

2020

No. 38



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PARLIAMENT OF TASMANIA

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**JOINT STANDING COMMITTEE ON  
INTEGRITY**

**Annual Report 2020**

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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  
Mr Dean (Chair)  
Mr Valentine (Deputy Chair)

**House of Assembly**

Mr Ferguson  
Ms Houston  
Mrs Petrusma

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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 2019-20 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 At the end of the reporting period, 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 (Deputy Chair); the Honourable Member for Launceston, Ms Armitage; the Honourable Member for Windermere, Mr Dean (Chair); the Honourable Member for Bass, Mr Ferguson; the Member for Bass, Ms Houston; and, the Honourable Member for Franklin, Mrs Petrusma.
- 1.5 There were two changes in the membership of the Committee during the reporting period: Ms Armitage replaced Mr Gaffney, and Mrs Petrusma replaced Mr Shelton.

### Annual Report to Parliament

- 1.6 This report details the proceedings of the Committee for 2019-20 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) 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

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<sup>1</sup> *Integrity Commission Act 2009* (No. 67 of 2009)

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>

### 3 ACTIVITIES OF THE COMMITTEE

#### Overview

- 3.1 The Committee met on four occasions during the reporting period. This was reduced in comparison to previous years due to the impact of Covid-19.
- 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.

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<sup>2</sup> Ibid, section 24(1).

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

### Committee Reports

- 3.3 The Committee tabled an Annual Report for the 2018-19 financial year on 28 November 2019.

### 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 Chief Executive Officer of the Integrity Commission during the reporting period.

#### *Annual Report 2019-20 – 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 2019-2020*, and noted the following activities during that period:-
- Greg Melick AO continued as the Chief Commissioner. Richard Bingham retired as Chief Executive Officer in April 2020 and was replaced by Michael Easton;
  - Luppó Prins (APM), Phil Foulston, and Robert Winter continued their roles on the Commission’s Board;
  - The Commission released 4 publications during 2019-20, including their Annual Report and investigations into the

Tourism Tasmanian Board and the Department of Education;

- The number of complaints of alleged public misconduct received was 165, an increase from 140 in the previous year. Of the 165 complaints received, 122 were dismissed, 16 were referred for action and 27 were accepted for assessment;
- The Commission undertook 28 assessments during the reporting period which contained 200 allegations of public sector misconduct. From these 5 investigations were finalised;
- There were 2 police audits undertaken and 44 occasions where statutory powers were used;
- The number of anonymous complaints received was 17, an increase from 15 in the previous year;
- Three complaint investigations were commenced, a decrease of 7 on the previous year;
- Two own-motion investigations were commenced, and concluded;
- There was a continuation of misconduct awareness and prevention workshops and presentations. The number of face-to-face training activities doubled, with 67 presentations and workshops delivered to 959 people from 33 public authorities; and
- The creation of a new Learning Management System for integrity training is anticipated to create more effective learning outcomes and greater participation numbers.

### **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 is required to table an Annual Report prior to 30 November each year and this results in the Committee only being able to review the Annual Report of the Ombudsman produced for the previous financial year.

*Annual Report 2018-19 – Office of the Ombudsman*

- 3.13 The Committee has examined the *Ombudsman Annual Report 2018-2019* and noted the following matters highlighted by the Ombudsman:-

- A decrease of 8% on the previous year in the number of complaints opened in the Ombudsman jurisdiction (800 to 735);
- An increase on the previous year of the percentage of complaints resolved within 90 days in the Ombudsman jurisdiction (88% to 90%);
- 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 58% to 56.3%;
- 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 209 to 186;
- There has been a significant decrease in the enquiries and complaints received by the Energy Ombudsman. Complaints received have decreased 32% from the previous year (241 to 164);
- There was an increase on the previous year to 59 from 43 in the number of the Right to Information external review applications received;
- There continues to be a historical backlog of the processing of Right to Information reviews. In 2018-19 this backlog increased by 13. However, the 2019-20 Government budget has allocated extra recurrent funding of \$245,000.00 a year which will allow the recruitment of some additional staff. The Ombudsman suggests this will assist in managing the backlog into the future and allows the office to meet more of its legislative obligations; and

- An issue has arisen with agencies not complying with statutory timeframes for a decision to be delivered. This results in additional work for the Ombudsman's office. The lack of more than one RTI officer has led to the Ombudsman having to review all decisions. This continues to impact the number of decisions that can be finalised.

### Public representations

- 3.14 The Committee has received a number of representations from citizens of Tasmania during the reporting period.
- 3.15 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.
- 3.16 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.
- 3.17 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 Integrity Commission because of restrictions placed on the Committee's level of oversight by section 24(2) of the Act.



## 4 APPENDIX

### Joint Standing Committee on Integrity Meeting Attendance 2019-2020

Meeting Date	In attendance	
	Legislative Council	House of Assembly
Tuesday 11 September 2019	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mrs Petrusma</i> <i>Mr Ferguson</i> <i>Ms Houston</i>
Tuesday 26 November 2019	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mrs Petrusma</i> <i>Mr Ferguson</i> <i>Ms Houston</i>
Tuesday 17 March 2020	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mr Ferguson</i>
Tuesday 24 March 2020	<i>Ms Armitage</i> <i>Mr Dean (Chair)</i> <i>Mr Valentine (Deputy Chair)</i>	<i>Mrs Petrusma</i> <i>Mr Ferguson</i>