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PARLIAMENT OF TASMANIA

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**JOINT STANDING COMMITTEE ON  
INTEGRITY**

**Annual Report 2021**

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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**

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

**House of Assembly**

Mr Ferguson  
Ms O'Byrne  
Mr Shelton

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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 2020-21 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 May 2021.
- 1.5 Prior to the dissolution of Parliament on 26 March 2021, 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* (Chair); the Honourable Member for Hobart, Mr *Valentine* (Deputy Chair); the Honourable Member for Launceston, Ms *Armitage*; the Honourable Member for Bass, Mr *Ferguson*; the Member for Bass, Ms *Houston*; and the Honourable Member for Franklin, Mrs *Petrusma*.
- 1.6 Following the House of Assembly General election and the opening of the new Parliament on 22 June 2021, the Members serving on 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*; the Honourable Member for Rosevears, Ms *Palmer* (Deputy Chair); the Honourable Member for Bass, Mr *Ferguson*; the Member for Bass, Ms *O'Byrne*; and, the Honourable Member for Lyons, Mr *Shelton*.

## **Annual Report to Parliament**

- 1.7 This report details the proceedings of the Committee for 2020-21 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.

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<sup>1</sup> *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.<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>

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<sup>2</sup> *Integrity Commission Act 2009*, section 24(1).

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

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

#### **Overview**

- 3.1 The Committee met on six 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 2019-20 financial year on 19 November 2020.

#### **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.
- 3.7 In accordance with the Protocol, the Committee held one meeting with the Commission during the reporting period.

##### *Annual Report 2020-21 – Integrity Commission*

- 3.8 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.

3.9 The Committee has examined the Integrity Commission's Annual Report from the previous year – *Integrity Commission Annual Report 2020-2021*, and noted the following activities during that period:-

- Greg Melick AO continued as the Chief Commissioner and Michael Easton continued as the Chief Executive Officer;
- Luppo Prins (APM), Phil Foulston, and Robert Winter all continued their roles on the Commission's Board;
- The Commission released their Annual Report and a report relating to an investigation into misconduct allegations by the Work Health and Safety Regulator, Government Ministers and ministerial staff;
- The number of complaints of alleged public misconduct received was 171, a slight increase from 165 in the previous year. Of the 2020-21 complaints received, 126 were dismissed, 31 were referred for action and 13 were accepted for assessment;
- Fifteen assessments were concluded by the Commission in 2020-21, of which 13 were dismissed, 1 was referred and 1 was accepted for investigation;
- The median working days to complete assessments for 2020-21 was 36 days. The Commission aims to complete such assessments within 40 working days;
- It is noted that the Commission has made changes to their investigative process in an effort to streamline this practice. The median number of working days for investigations concluded in 2020-21 was 246 days;
- As a part of the Commission's police oversight program, one audit was initiated on a police complaint file and the Commission also audited thirty police files as part of a review into the police Abacus Conduct and Complaint Management policy;
- The number of anonymous complaints received was 39, an increase from 17 in the previous year;
- One complaint investigation was commenced, and 2 were concluded. This was a decrease on previous years;
- One own-motion investigation was commenced, and concluded;

- One report was released by the Board in the public interest;
- There was a continuation of misconduct awareness and prevention workshops and presentations. A total of 35 training sessions were delivered to a total of 633 attendees, in 12 public authorities;
- Most training sessions were held in the states South and were predominantly delivered to Tasmanian State Service employees, Local Government, and Police; and
- Following consultation with the public sector, the Commission launched an online training program, *Integrity in the Public Service*. New and revised fact sheets, case studies, scenarios and education tools have also been developed.

## **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.
- 3.12 The Committee met with the Ombudsman on one occasion during the reporting period.

### *Annual Report 2019-20 – Office of the Ombudsman*

- 3.13 The Committee has examined the Ombudsman’s Annual report from the previous year - *Ombudsman Annual Report 2019-2020* and noted the following matters highlighted by the Ombudsman:-
- A decrease of 13% on the previous year in the number of complaints opened in the Ombudsman jurisdiction (735 to 642);
  - Of the 660 complaints closed, 289 were declined, referred, or found to be out of jurisdiction, 107 were fully or partially substantiated, 204 were found to have no

defective administration action and 39 were discontinued;

