DRAFT SECOND READING SPEECH

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Integrity Commission Amendment (Mandatory Notifications) Bill 2025

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Honourable Speaker, I move that the Bill now be read a second time.

This Bill proposes amendments to the *Integrity Commission Act 2009* to establish a mandatory notification framework.

The proposed amendments arise out of recommendations made by the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings and the 2016 Independent Review of the *Integrity Commission Act 2009* undertaken by the Hon William Cox (the Cox Review).

The Commission of Inquiry considered the role of oversight bodies, including the Integrity Commission, in dealing with complaints and concerns about child safety matters. In its final report, the Commission of Inquiry noted that the Reportable Conduct Scheme established in the *Child and Youth Safe Organisations Act 2023* will not capture all departments and organisations and that this may leave a role for the Integrity Commission in overseeing the management of allegations of child sexual abuse in some situations. To ensure that the Integrity Commission is aware of such matters, the Commission of Inquiry recommended at Recommendation 18.11 of its final report that the Tasmanian Government should implement Recommendation 11 of the Cox Review, which would oblige public authorities to notify the Integrity Commission of any allegations of serious misconduct.

The Cox Review made a number of recommendations for amendments to the *Integrity Commission Act*. The Government has previously accepted the majority of the Cox Review recommendations, noting that further consideration and analysis was required in relation to a number of recommendations. There is a large body of work underway to develop legislative reforms as a result of the Cox Review recommendations, as well as potential reforms arising from other reviews and consultation processes. A Bill to address the majority of the Cox Review recommendations, along with various matters raised by the Integrity Commission, is currently being drafted. I expect that this Bill will be released for public and targeted consultation before the end of this year with a view to introducing the Bill to Parliament in mid-2026.

In recognition of the importance of providing oversight and monitoring of

allegations, particularly in relation to child safety, the Government has decided to address recommendation 18.11 of the Commission of Inquiry by implementing recommendation 11 of the Cox Review as a preliminary step in advance of the broader body of reform work. Recommendation 11 of the Cox Review recommends:

That the Act be amended to require mandatory notification by public authorities of serious misconduct and misconduct by designated public officers to the Commission in a timely manner.

The Cox Report made clear that there should be a mandatory notification of serious misconduct by all public officers. Further, both misconduct and serious misconduct by designated public officers must also be notified.

Designated public officers, or DPOs, are specified in the Act and include commissioned police officers, senior executive officers, statutory office holders, principal officers of public authorities, Members of Parliament, and Council members. In its submission to the Cox Review, the Integrity Commission submitted that, in addition to mandatory notification of serious misconduct by public officers, notification should also be extended to any misconduct by DPOs given their important role in the management of public authorities and their seniority within the respective authorities. This was accepted by the Independent Reviewer and incorporated into recommendation 11.

In accordance with recommendation 11 of the Cox Review, the Bill introduces a mandatory requirement on principal officers of public authorities (known in the proposed new provisions as 'mandatory notifiers') to notify the Integrity Commission of any matter or information that the principal officer suspects on reasonable grounds involves or may involve:

- misconduct or serious misconduct by a DPO; or
- serious misconduct by a public officer.

Principal officers are set out in Schedule 1 of the Act – they include heads of agencies, the Commissioner of Police, the General Manager of a Council and the CEO of a Government Business Enterprise or State-owned company. Where there is no principal officer specified in Schedule 1, the Bill provides for the public authority to nominate a person or the holder of a position in the public authority to be the mandatory notifier.

A mandatory notifier is obliged to notify in respect of public officers and DPOs of the public authority that the mandatory notifier is responsible for. For example, the Secretary of the Department of Justice must notify of any matter or information that they suspect on reasonable grounds involves serious misconduct by an employee of the Department of Justice. The mandatory notification obligations apply to conduct that occurred while a person was a public officer or DPO whether or not that person is still a public officer or DPO at the time of the mandatory

notification, therefore, the provisions extend to historical conduct that has not already been dealt with or finalised by way of legal or disciplinary proceedings.

The mandatory notification obligations are paramount – a mandatory notifier must make a mandatory notification despite the provisions of any other Act or any confidentiality obligations and whether or not the matter has been referred to another person or public authority, for example, the police or Independent Regulator. There is an exception if the mandatory notifier knows that another person has notified the Integrity Commission of the matter or information. A mandatory notifier is also not required to make a mandatory notification if they know that legal, disciplinary, administrative or investigatory proceedings or actions in relation to the misconduct or serious misconduct were concluded prior to the commencement of these amendments.

The Integrity Commission will be able to issue guidelines in relation to mandatory notifications to provide guidance on the form, content and method of making a mandatory notification, and the types of matters and information that require notification.

Under the proposed new provisions, there are a number of options for how the Integrity Commission can manage a notification. On receipt of a notification, the Integrity Commission may exercise its powers under section 8 of the Act including:

- to receive and assess complaints or information relating to matters involving misconduct
- to refer complaints or any potential breaches of the law to the Commissioner of Police, the DPP or any other person that the Integrity Commission considers appropriate
- to initiate an investigation into any matter related to misconduct
- to assume responsibility for, and complete any investigation into misconduct commenced by a public authority or integrity entity if the Integrity Commission considers that action to be appropriate
- to receive reports relating to misconduct from a relevant public authority or integrity entity and take any action that the Integrity Commission considers appropriate
- to monitor or audit any matter relating to the dealing with and investigation of complaints about misconduct.

