) 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;
 - (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

² Ibid, section 24(1).

³ Ibid, section 24(2).

3 ACTIVITIES OF THE COMMITTEE

Overview

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

Monitoring and Reviewing the Integrity Commission

Protocol

- 3.3 Communication and coordination between the Committee and the Integrity Commission is managed pursuant to an agreed Protocol.
- 3.4 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.
- 3.5 The Committee continues to receive, from time to time, complaints and representations from individuals and organisations regarding their interaction with the Commission. These are made in light of the perceived role of the Committee to monitor and review the performance of the Commission.
- 3.6 The Protocol prescribes the communication process to be utilised by the Committee and the Commission in dealing with such complaints and representations and also for those circumstances when the Committee seeks information from the Commission on a specific subject.

Annual Report 2012-13

- 3.7 The Integrity Commission is required by section 11 of the Act to report to Parliament “as soon as practicable after 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 2012-2013* and noted the following activities of the Integrity Commission during that period:-

- Conducting a detailed survey of the integrity frameworks of State departments and government businesses to produce the first 'map' in the gaps in ethics and integrity policies and practices in these agencies.
- Conducting a joint review with Tasmania Police of the internal complaint handling methodology used by Tasmania Police for complaints against police.
- Completing the first audit of Tasmania police complaints.
- First investigation report tabled in both Houses of Parliament (Investigation Report No.1 of 2013).
- Continuation of misconduct prevention activities including training for more than 700 public officers, and the development of the Ethics and Integrity Training Program designed to allow agencies to deliver in-house training to staff.

Three year review

3.10 As stated above, Section 24(1)(e) of the Act prescribes that the Committee reviews "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".

3.11 The Committee advertised for public submissions to the review on two occasions, and received a number of submissions to the review during the reporting period.

3.12 Full details of the conduct of the review will be detailed in the Committee's report on the three year review.

Monitoring and Reviewing the Office of the Ombudsman

Protocol

3.13 Communication and coordination between the Committee and the Ombudsman is managed pursuant to an agreed Protocol.

Annual Report 2012-13

- 3.14 The Committee has examined the *Ombudsman Annual Report 2012-2013* and noted the following matters highlighted by the Ombudsman:-
- Increase in the number of complaints resolved within three months in the Ombudsman jurisdiction.
 - Increase in the number of complaints resolved within three months in the Energy Ombudsman jurisdiction.
 - Significant increase in the number of Right to Information reviews finalised in the reporting period.
 - Significant increases in the numbers of complaints resolved within three, six and twelve months in the Health Complaints Commissioner jurisdiction.
 - Budgetary constraints and budgetary uncertainty.
 - Audits that have been undertaken in the Health Complaints Commissioner jurisdiction, in particular auditing the outcomes that had arisen out of previous Ombudsman's investigations or coronial inquests to determine whether the recommendations had been implemented.
 - The creation of efficiencies by the Office of the Ombudsman including the following actions:
 - making greater use of informal methods for resolving complaints – email, telephone, face-to-face meetings;
 - seeking to resolve systemic problems by early consultation with agencies without first proceeding to formal investigation of the issues;
 - refusing to deal with less substantial complaints; and
 - using administrative staff to fulfil some minor tasks that have previously been performed by investigation officers.
 - New Guidelines issued by the Ombudsman in January 2013 on complaint handling– to assist agencies to improve their responses to complaints about service delivery.
 - Two major own motion investigations concluded.

Public representations

- 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 independently to investigate or revisit such cases and recommend a specific remedy.

- 3.16 It is quite clear that the section 24(2) of the Act proscribes the Committee from: investigating any matter before the 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.
- 3.17 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.
- 3.18 The Committee is unable to take any further action to investigate complaints against the Integrity Commission beyond writing to the Chief Commissioner because of restrictions placed on the Committee's level of oversight by section 24(2) of the Act.

**Parliament House
HOBART
22 October 2014**

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