

30 August 2021

The Hon Anastacia Palaszczuk MP  
Premier and Minister for Trade  
1 William Street  
Brisbane  
Queensland

Dear Premier,

The Integrity Act 2009 requires that a strategic review be undertaken every five (5) years to assess whether the Integrity Commissioner's functions are performed economically, effectively and efficiently.

In March 2013 I was appointed to conduct that review.

As required by Section 88 of the Act 2009 I am pleased to attach my report for your consideration and response.

The report notes there has been substantial growth in the number of requests for Integrity Commissioner advice. This has caused the Commissioner to impose service limits so those whose matters are of greatest public interest are able to receive timely advice. Simultaneously departments have developed greater expertise in and a capacity to deal with ethics and integrity matters as part of their governance structures. In some cases, other independent integrity agencies are better suited to the provision of advice. If these alternative advice structures were used where appropriate, the Integrity Commissioner would be able to meet the volume of requests for those whose roles involve matters of greatest public interest and/ or have significant decision making responsibilities. This would align the work of the Commissioner more closely to that as envisaged when the role was originally established. The report makes recommendations in this regard.

The terms of reference required there be an examination of the effectiveness in the regulation of lobbying as defined in the Act, and whether the Integrity Commissioner should have investigatory powers. The report makes a number of specific recommendations to strengthen the Integrity Commissioner's ability to monitor and audit lobbying activity, and suggests some powers be considered to deal with instances of non-compliance. It proposes the Commissioner be given powers to refer a matter for investigation to an appropriate body as opposed to duplicating that capability at some cost to the public purse.

There are also recommendations to address issues of business continuity and efficiency.

I would like to acknowledge with appreciation the contribution of many who provided information and made submissions over the course of the review, and the co-operation of the Integrity Commissioner and staff in providing material and data when requested.

Thank you for your consideration of the report, and await your response pursuant to Section 88 of the Act.

Yours sincerely,

s47Sch4 personal information

Kevin Yearbury

# **Strategic review of the Integrity Commissioner's functions**

## **Proposed report**

Kevin Yearbury PSM

30 August 2021

Released under RTI - DIS

# Contents

1	Acknowledgements.....	1
2	Abbreviations.....	2
3	Executive summary.....	3
3.1	Overview.....	3
3.2	Overview of findings.....	4
3.3	Review recommendations.....	9
3.4	Alignment to the Terms of Reference.....	13
4	Background.....	15
4.1	Context for the strategic review.....	15
4.2	Terms of Reference.....	16
4.3	Independent reviewer.....	16
4.4	Consulted parties and research.....	17
5	Overview of the current state of integrity in public administration.....	20
5.1	Integrity in government and public administration.....	20
5.2	Characteristics of a high-quality integrity system of government.....	20
5.3	The Queensland integrity framework.....	21
5.4	Clear separation of compliance and advice bodies in Queensland.....	22
5.5	Comparison of Queensland's integrity framework with similar jurisdictions.....	26
6	Integrity Commissioner's advisory function.....	29
6.1	The scope of the Integrity Commissioner's advisory functions has increased exponentially in recent years.....	29
6.2	The Act does not compel designated persons to disclose the nature of advice received from the Integrity Commissioner.....	39
6.3	Declaration of Interests to the Integrity Commissioner by Statutory Office Holders, and Public Service Chief Executives is duplicative and of limited utility.....	41
7	Integrity Commissioner's lobbying regulation function.....	43
7.1	The definition of lobbyists is appropriate for the purposes of achieving the desired degree of transparency of lobbying activity.....	44
7.2	The provisions requiring the reporting of, and dealing with, unregistered lobbying activity are inadequate.....	48
7.3	The powers of the Integrity Commissioner are limited.....	49
7.4	The Lobbyist Register does not provide complete transparency in respect of lobbying contact.....	52
7.5	Conflicts of interest have been raised regarding lobbyists working with political parties and firms who consult to government and to non-government organisations.....	54
8	Integrity Commissioner's public awareness function.....	57
8.1	Online resources have proven useful for designated persons.....	57

