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PARLIAMENT OF TASMANIA

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**JOINT STANDING COMMITTEE ON  
INTEGRITY**

**Annual Report 2019**

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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 2018-19 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 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 Honourable Member for Bass, Ms *Houston*; and, the Honourable Member for Lyons, Mr *Shelton*.
- 1.5 There were two changes in membership of the Committee during the reporting period: Ms *Armitage* replaced Mr *Gaffney*, and Mr *Ferguson* replaced Mr *Hidding*.
- 1.6 Since the completion of the reporting period, there has been a subsequent change in membership of the Committee with Mrs *Petrusma* replacing Mr *Shelton*.

### Annual Report to Parliament

- 1.7 This report details the proceedings of the Committee for 2018-19 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;

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

- (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>

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

#### **Overview**

- 3.1 The Committee met on seven occasions during the reporting period.
- 3.2 In 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 on 20 November 2018 its report “A Code of Conduct for Members of Parliament No. 3” recommending the House of Assembly and Legislative Council adopt a proposed Code of Conduct, which was subsequently passed by both Houses.
- 3.4 The Committee tabled an Annual Report for the 2017-18 financial year on 27 November 2018.

### Monitoring and Reviewing the Integrity Commission

#### *Protocol*

- 3.5 Communication and coordination between the Committee and the Integrity Commission is managed pursuant to an agreed Protocol.
- 3.6 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.
- 3.7 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.
- 3.8 In accordance with the Protocol, the Committee held two meetings with the Integrity Commission during the reporting period. The Chief Executive Officer attended both meetings and the Chief Commissioner attended one of the meetings.

#### *Annual Report 2018-19 – Integrity Commission*

- 3.9 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.
- 3.10 The Committee has examined the Integrity Commission’s annual report from the previous year – *Integrity Commission Annual Report 2018-2019*, and noted the following activities during that period:-
  - Greg Melick AO continued as the Chief Commissioner and Richard Bingham continued as the Chief Executive Officer;

- The Board of the Commission was re-appointed in July 2018, and consists of Luppo Prins (APM), Phil Foulston, and Robert Winter;
- The Commission tabled in Parliament a number of reports, including reports of investigations into allegations of misconduct by Ministers and former Ministers;
- The number of complaints received of alleged public misconduct was 140, a decrease from 193 in the previous year. Of the 140 complaints received, 79 were dismissed, 20 were referred for action and 41 were accepted for assessment;
- The Commission monitored 49 referred complaints and concluded three audits;
- The number of anonymous complaints received was 15, a decrease from 46 in the previous year, but in line with the 16 received in 2016-17;
- Six investigations and 48 assessments, containing 160 allegations of public sector misconduct, were concluded;
- 10 investigations were commenced, an increase of 2 on the previous year;
- 2 own-motion investigations were commenced, both were ongoing at the time of this report;
- Continuation of misconduct prevention activities, with 34 presentations and workshops delivered to 681 people from 19 public authorities; and
- State-wide pre-election and post-election roadshows for prospective and newly elected councillors were conducted, in partnership with the Local Government Association of Tasmania and other Tasmanian integrity entities, which reached more than 70 prospective councillors.

### **Monitoring and Reviewing the Office of the Ombudsman**

#### *Protocol*

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

- 3.12 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.
- 3.13 The Committee is required to table an Annual Report prior to 30 November each year, this results in the Committee only being able to review the Annual Report of the Ombudsman produced for the previous financial year.

*Annual Report 2017-18 – Office of the Ombudsman*

- 3.14 The Committee has examined the *Ombudsman Annual Report 2017-2018* and noted the following matters highlighted by the Ombudsman:-
- A decrease of 9% on the previous year in the number of complaints opened in the Ombudsman jurisdiction (876 to 800);
  - An increase on the previous year of the percentage of complaints not resolved within 90 days in the Ombudsman jurisdiction (8% to 12%);
  - The percentage of complaints in the Energy Ombudsman jurisdiction not resolved within three months almost doubled on the previous year (11% to 20%);
  - A significant decrease on the previous year (43 from 77) in the number of Right to Information external review applications received;
  - Despite the Office of the Ombudsman having an almost full complement of staff, historic budget cuts means there is a number of unfunded positions unable to be filled and continue to limit the office capacity. This situation is a continuation on the previous year, as was reported;
  - There continues to be a significant backlog of the processing of Right to Information reviews. The Ombudsman attributes these delays to inadequate staffing of the Right to Information jurisdiction; and
  - In subsequent correspondence to the Committee (28 September 2019) the Ombudsman advised that additional funding for RTI was included in the 2019/20 Budget and that he was “satisfied that these two new officers, together with the existing Band 6 Senior

Investigation and Review Officer will provide adequate resourcing to reduce and ultimately eliminate the backlog and allow future reviews to proceed in a more efficient and timely manner”.

### **Public representations**

- 3.15 The Committee has received a number of representations from citizens of Tasmania expressing frustration at the Office of the Ombudsman in relation to delays in processing Right to Information applications for review. Such representations have detailed the correspondents’ frustrations with the long processing times of applications by the Ombudsman. The Committee is aware of a number of reviews that have not been finalised despite being lodged over 12 months ago.
- 3.16 As was reported last year, the Committee still continues to receive a number of representations detailing citizen’s negative experiences in dealing with the Integrity Commission and the Ombudsman in the apparent, but incorrect 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.
- 3.17 It is quite clear that 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.
- 3.18 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.