- There were significant disruptions to the work of the office with the Covid-19 pandemic and during the months of April and May, complaints were reduced, presumably due to the pandemic;
- The majority of complaints (87%) are resolved within 90 days in the Ombudsman jurisdiction;
- 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 decreased from 56% to 47%;
- The majority of complaints about the Department of Justice continue to be about the Tasmanian Prison Service. Complaints from prisoners have decreased from the previous year from 186 to 134;
- Complaints about local government councils were up from the previous year from 76 to 81. The most common issues complained about related to planning, animals, rates and charges, general administration, nuisance and regulations or by-laws;
- The decrease in complaints to the Energy Ombudsman continues from previous years. A 23% decrease in complaints was noted, with 28% less enquiries received;
- There was an increase on the previous year to 65 from 59 in the number of the Right to Information external review applications received;
- Additional funding in the 2019-20 Government budget allowed the recruitment of two additional staff that should assist with the historical Right to Information review backlog;
- The Ombudsman noted that in the area of Right to Information requests, the number of Tasmanian public authorities that refuse to release information vastly exceeds all other mainland jurisdictions. It was further noted that despite the Right to Information Act's intention to facilitate disclosure, the number of requests for review by the Ombudsman's office is increasing due

to this increase in public authorities refusing information;

- The Ombudsman highlighted issues with agency adequacy of reasons for refusal of information requests. While many cited exemptions, they provide little explanation of why such an exemption is relevant to the information sought. The public interest test continues to be misapplied by public authorities; and
- Right to Information training was delivered to approximately 165 officers of public authorities. This was a reduction on the previous year due to cancellations as a result of Covid-19 restrictions.

#### *Annual Report 2020-21 – Office of the Ombudsman*

3.14 The Committee has also examined the *Ombudsman Annual Report 2020-2021* and noted the following matters highlighted by the Ombudsman:-

- An increase of 11% on the previous year in the number of complaints opened in the Ombudsman jurisdiction (642 to 715);
- Of the 674 complaints closed, 331 were declined, referred or found to be out of jurisdiction, 106 were fully or partially substantiated, 220 were found to have no defective administration action and 17 were discontinued;
- The majority of complaints (88%) continued to be resolved within 90 days in the Ombudsman jurisdiction;
- 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 decreased from 47% to 42%;
- The majority of complaints about the Department of Justice continue to be about the Tasmanian Prison Service. Complaints from prisoners have decreased slightly from the previous year from 134 to 122;
- Complaints about local government councils decreased slightly from the previous year from 81 to 77. The most common issues complained about related to planning, general administration, nuisance and roads;

- The amount of complaint activity to the Energy Ombudsman increased slightly (6%). Inquiry activity was however substantially increased with the number of enquires opened and closed increasing 100% from the previous year (77 to 154);
- There was again an increase on the previous year to 70 from 65, in the number of the Right to Information external review applications received;
- It was highlighted that all decisions on assessed disclosure applications should contain clear detail on how any exemptions are applicable. Previous years have reported that many authorities fail to provide such detail;
- In the Right to Information space, timeliness remains an ongoing concern. While there have been improvements in this area since the previous year, timeliness of a response to Right to Information requests remains an issue for some public authorities;
- Staffing and resourcing issues in the Right to Information office resulted in no training being delivered in this area during the reporting period; and
- A review was finalised of the two Ombudsman guidelines under the Public Interest Disclosures Act 2002. This meant public bodies were required to submit new public interest procedures to comply with these new guidelines. Most bodies have now submitted these guidelines to the Ombudsman's office for review.

### **Public representations**

- 3.15 The Committee has received a number of representations from citizens of Tasmania during the reporting period.
- 3.16 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 that 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.

- 3.17 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.
- 3.18 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.
- 3.19 The Committee is unable to take any further action to investigate complaints against the Integrity Commission beyond writing to the Integrity Commission because of restrictions placed on the Committee's level of oversight by section 24(2) of the Act.

Parliament House  
HOBART  
25 November 2021



Hon. Rob Valentine M.L.C.  
CHAIRPERSON

## Appendix 1

### Joint Standing Committee on Integrity Meeting Attendance 2020-2021

Meeting Date	In attendance	
	Legislative Council	House of Assembly
Tuesday 25 August 2020	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mr Ferguson</i> <i>Ms Houston</i> <i>Mrs Petrusma</i>
Tuesday 22 September 2020	<i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mr Ferguson</i> <i>Ms Houston</i> <i>Mrs Petrusma</i>
Tuesday 17 November 2020	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Ms Houston</i> <i>Mrs Petrusma</i>
Tuesday 2 March 2021	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mr Ferguson</i> <i>Mrs Petrusma</i>
Thursday 25 March 2021	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mr Ferguson</i> <i>Mrs Petrusma</i>
Wednesday 30 June 2021	<i>Ms Armitage</i> <i>Ms Palmer (Deputy Chair)</i> <i>Mr Valentine (Chair)</i>	<i>Mr Shelton</i> <i>Mr Ferguson</i> <i>Ms O'Byrne</i>