8.2	Building capacity within the sector will reduce the burden on the Integrity Commissioner over the long term .....	58
8.3	Ongoing education and training for lobbyist and public sector officials will support ethical practice .....	59
9	Performance of Integrity Commissioner's functions .....	61
9.1	Performance of Integrity Commission advisory function .....	61
9.2	Performance of Integrity Commission lobbying regulation function .....	64
9.3	Monitoring and reporting of Integrity Commission functions .....	68
10	Organisational arrangements supporting the Integrity Commissioner .....	69
10.1	Governance .....	69
10.2	Office structure, staffing and workload .....	70
11	Strategic issues for the future .....	75
11.1	The effectiveness of any punitive powers introduced and the investigatory regime (if the recommendations of this report are adopted) .....	75
11.2	The Lobbyist Register .....	75
11.3	The Terms of Reference should remain the same for future strategic reviews of the Integrity Commissioner's functions .....	76
12	Recommendations .....	77
13	Bibliography .....	82
Appendix A	Terms of Reference for the strategic review of the Integrity Commissioner's functions .....	85
Appendix B	Comparison of integrity systems nationally and internationally .....	89
Appendix C	Recommendations from the 2015 strategic review .....	93
Appendix D	Lobbying submission key themes .....	96
Appendix E	Lobbyist survey .....	98
Appendix F	LGAQ submission .....	103
Appendix G	Profile of Queensland integrity Agencies .....	104
Appendix H	Department Ethical Standards/Integrity Units .....	107
Appendix I	Summary of differences of professional opinion .....	108
Appendix J	Summary of comments on proposed report .....	109

# 1 Acknowledgements

The reviewer acknowledges the contribution of the Integrity Commissioner, the Acting Integrity Commissioner, and staff working within the Integrity Commissioner's office.

The reviewer extends thanks to the Speaker of the Queensland Parliament, members of the Economics and Governance Committee and secretarial support, the Clerk of Parliament, the Department of Premier and Cabinet and the Public Service Commission for their contribution and input into the review.

The reviewer acknowledges the agencies and persons who participated in consultations on key issues explored in the review including Queensland's integrity agencies, public sector agencies and Local Government.

The review also extends appreciation to lobbyists who provided submissions to the review and responded to the survey.

The reviewer gratefully acknowledges the contribution of Sally Cutts and Kaitlyn Cole, Nous Group, who were engaged to provide administrative and research support for the review.<sup>1</sup>

Released under RTI - DPC

---

<sup>1</sup> To provide the reviewer with administrative and research support, DPC, following an assessment of submissions from several proponents, appointed Nous group. The administrative and research support undertaken has been at the direction and under the supervision of the reviewer. The content of this report, its findings and recommendations are those of the reviewer alone.

## 2 Abbreviations

Abbreviation	Term
CCC	Crime and Corruption Commission
CoPEB	Community of Practice for Ethical Behaviour
CEO	Chief Executive Officer
DG	Director General
DPC	Department of Premier and Cabinet
DSDILGP	Department of State Development, Infrastructure, Local Government and Planning
EGC	Economics and Governance Committee
FAC	Finance and Administration Committee
FTE	Full Time Equivalent Employee
ICAC	Independent Commissioner Against Crime
ICT	Information and communication technology
MP	Member of Parliament
MPP	Members of Provincial Parliament
PSA	<i>Public Service Act</i>
PSC	Public Service Commission
the Act	<i>Integrity Act 2009</i>

## 3 Executive summary

This report outlines findings and recommendations from the strategic review of the Queensland Integrity Commissioner's functions (the Review), undertaken pursuant to the *Integrity Act 2009* (the Act).

### 3.1 Overview

The objectives, responsibilities and duties of the Queensland Integrity Commissioner are detailed in the Act. The underlying purpose of the Act is to encourage confidence in public institutions by helping Ministers, Members of the Legislative Assembly (MPs), and others to deal appropriately with ethics or integrity issues; and regulating contact with lobbyists.

To achieve this purpose, the Integrity Commissioner performs four primary functions (set out in Section 7 of the Act). They are:

- a) to give written advice to a designated person on ethics or integrity issues;
- b) to meet with, and give written or oral advice to, Members of the Legislative Assembly (MPs) in relation to interests issues;
- c) to keep the lobbyists register and have responsibility for the registration of lobbyists; and,
- d) to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the integrity commissioner's functions.

The Integrity Commissioner can also be asked to set standards by the Premier under Section 16 of the Act.

For the purposes of this review, the functions under Section 7 (a) and (b) are together considered as the advisory function.

#### 3.1.1 Terms of Reference

The Terms of Reference for the strategic review were decided by the Governor in Council.

