

2013

(No. 27)



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PARLIAMENT OF TASMANIA

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**JOINT STANDING COMMITTEE ON  
INTEGRITY**

**Annual Report 2013**

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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

Dr Goodwin (Chairperson)  
Mr Dean  
Mr Farrell

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 2009<sup>1</sup> (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 election of the Honourable Member for Nelson, Mr *Wilkinson* to the Office of President of the Legislative Council following the periodical elections held for certain Divisions of the Legislative Council in May last, the Honourable Member for Derwent, Mr *Farrell* was appointed to the Committee. The Honourable Member for Pembroke, Dr *Goodwin* was subsequently elected Chairperson of 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* (Chairperson); the Honourable Member for Derwent, Mr *Farrell*; 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**

- 1.6 This report details the proceedings of the Committee for 2012-13 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;

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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) 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.<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 six occasions during the reporting period.
- 3.2 In the course of the reporting period, the proceedings of the Committee have focused upon: 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

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

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

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

## **Monitoring and Reviewing the Integrity Commission**

### *Protocol*

- 3.3 Communication and coordination between the Committee and the Integrity Commission is managed pursuant to an agreed Protocol.
- 3.4 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.
- 3.5 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.
- 3.6 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.

### *Annual Report 2011-12*

- 3.7 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.
- 3.8 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.
- 3.9 The Committee has examined the *Integrity Commission Annual Report 2011-2012* and noted the following matters:-
  - the continued focus of the Commission on its education and misconduct prevention role through its tailored training sessions to public officers;

- the provision of the first ‘Integrity in Office’ workshop for Parliamentarians as well as training for elected members of councils as part of its wider local government program;
- the establishment of regular and ongoing ‘capacity building’ forums for public sector leaders;
- the number of complaints received by the Commission during the reporting period; and
- the launch of the new website that provides a range misconduct prevention resources and training tools.

#### *Three year review*

- 3.10 As stated above, Section 24(1)(e) of the Act prescribes that the Committee reviews “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”.
- 3.11 During the reporting period, the Committee commenced discussions with the Officers of the Commission regarding the review. At its meeting on 12 November last, the Committee formally received the submission of the Integrity Commission to the three year review.
- 3.12 The Committee is in the process of deliberating upon the processes for the conduct of the review.

### **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.

#### *Annual Report 2011-12*

- 3.14 The Committee has examined the *Ombudsman Annual Report 2010-2011* and noted the following matters highlighted by the Ombudsman:-
- Significant increases in the number of new complaints received and in the number of complaint files closed, in the Ombudsman, Health Complaints and Energy Ombudsman jurisdictions;
  - Increase in the number of applications for external review under the Right to Information Act 2009;
  - Reduction in the budget allocation for 2012-13 and on-going years;

- Additional efficiencies required to address reduced funding;
  - Pursuit of systemic improvements without prior formal investigation where possible; and
  - A number of major investigations completed.
- 3.15 The Committee invited the Ombudsman to appear before it. On Wednesday, 12 December last, Leon Atkinson-MacEwen, Health Complaints Commissioner and Ombudsman appeared before the Committee, made the Statutory Declaration and was examined by the Committee in public.
- 3.16 The Committee has reported on its inquiry into the Office of the Ombudsman by separate report to both Houses<sup>4</sup>.

### **Monitoring and Reviewing the Office of the State Service Commissioner**

- 3.17 The Office of the State Service Commissioner was abolished pursuant to the provisions of the State Service Amendment Act (No. 42 of 2012). Section 44 of such Act deleted the Office of the State Service Commissioner from the definition of “Integrity entities” and section 45 deleted the State Service Commissioner as an *ex officio* member of the Integrity Commission Board.

### **Code of Conduct**

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

### **Public representations**

- 3.19 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.
- 3.20 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.

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<sup>4</sup> Report on the Office of the Ombudsman (Parliamentary Paper No. of 2013)

- 3.21 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.
- 3.22 The Committee is unable to take any further action to investigate complaints against the Integrity Commission beyond writing to the Chief Commissioner because of restrictions placed on the Committee's level of oversight by section 24(2) of the Act.

**Parliament House  
HOBART  
19 November 2013**

**Hon. Dr. Vanessa Goodwin MLC  
CHAIRPERSON**