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PARLIAMENT OF TASMANIA

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**JOINT STANDING COMMITTEE ON  
INTEGRITY**

**Annual Report 2022**

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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**

Ms O'Byrne  
Mr Shelton  
Mr Street

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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 2021-22 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 membership of 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 Franklin, Mr *Street*; the Member for Bass, Ms *O’Byrne*; and, the Honourable Member for Lyons, Mr *Shelton*.
- 1.5 There was one change in membership of the Committee during the reporting period with Mr *Ferguson* resigning on 20 May 2022 and being replaced by Mr *Street* on 24 May 2022.

## **Annual Report to Parliament**

- 1.6 This report details the proceedings of the Committee for 2021-22 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 eight 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 2020-21 financial year on 25 November 2021.

#### Review of Members Code of Conduct

- 3.4 The *Integrity Commission Act 2009* empowers the Committee to initiate its own inquiries. The Committee's functions under section 24 (1)(b)(i) allows the Committee to report to Parliament, as it considers appropriate, on 'matters relevant to an integrity entity.'<sup>4</sup> Additionally, the CEO of the Commission has a specified role in the reviewing, developing and monitoring of the operation of any codes of conduct or guidelines that apply to Members of Parliament under section 30.<sup>5</sup> When the Members Code of Conduct was agreed to in November 2018, the review of the code was suggested to be performed by the Joint Standing Committee on Integrity. Such review was proposed to be carried out every four years. With this, and the above legislative provisions above in mind, in June 2022 the Committee wrote to all Members, as well as the Parliamentary Standards Commissioner, the Hon Sue Smith AM, and the CEO of the Integrity Commission, Mr Michael Easton, for comment on the current code.
- 3.5 The closing date for submissions to the Committee was in August and as such will be further discussed in next year's annual report.

#### Monitoring and Reviewing the Integrity Commission

##### Protocol

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

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<sup>4</sup> *Integrity Commission Act 2009*.

<sup>5</sup> *Integrity Commission Act 2009*.

- 3.7 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.
- 3.8 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.
- 3.9 In accordance with the Protocol, the Committee held two meetings with the Commission during the reporting period.

#### *Work of the Commission*

- 3.10 In accordance with section 11(4) of the *Integrity Commission Act 2009*, the Commission provided the Committee with one report during the reporting period.

#### *Annual Report 2021-22 – Integrity Commission*

- 3.11 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.
- 3.12 The Committee has examined the Integrity Commission’s Annual Report from the previous year – *Integrity Commission Annual Report 2021-2022*, and noted the following activities during that period:-
  - 3.12.1 Greg Melick AO continued as the Chief Commissioner and Michael Easton continued as the Chief Executive Officer;
  - 3.12.2 Luppo Prins (APM), Phil Foulston, and Robert Winter all continued their roles on the Commission’s Board;
  - 3.12.3 The Commission released their Annual Report and seven public reports released in the public interest;
  - 3.12.4 The number of complaints of alleged public misconduct received was 133, a decrease from 171 in the previous year. Of the 2021-22 complaints received, 67 were dismissed, 38 were referred for action and 26 were accepted for assessment;

- 3.12.5 Seventeen assessments were concluded by the Commission in 2021-22, of which eight were dismissed, three were referred and six were accepted for investigation;
- 3.12.6 The median working days to complete assessments for 2021-22 was 42 days. The Commission aims to complete such assessments within 40 working days;
- 3.12.7 Due to the length of one particular investigation, the median number of working days for investigations concluded in 2020-21 was higher than previous years at 392 working days;
- 3.12.8 As part of the Commission's police oversight program, the Commission audited one complaint managed by Tasmanian Police. The Commission noted its intention to redesign their Police Oversight program in 2022-23;
- 3.12.9 The number of anonymous complaints received was 28, a decrease from 39 in the previous year;
- 3.12.10 Six complaint investigations were commenced, and two were concluded. This was an increase on previous years;
- 3.12.11 There were no own-motion investigations commenced during the reporting period but one was concluded;
- 3.12.12 Of the three investigations that the Commission concluded, two were referred by the Board for action, with one accepted into inquiry by an Inquiry Tribunal;
- 3.12.13 One investigation report was released by the Board in the public interest. A report pertaining to the audit of a class of police complaints was tabled along with five research reports;
- 3.12.14 Following increased funding in the 2021-22 budget, the Commission were able to enhance their research, education, technological and communications functions. This saw the building of a program for misconduct prevention in the Tasmanian public sector;
- 3.12.15 There was a continuation of misconduct awareness and prevention workshops and presentations. A total of 42 training sessions were delivered to a total of 526 attendees, in 22 public authorities;

- 3.12.16 Most training sessions were held in the states South and were predominantly delivered to Tasmanian State Service employees, Local Government, and Police; and
- 3.12.17 The Commission's online training program, *Integrity in the Public Service*, was launched in August 2021, with 620 participants from 16 organisations completing the module. Topics covered include *Pride in Public Service*, *Role of the Integrity Commission*, *Misconduct Risks* and *Good Decision-making*.

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

#### *Protocol*

- 3.13 Communication and coordination between the Committee and the Ombudsman is managed pursuant to an agreed Protocol.
- 3.14 The Protocol also prescribes the communication process to be utilised by the Committee and the Ombudsman in dealing with such complaints and representations concerning the Ombudsman from members of the public, and also for those circumstances when the Committee seeks information from the Ombudsman on a specific subject.
- 3.15 The Committee met with the Ombudsman on one occasion during the reporting period.