The Terms of Reference require that the strategic review of the Integrity Commissioner's functions must be conducted in accordance with Section 86 of the Act including that, pursuant to Section 86 (6) of the Act, the Economics and Governance Committee (EGC) and the Integrity Commissioner be consulted.

The review is to examine all structural and operational aspects of the Integrity Commissioner, as well as its relationship with public sector entities, relevant Ministers, Assistant Ministers, the Parliamentary Committee, and the Legislative Assembly. It includes specific consideration of the following matters:

- the functions of the Integrity Commissioner and purpose of the Act in assessing the ongoing economy, efficiency, and effectiveness of the office of the Integrity Commissioner;
- the Integrity Commissioner's annual reports, strategic plan, the organisational structure, goals, operational conduct, internal/external policies, operational management, corporate management, and service provision of the Integrity Commissioner;
- comparative models, practices and procedures used by offices in other jurisdictions equivalent to the Integrity Commissioner;

- the recommendations from the 2015 strategic review, the recommendations of the former Finance and Administration Committee (FAC) report on the 2015 strategic review, and the Government's response to the former FAC's report, particularly to the extent to which they have been implemented and whether they are achieving the desired objectives; and,
- consider any matters raised during the performance of the Parliamentary Committee's functions under Section 89 of the Act.

The reviewer is to give consideration to the lobbying provisions of the Act, and in particular, consider:

- whether existing provisions are appropriate and effective in regulating contact between lobbyists and government and Opposition representatives, including by former government and Opposition representatives, having regard to public expectations of transparency and integrity; and,
- whether specific investigative powers are required to effectively regulate lobbying activities.

In reviewing the effectiveness of the Integrity Commissioner's oversight of lobbying activities, the reviewer is to consider the powers and responsibilities of similar offices in other Australian jurisdictions.

## 3.2 Overview of findings

This Review undertook investigation into the scope of operations of the advisory, lobbying and public awareness functions of the Integrity Commissioner, the performance of those functions, and the organisational arrangements supporting the Integrity Commissioner. The findings around the Integrity Commissioner's functions were also informed by analysis into the Queensland integrity system.

A summary of key findings is provided below, with recommendations aligned with the findings listed in Section 3.3.

### 3.2.1 Current state of Queensland's integrity framework

Queensland's integrity agencies, through a range of functions, bring the transparency and accountability that is necessary to generate confidence that the public interest is being served across all aspects of public administration, and the associated political and electoral processes.

Over the years, the integrity system has grown and developed to meet the changing needs of the sector and community expectations. The integrity regime in Queensland is significantly more disaggregated than many other jurisdictions with each agency performing specific functions. However, in combination, the overall system is one that exhibits the characteristics of a high-quality integrity system of government. The multi-agency approach provides Queensland integrity agencies with independence and mutually reinforcing accountability for integrity across the agencies.

### 3.2.2 Integrity Commissioner's advisory function

The scope of the Integrity Commissioner's advisory functions today is substantially different from that of the first Queensland Integrity Commissioner. Functions in addition to those of the Integrity Commissioner under the *Public Sector Ethics Act 1994* were included with the passing of the Act in 2009. The scope of the role has increased substantially post-2009. This is due partly to the Integrity Commissioner's role being extended to include advice to MPs in relation to integrity and ethics issues and interests' issues, and partly because of an increase in the number of persons eligible to access the advice of the Integrity



Commissioner, pursuant to Section 12 (1) (h), which enables a Minister or Assistant Minister to nominate an individual as a designated person.

This increase of scope has resulted in duplication and overlap in advice available to different groups of designated persons. This includes Mayors and Councillors, Ministerial staff, Queensland Health and Queensland Ambulance Service Senior Officers, Health Executives and equivalent, and Senior Officers across the public service.

Mayors and Councillors can seek advice through the Local Government Association of Queensland (LGAQ). This duplication is costly to the public purse and causes confusion as to the appropriate jurisdiction for the dealing of such matters. The ambiguity and complexity caused by this duplication acts against transparency and accountability and does not service the interest of economy in public administration.

A Ministerial staff member, or a person engaged to advise a Minister or Assistant Minister, can unilaterally seek the advice of the Integrity Commissioner. There is a risk to Ministers if their staff seek the Integrity Commissioner's advice without their knowledge. The current situation leaves Ministers exposed to consequences of actions taken by a staff member based on advice of which they have no knowledge. It is appropriate a Minister be informed when a staff member is intending to seek advice and is satisfied as to the scope and nature of the advice being sought.

