



PARLIAMENT OF TASMANIA

**JOINT STANDING COMMITTEE ON
INTEGRITY**

Annual Report 2012

*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 *Wilkinson* (Chairperson)
Mr *Dean*
Dr *Goodwin*

House of Assembly

Mr *Booth*
Mr *Hidding*
Ms *White*

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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 2011-12 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 There was one change in the membership of the Committee during the reporting period. Following the retirement of the Honourable Member for Hobart, Mr *Parkinson* at the periodical elections held for certain Divisions of the Legislative Council in May last, the Honourable Member for Windermere, Mr *Dean* was appointed to the Committee.
- 1.5 Members currently serving on the Committee on the parts of the Legislative Council and the House of Assembly respectively are: the Honourable Member for Windermere, Mr *Dean*; the Honourable Member for Pembroke, Dr *Goodwin*; the Honourable Member for Nelson, Mr *Wilkinson* (Chairperson); the Honourable Member for Bass, Mr *Booth* (Vice Chairperson); the Honourable Member for Lyons, Mr *Hidding*; and the Honourable Member for Lyons, Ms *White*.

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- 1.6 This report details the proceedings of the Committee for 2011-12 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;

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

- (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

3 ACTIVITIES OF THE COMMITTEE

Overview

- 3.1 The Committee met on eight occasions during the reporting period.
- 3.2 In the course of the reporting period, the proceedings of the Committee have focused upon: consolidating its operational procedures within the context of the Act; appropriately managing its relationships with the prescribed Integrity Entities; responding to issues raised by members of the public; further consideration of the adoption of a Code of Conduct for Members of the Parliament of

² Ibid, section 24(1).

³ Ibid, section 24(2).

Tasmania; and commencement of consideration of the three year review of the Act.

Chief Executive Officer of the Integrity Commission

- 3.3 Section 17 of the Act prescribes that a person be appointed as the Chief Executive Officer of the Integrity Commission (CEO) and that the Premier is to consult the Committee before such appointment by His Excellency the Governor is made.
- 3.4 In November 2011, the Committee received correspondence from the Attorney-General, Hon. Brian Wightman MP, which covered a draft 'Information Package' proposed to be utilised in the recruitment process for the position of CEO which had become vacant.
- 3.5 In February 2012, the Committee received a revised version of the 'Information Package'.
- 3.6 On 27 June 2012, the Committee received correspondence from the Premier, Hon. Lara Giddings MP, which covered a copy of the report of the selection panel and the *curriculum vitae* of the proposed appointee.
- 3.7 The following day the Committee met to consider the documents abovementioned. The Committee deliberated upon a motion "That the intention to recommend to His Excellency the Governor, the appointment of Diane Merryfull to the position of Chief Executive Officer, Tasmanian Integrity Commission be noted" over two further meetings.
- 3.8 In order to facilitate the deliberations, the Chair was authorised by the Committee to consult with the Chief Commissioner of the Tasmanian Integrity Commission, Hon Murray Kellam AO.
- 3.9 On 4 July last, the abovementioned motion was resolved in the affirmative and such resolution immediately was communicated to the Premier.
- 3.10 The Committee formally met Ms Merryfull on 27 September last.

Monitoring and Reviewing the Integrity Commission

Protocol

- 3.11 Communication and coordination between the Committee and the Integrity Commission is managed pursuant to an agreed Protocol.
- 3.12 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.

- 3.13 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.
- 3.14 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.

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- 3.15 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.
- 3.16 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.
- 3.17 The Committee has examined the *Integrity Commission Annual Report 2010-2011* and noted the following matters:-
- The intention of the Commission to continue conducting educational, training and support sessions across State and local government bodies, to support senior public officers in delivering internal training in integrity and ethics.
 - Implementation of consistent standards of conduct.
 - Review of legislation to clarify the powers of the Commission particularly in respect of the applicability of the Integrity Commission Act 2009 to Tasmania Police.
 - The Chief Commissioner’s statement that “the Commission has seen no evidence of any systemic corruption in any part of the public sector. Rather the evidence before the Commission is that most complainants have concerns relating to perception of misconduct by individuals in the public sector. Unfortunately, the word ‘corruption’ is a word that is too often used.”⁴

⁴ Integrity Commission Annual Report 2010-2011, Message from the Chair and Chief Commissioner.

- That a considerable number of complaints relate to a perception of conflict of interest about those complained about.
- The focus on support for public sector organizations in building their capacity to prevent misconduct and appropriately deal with complaints of misconduct.
- Introduction of an electronic case management system.
- Website development.
- Identification of five key goals in it the Strategic Plan of the Commission:-
 - “(1) organizational and cultural reform;
 - (2) prevent, detect and address misconduct;
 - (3) develop a positive operating climate in Tasmania for the work of the Integrity Commission;
 - (4) be an efficient, effective and ethical organization; and
 - (5) be a respected leader in our field.”⁵

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.

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3.19 The Committee has examined the *Ombudsman Annual Report 2010-2011* and noted the following matters highlighted by the former Ombudsman, Simon Allston:-

- Significant increases in the number of new complaints received and in the number of complaint files closed in both the Health Complaints and Energy Ombudsman jurisdictions;
- Reduction in Freedom of Information and Right to Information applications for review, offset by other work in the Right to Information jurisdiction;
- Reduction in budget allocation of \$60,000 for 2011-12 and a projected reduction of \$115,000 for the three ensuing budget years;
- Closure of the Launceston office as a result of reduced funding;
- Exploration of efficiencies to address reduced funding;

⁵ Ibid. pp. 12-22.

- Seeking systemic improvements where possible, without prior investigation;
- Completion of a number of major investigations; and
- Introduction of on-line complaints forms.

Monitoring and Reviewing the Office of the State Service Commissioner

Protocol

3.20 Communication and coordination between the Committee and the State Service Commissioner is managed pursuant to an agreed Protocol.

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3.21 The Committee has examined the *State Service Commissioner Annual Report 2010-2011* and noted the following matters.

- Development of a range of employment related strategies aimed at assisting Heads of Agencies to make the State Service more sustainable. Such strategies included Internal Vacancy Management and the Workforce Renewal Incentive Program.
- Publication of the results of the State Service Employee Survey.
- Commencement of a number of evaluation projects. In particular: a project relating to the employment of people with a disability in the State Service; a review of labour hire use and practices in the State Service; review and publication of the Commissioner's Direction No. 1 – "Employment in the State Service" which prescribes State Service recruitment practices and procedures and minimum requirements; and an examination of recent permanent and fixed term State Service appointments.
- Focus during the reporting period on negotiations for key replacement industrial agreements and awards.

Code of Conduct

3.22 The Committee will, by way of a separate report to the Houses, communicate the results of its examination of the report of the Commission on Codes of Conduct.

Public representations

3.23 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.

- 3.24 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.
- 3.25 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.
- 3.26 The Committee has on each such occasion, satisfied itself that the Commission applied appropriate judgment.

**Parliament House
HOBART
20 November 2012**

**Hon. Jim Wilkinson MLC
CHAIRPERSON**