#### *Annual Report 2021-22 – Office of the Ombudsman*

- 3.16 Given prescribed timeframes and the timing of the tabling of the Ombudsman's Annual Report, the Committee usually examines the report of the previous financial year. Last year the Ombudsman tabled its Annual Report for 2020-2021 early enough to be examined in the Committee's 2021 report.
- 3.17 At the time of writing the current report, the Ombudsman was yet to table the *Ombudsman Annual Report 2021-2022*, and as such the Committee has been unable to consider the report this year.

### **Monitoring and Reviewing the Office of the Custodial Inspector**

#### *Annual Report 2021-22 – Office of the Custodial Inspector*

- 3.18 The Committee has examined the Custodial Inspector's Annual report from the previous year – *Office of the Custodial Inspector Tasmania*,



Annual Report 2021-22 and noted the following matters highlighted by the Inspector:-

- 3.18.1 There continues to be a backlog of inspections, some of which were a result of COVID-19 cancellations, but following recent recruitment of a new Principal Inspection Officer and a Senior Inspection Officer, the backlog is being progressed through;
- 3.18.2 An inspection of the Mary Hutchinson Women's Prison was undertaken, as was an inspection against all Mental Health Care inspection standards;
- 3.18.3 The Mary Hutchinson Women's prison inspection revealed a number of challenges for the prison including a lack of criminogenic programs for female prisoners; difficulties for visits given the prison's location in southern Tasmania; a doubling up of female prisoners in the Hartz and Wellington accommodation units; and infrastructure constraints in the Wellington unit and a need to identify alternate accommodation to safely manage high risk/vulnerable/violent prisoners;
- 3.18.4 The Mental Health Care inspection assessed compliance with *Inspection Standards for Adult Custodial Centres in Tasmania* and the *Inspection Standards for Youth Custodial Centres in Tasmania*. A report is currently being prepared;
- 3.18.5 A Capacity Utilisation Review assessing all prison cells at five Tasmanian adult custodial centres was undertaken which indicated; that temporary beds are installed in cells to accommodate increasing prisoner numbers; the majority of prison cells do not meet *Standard Guidelines for Prison Facilities in Australia and New Zealand* minimum cell areas for both single and double cells with ablutions; and where cells have been converted to house additional prisoners, this reduces prisoner living standards in terms of privacy, mobility, mental health and the storage and security of private possessions;
- 3.18.6 While additional funding for staffing resources has been obtained, given the backlog of inspections, it is unlikely that the three legislative timeframes for inspection of centres will be met;
- 3.18.7 The following inspection reports and reviews were published; *Food and Nutrition Inspection Report: Inspection of Adult Custodial Services in Tasmania 2020*; *Food and*

*Nutrition Inspection Report: Inspection of Youth custodial Services in Tasmania 2020; and Capacity utilisation Review 2021;*

- 3.18.8 The ability of the Inspectorate to perform its obligations has been heavily impacted by its two staff members departing in 2021 and difficulties in recruitment of staff since;
- 3.18.9 The Custodial Inspector raised the issue that Inspectorate staff are Department of Justice employees;
- 3.18.10 It was also highlighted that the Inspectorate recommended in 2018 the prisoner pay scale be reviewed for an increase in line with at least the Australian consumer price index. The Inspector noted the pay scale remains unchanged and this has been raised more frequently as an issue by prisoners, particularly as the Tasmanian Prison Service has increased canteen prices; and
- 3.18.11 Ongoing issues of concern were listed as; increasing prisoner numbers creating high demand for prisoner service and prisoner health care; aging infrastructure; a lack of drug and alcohol treatment programs; insufficient and inadequate assistance to prisoners pre and post release; very few applications for section 42 leave for rehabilitation and reintegration purposes being approved; and requests for prisoners to attend funerals for significant family members or relationships being refused.

### **Public representations**

- 3.19 The Committee has received a number of representations from citizens of Tasmania during the reporting period.
- 3.20 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.
- 3.21 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.

- 3.22 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.
- 3.23 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  
23 November 2022



Hon. Rob Valentine M.L.C.  
CHAIRPERSON

## Appendix 1

### Joint Standing Committee on Integrity Meeting Attendance 2021-2022

Meeting Date	In attendance	
	Legislative Council	House of Assembly
Tuesday 24 August 2021	Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair)	Mr Ferguson Mr Shelton
Tuesday 12 October 2021	Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair)	Mr Ferguson Ms O'Byrne Mr Shelton
Tuesday 26 October 2021	Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair)	Mr Ferguson Ms O'Byrne Mr Shelton
Tuesday 9 November 2021	Ms Armitage Mr Valentine (Chair)	Mr Ferguson Ms O'Byrne Mr Shelton
Tuesday 24 November 2021	Ms Palmer (Deputy Chair) Mr Valentine (Chair)	Mr Ferguson Ms O'Byrne Mr Shelton
Tuesday 24 March 2022	Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair)	Mr Ferguson Ms O'Byrne Mr Shelton
Tuesday 24 May 2022	Ms Armitage Ms Palmer (Deputy Chair) Mr Valentine (Chair)	Mr Shelton
Tuesday 31 May 2022	Ms Armitage Mr Valentine (Chair)	Mr Street