In addition to the powers conferred by section 8 of the Act, the Bill also enables the Integrity Commission to seek progress reports on what action a public authority is taking or intends to take in relation to a mandatory notification and to provide advice in relation to the conduct of an investigation into suspected misconduct or serious misconduct. These powers will facilitate the Integrity Commission in

undertaking an important oversight role. Should the Integrity Commission decide to assume responsibility for an investigation into suspected misconduct or serious misconduct, it can direct the public authority to stop its own investigations or actions that may impede the Integrity Commission's investigation.

The Bill also includes a compliance provision. This allows the Integrity Commission to inquire about a failure to comply with the mandatory notification requirements with the mandatory notifier or report the failure to a person or body with the power to enquire into that non-compliance. For example, this could include the Head of the State Service or a Minister.

It is important to note that, upon commencement of the provisions, a mandatory notifier will be required to make a mandatory notification of any suspicion formed prior to that day unless the matter has already been concluded by way of legal or disciplinary proceedings.

The Bill also addresses two other related Cox Review recommendations. It was considered necessary to deal with these recommendations in this Bill to facilitate the operation of the mandatory notification provisions.

The first relates to the definition of serious misconduct which is defined in the Act as misconduct by any public officer that could, if proved, be:

(a) a crime or an offence of a serious nature; or

(b) misconduct providing reasonable grounds for termination.

The term 'offence of a serious nature' is not defined in the Act. Recommendation 9 of the Cox Review recommends:

> 'That the interpretation section of the Act be amended by adding a definition of "offence of a serious nature" as one punishable by X years' imprisonment (or a fine not exceeding Y penalty units, or both)'

In accordance with this recommendation, the Bill proposes an amendment to section 4 of the Act to include a definition of 'offence of a serious nature'. The new definition is an offence punishable by imprisonment for a term of 12 months or longer. 12 months was chosen as the relevant minimum period of imprisonment as it is consistent with a number of other similar provisions across Tasmanian legislation. For example, in the new *Judicial Commissions Act 2024*, a judicial officer may be suspended if charged with an offence that is punishable by a term of imprisonment of 12 months or more. Conviction of a crime or an offence punishable by imprisonment for a period of 12 months or longer is a ground for suspension or removal from office of various statutory officers, including the Anti-Discrimination Commissioner, the Ombudsman, and the Chief Commissioner or a member of the Board of the Integrity Commission.

Following feedback on the consultation draft of the Bill, it was decided to include

this definition to provide clarity around the term 'serious misconduct' given that this is a key component of the mandatory notification obligations.

The second related Cox recommendation addressed in this Bill is recommendation 32:

> 'That an order be made under section 104(1)(b) to insert the University of Tasmania and under section 104(2) to insert the Vice Chancellor as principal officer into Schedule 1 of the Act, with a consequential amendment to Part 2 of Schedule 1 if required.'

Although this can be done via an order, it was decided, for the sake of convenience, to make this change through this Bill. While the University of Tasmania is a public authority for the purposes of the Act, it does not have a principal officer specified in Schedule 1. The Cox Review clearly identified this as a gap to be remedied and the Government has previously accepted this recommendation.

The amendments proposed by this Bill have been through two separate consultation processes. Last year, mandatory notification amendments were included in a Justice Miscellaneous Amendments Bill which was released for consultation in November 2024. Feedback was received in relation to the proposed amendments to the *Integrity Commission Act* and, as a result of that feedback, further work and drafting took place. Following the State election, it was decided to progress these amendments in a standalone Bill to be released for a further period of consultation given the changes to the original provisions.

The most recent consultation process took place from 26 September to 26 October this year with nine responses received. Some of those responses made no comment or simply expressed support for the Bill. A few submissions sought clarification or suggested further amendments to the Bill. Some concerns or suggestions raised by submissions relate more generally to the Act or procedural matters and are being considered further as to whether any amendments may be made in the future tranches of reforms. One amendment has been made to the Bill to clarify the exception to making a mandatory notification in the new section 32C(2)(a) by changing the test from 'believes on reasonable grounds' to 'knows', to provide a more objective basis for this exception.

I would like to thank all those who took the time to consider this important Bill and make submissions.

There has been extensive consultation with the Integrity Commission throughout the development of this Bill and in relation to the second Bill to be released for consultation later this year. I am most grateful to the assistance that the Commission's officers have provided, and continue to provide, to my Department throughout the legislative reform process.

Honourable Speaker, in conclusion, this Bill makes significant changes to the

Integrity Commission Act to introduce mandatory notification requirements. The proposed amendments are in line with recommendations from the Cox Review and the Commission of Inquiry and form an important step in enhancing the Integrity Commission's ability to oversee and monitor the way in which misconduct and serious misconduct are dealt with in the public sector.

I commend the Bill to the House.