In relation to how integrity advice is used, the Act does not compel designated persons to disclose the nature of advice received from the Integrity Commissioner, even when an advisee implies they are resting on it. In exploration of the issue, the review concluded a change to the confidentiality provisions to require disclosure of advice in the event an individual makes reference to having received it could dissuade, if not deter, the seeking of such advice. It could also constrain the information provided to the Integrity Commissioner to the point that the Act's efficacy is significantly impaired.

The review also found that Declaration of Interests to the Integrity Commissioner by Statutory Office Holders and Departmental Chief Executives is duplicative and of limited utility. Lodging the declarations with the Integrity Commissioner is an unnecessary duplication as it serves no useful purpose in the performance of the Integrity Commissioner's functions.

### 3.2.3 Integrity Commissioner's lobbying regulation function

Lobbying is a legitimate part of the process of a democratic system of representative government. It is predicated on individuals, interest groups, businesses and whole communities being able to express their wishes to their elected representatives and the Government of the day and be heard in relation to issues that affect them. Lobbying, when it is conducted ethically, can contribute to outcomes that are in the public interest and/or deliver a public good.

The Review Terms of Reference requires consideration being given to whether:

- the existing provisions of the Integrity Act are appropriate and effective in regulating contact between lobbyists and government and opposition representatives, including by former government and opposition representatives having regard to public expectations of transparency; and
- specific investigative powers are required to effectively regulate lobbying activities.

In consideration of these matters, the review found that the scope of lobbyists as defined in the Act provides appropriate transparency to lobbying activity. However, it could be clearer as to who is, and is not, captured under that definition. The intention of the Act is to achieve transparency as to on whose behalf a third-party lobbyist is acting by the reporting of contact through the Register of Lobbyists.

The interests sought to be advanced is self-evident when a meeting is held with, or contact made by, employees representing a company or organisation and transparency is achieved through Ministerial diaries which specify the purpose of such meetings or contact. Professionals employed by a company to provide specialist advice within their field of expertise distinguishes them from those engaged specifically to influence State or local government decision making. There would be a substantial additional cost to public administration and to business likely incurred by expanding the definition of lobbyist to include in-house lobbyists and professionals. Such costs are considered disproportionately high, compared to the net overall result in terms of the transparency objective, as it would largely replicate information required to be disclosed through Ministerial diaries. Greater consistency in the detail of the meeting purpose is however required.

The definition of 'responsible persons' required to report unregistered lobbying activity has some limitations. There is uncertainty as to whether the definition of 'responsible persons' required to report unregistered lobbyists and activity includes Statutory Officers.

The Integrity Commissioner has no powers under the Act to deal with unregistered activity, or if lobbying activity is conducted by an entity or individual whose registration has been cancelled. Having no ability to deal with reports of unregistered activity by way of penalty or sanction impacts the effectiveness of the Act.

The Integrity Commissioner's powers to monitor and regulate non-compliance of the Act are also limited. In particular:

- The Integrity Commissioner cannot compel departments to provide meeting records.
- The Act does not allow for proportionate corrective action in the course of monitoring compliance.
- Within the integrity system, there is not currently an appropriate investigatory body for lobbying.

These limitations inhibit the Integrity Commissioner from performing their role and effectively regulating lobbying activity in Queensland.

The Lobbyist Register does not provide complete transparency in respect of lobbying contact. The Lobbyist Register has ample categories to select the purpose of an interaction. Despite the lengthy list of possible purposes for contact, the category 'other' is commonly selected by lobbyists. With a large proportion of contacts being categorised as 'other' the transparency of interactions between lobbyist and government representatives and Opposition representatives is significantly reduced detracting from effectiveness of the register in achieving its purpose.

Conflict of interest issues were raised regarding lobbyists working with political parties and firms who consult to government and to non-government organisations. When lobbyists work with political parties, they are under the scrutiny of the public eye and media. Lobbying activity that occurs simultaneously with or subsequently must be declared in the register of contacts. This provides a degree of transparency in respect of how any conflicts of interest are being managed. Other avenues for managing conflicts of interest include advice to Ministers from the Integrity Commissioner. An update to the Lobbyist Code of Conduct to cover such situations that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration would seem appropriate. In addition, firms undertaking work for the Government should be required to make a specific statement in response to Item 3.2 of the Queensland Government Supplier Code of Conduct (which requires any conflicts of interest be identified and addressed) and attach a copy of the company Conflict of Interest Policy.

