



PARLIAMENT OF TASMANIA

**JOINT STANDING COMMITTEE ON
INTEGRITY**

Annual Report 2011

*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)
Dr *Goodwin*
Mr *Parkinson*

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 2010-11 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 The membership of the Committee has not changed during the reporting period. Members serving on the Committee on the parts of the Legislative Council and the House of Assembly respectively are: the Honourable Member for Pembroke, *Dr Goodwin*; the Honourable Member for Hobart, *Mr Parkinson*; 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*.

Annual Report to Parliament

- 1.5 This report details the proceedings of the Committee for 2010-11 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;
 - (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;

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

- (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 PROCEEDINGS 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 mainly focused upon: establishing 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; consideration of the adoption of a Code of Conduct for members of the Parliament of Tasmania; and consideration of proposed amendments to the Act.

Parliamentary Standards Commissioner

- 3.3 Section 27 of the Act prescribes that a person be appointed as the Parliamentary Standards Commissioner and that the Committee be

² Ibid, section 24(1).

³ Ibid, section 24(2).

consulted by the responsible Minister before such appointment by His Excellency the Governor is made.

- 3.4 In November 2010, shortly after the commencement of the Act, the then Deputy Premier and Attorney-General, Hon. Lara Giddings MP, in correspondence to the Committee proposed that Reverend Professor Michael Tate A.O. be considered for appointment as the inaugural Parliamentary Standards Commissioner.
- 3.5 The Committee deliberated upon such proposal and unanimously endorsed the appointment of Reverend Professor Tate to the position of Parliamentary Standards Commissioner.
- 3.6 The Committee has formally met with the Parliamentary Standards Commissioner on one occasion during the reporting period where the following matters were discussed: the role and functions of the Office of Parliamentary Standards Commissioner; the frequency of advice provided; proposed Code of Conduct for members of the Parliament of Tasmania; and proposed amendment of the Act.

Monitoring and Reviewing the Integrity Commission

Protocol

- 3.7 It was resolved by the Committee, in consultation with the Officers of the Integrity Commission, that it was highly desirable that a document with the aim of facilitating communication and coordination between the two entities be agreed. A Protocol was consequently drafted with such aim.
- 3.8 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.
- 3.9 The Committee receives, from time to time, complaints and representations from individuals and organisations regarding their interaction with the Commission. These are made in light of the role of the Committee to monitor and review the performance of the Commission.
- 3.10 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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- 3.11 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.
- 3.12 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.
- 3.13 Given the constrictions of time, the Committee will, by way of a special report to the Houses in the new year, communicate the results of its examination of the *Integrity Commission Annual Report 2010-2011* tabled in the House of Assembly on 27 October last.

Monitoring and Reviewing the Office of the Ombudsman

Protocol

- 3.14 It was resolved by the Committee, in consultation with the Ombudsman, that it was highly desirable that a document with the aim of facilitating communication and coordination between the two entities be agreed. A Protocol in similar terms to those of the Protocol with the Commission as outlined above was consequently drafted.

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- 3.15 Given the constrictions of time as outlined above, the Committee will, by way of a special report to the Houses in the New Year, communicate the results of its examination of the *Ombudsman Annual Report 2010-2011*.

Monitoring and Reviewing the Office of the State Service Commissioner

Protocol

- 3.16 It was resolved by the Committee, in consultation with the State Service Commissioner, that it was highly desirable that a document with the aim of facilitating communication and coordination between the two entities be agreed. A Protocol in similar terms to those of the Protocol with the Commission as outlined above was consequently drafted.

Annual Report

- 3.17 Given the constrictions of time as outlined above, the Committee will, by way of a special report to the Houses in the New Year, communicate the results of its examination of the *State Service Commissioner Annual Report 2010-2011* tabled in the House of Assembly on 16 November last.

Australian Public Sector Anti-Corruption Conference 2011

- 3.18 The third Australian Public Sector Anti-Corruption Conference (APSACC) was jointly hosted in Fremantle by the Corruption and Crime Commission (W.A.), the Crime and Misconduct Commission (Qld.) and the Independent Commission Against Corruption (N.S.W.).
- 3.19 The Committee resolved to send delegates to the Conference with a view to acquaint the Tasmanian jurisdiction of contemporary trends, strategies and future directions in preventing corruption and, given its relatively recent creation, to create network contacts with other Australian jurisdictions.
- 3.20 Sessions that were attended included the following subjects:-
- the interaction between lobbyists and public officers who exercise discretionary authority
 - how improper influence impacts upon public officer behaviour
 - the consequences of improper influence for procurement fraud
 - the tension between public interest and the pursuit of profit
 - the possibility of common ground between the private and public sectors on corruption

Code of Conduct

- 3.21 The Commission initiated as one of its first major projects the 'Codes of conduct for Members of Parliament, Ministers and Ministerial Staff in Tasmania' project. Such project, amongst other things, provided a comprehensive review of codes of conduct or similar documents operating within the Tasmanian public sector. Research of national and international best practice was conducted and a comparative analysis completed.
- 3.22 The Commission developed three model draft codes of conduct, applying to Parliamentarians, Ministers and ministerial staff respectively.

- 3.23 The report was tabled in both Houses and is receiving the consideration of the Committee.
- 3.24 The Committee will, by way of a special report to the Houses in the New Year, communicate the results of its examination of the report of the Commission on Codes of Conduct.

Public

- 3.25 The Committee has received 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.
- 3.26 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.
- 3.27 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.
- 3.28 The Committee has on each such occasion, satisfied itself that the Commission applied appropriate judgment.

**Parliament House
HOBART
21 November 2011**

**Hon. Jim Wilkinson MLC
CHAIRPERSON**