### 3.2.4 Integrity Commissioner's public awareness function

In line with the recommendations made in the last strategic review, the Integrity Commissioner has created a library of online resources. The educational material published by the Integrity Commissioner is well regarded by stakeholders who find them to be very useful. These resources raise awareness of the Integrity Commissioner's function and inform designated persons of their responsibilities under the Integrity Act. They provide guidance in respect of such matters as conflicts of interests, disclosures, post separation obligations etc.

As a result of the Integrity Commissioner's efforts over the past few years, there is now a high level of awareness amongst designated persons of the purpose of the Act and the mechanisms it provides to assist public officials meet community expectations regarding matters of integrity and ethics. Presentations and training sessions by the Integrity Commissioner, as well as participation in community of professional interest forums, have served to inform designated persons as to the purpose of the advice function, and strengthen the capacity of those across the public service involved in advising on integrity issues.

The Integrity Commissioner can (in combination with other integrity agencies) play an influential role in building capability across the public sector to promote a culture of ethical conduct in agencies and help continue the development of expertise within departments to advise employees on integrity issues. This should be the focus for the next five (5) years.

Submissions received through the review suggest there is an appetite within the community of registered lobbyists to support the principles contained in the Code of Conduct and promote best ethical practice. They see this as being assisted by the Integrity Commissioner having an increased capacity to respond to enquiries and to educate the industry on how to operate within the scope of the Code. There is also a demand more generally for enhanced education and training in relation to Chapter 4 of the Act (Regulation of Lobbying Activities), its intent, and the obligations it places on various parties.

### 3.2.5 Performance of the Integrity Commissioner's functions

There were no issues raised in the course of stakeholder consultations regarding the performance of the functions by the Integrity Commissioner. Diligence and commitment were mentioned by many as characterising the experience when interacting with the Office. Matters for attention were identified regarding the advisory and lobbying regulation function.

The Integrity Commissioner has experienced significant growth in the number of requests for advices since the last strategic review in 2015 in part due to nominations of designated persons made pursuant to Clause 12 (1) (h) of the Act. In addition, while the number of registered lobbyists has remained reasonably constant over the last three (3) years, there has been a significant increase in the number of lobbying contacts, particularly in the last financial year. Throughout this period, the Integrity Commissioner has not received additional resourcing relative to the workload increase.

To ensure advice provided is comprehensive the current Integrity Commissioner has developed a structure to ensure advice provided to designated persons is consistent with the requirements of Sections 21 and 23 of the Act. The number of codes, standards and other documents to which the Integrity Commissioner is required to have regard (and which continue to increase) inevitably brings with it a level of complexity. A statement of facts is included to ensure clarity as to the circumstances to which the advice relates. In combination this accounts for the length of some advice. The Integrity Commissioner believes it is necessary the advice contains this material to ensure there is clarity as to the specific matter to which the advice relates, the advice meets the requirements set out in the Act and advisees are apprised as to considerations that informed the advice (including the codes and standards referenced).

The review found that the Lobbyist Register is not fit-for-purpose. The Lobbyist Register was developed with limited resources and the technology platform on which it sits is outdated and its functionality limited. Its unreliability impacts the Integrity Commissioner's ability to perform the required lobbying monitoring and auditing functions. The difficulties lobbyists experience with the register impacts their ability to meet their obligations under the Act. The Integrity Commissioner has been working with the DPC IT providers to address this business risk. Given its criticality in providing accurate real time data to ensure transparency in lobbying activity, upgrading or replacing the technology platform on which the register sits is considered the highest priority for the Integrity Commissioner's Office.

In terms of monitoring and reporting commitments, the review found that the Integrity Commissioner's current systems are appropriate for monitoring and reporting data. The Integrity Commissioner continuously looks for opportunities to improve office efficiency, and the quality of reporting. The annual and bi-annual reports are useful tools to communicate the office's activity and the performance of its functions.

### **3.2.6 Organisational arrangements supporting the Integrity Commissioner**

The organisational arrangements supporting the Integrity Commissioner's functions were analysed as part of the strategic review. Issues to be addressed were identified regarding governance, office structure, staffing and workload.

The review found that governance arrangements are not appropriate for the needs of the office. They impact the efficient administration and management of the Integrity Commissioner's office functions and create a business continuity risk. To enhance its independence and reduce business continuity risk an Office of the Integrity Commissioner should be established. The Office of the Integrity Commissioner should sit within the DPC to align with the function being one within the portfolio of the Premier.

Other business continuity risks were identified as a result of the Act not providing the Integrity Commissioner with appropriate delegation powers when taking leave (both planned and unplanned) or where a conflict of interest arises for the Integrity Commissioner. The process of engaging an Acting Integrity Commission requires adequate notice and planning. It does not account for unplanned leave which may render the position vacant for a period. This risks designated persons being unable to access advice.

In addition, the review found that the resourcing of the Integrity Commissioner's office does not meet current workload demand and does not support business continuity and sustainability. If the current scope of the advice function is not reduced, additional staff will be required because there are already service limits being imposed. The structure and resourcing of the Integrity Commissioner's office should be aligned to support business continuity and sustainability.

In addition to scope increases as a result of changes to the Act described in previous sections, there has also been an increase in the scope of responsibility of the Integrity Commissioner's office for matters unrelated to the Integrity Commissioner's functions in the Act. The Integrity Commissioner has inherited responsibility for the receipt, checking (including auditing) and filing of AASB 124s (a disclosure of related interests shareholding Ministers are required to make in the financial statements of government owned corporations). The administrative responsibility for AASB 124's has no relevance to the Integrity Commissioner's functions under the Act.

### 3.2.7 Strategic issues for the future

In conducting the review into the current functions of the Integrity Commissioner, three strategic issues for the future were identified, to be monitored in the coming years and addressed in the next strategic review. The following matters were identified:

- The effectiveness of the investigatory regime (if the recommendations of this report are adopted).
- Adequacy of the Lobbyist Register in terms of its functionality and in terms of Client Relationship Management system.
- The Terms of Reference should remain the same for future strategic reviews of the Integrity Commissioner’s functions.

## 3.3 Review recommendations

Table 1 provides a summary of the recommendations from the strategic review.

Table 1 | Summary of recommendations

Recommendation	Detail
Integrity Commissioner’s advisory function	
<b>Recommendation 1</b> <i>refer Section 6.1.2</i>	<p>The ability of the Integrity Commissioner to meet the current level of demand for advice be addressed by either:</p> <ol style="list-style-type: none"> <li>funding an additional 0.5 Deputy Integrity Commissioner position to whom requests for advice can be directed during times capacity limits are reached, bringing the total staff complement up to 5.5 (including the Integrity Commissioner) together with necessary office infrastructure to enable the Deputy Commissioner to work remotely when called upon, or</li> <li>discontinuing, or reassigning to other more appropriate agencies, superfluous functions and amending the Act to eliminate duplication where other appropriate advice structures exist, (as outlined in Recommendations 2 to 7). This will enable the advice function to be performed without additional resources and, in addition, deliver consequential improvements in the economy and efficiency of the integrity system, enhanced accountability and greater transparency.</li> </ol>
<b>Recommendation 2</b> <i>refer Section 6.1.3</i>	<p>To ensure Members of Parliament and government representatives who have significant decision making responsibilities are able to receive timely advice in accordance with the Act’s original purpose:</p> <ol style="list-style-type: none"> <li>Section 12 (1) (h) of the Act that allows a Minister or Assistant Minister to (without limitation) nominate an individual class of person be repealed, and</li> <li>there be a sunseting of the right of individuals previously nominated under this provision to request advice at the time the section is repealed, and</li> <li>Section 17 (e) be repealed (as a consequential amendment).</li> </ol> <p>The effect of this recommendation is that any future additions to the categories of persons eligible to receive Integrity Commissioner advice would be way of legislative amendment or regulation. It would ensure the eligibility relates to the performance of a significant public service role and eliminate the situation where, (because of the confidentially provisions of the Act), the nominations of particular individuals and the reason they have been nominated, is not known. The problem of individuals once nominated having access to advice in perpetuity irrespective of whether circumstances change would also be resolved.</p>

Recommendation	Detail
<p><b>Recommendation 3</b> <i>refer Section 6.1.4.3</i></p>	<p>Section 12 (1) (d) of the Act that provides for “a Senior Executive or Senior Officer” to unilaterally seek advice from the Integrity Commissioner be amended to omit “Senior Officer”.</p> <p>There is a large cohort of “Senior Officers” within the public sector who have access to advice through departmental structures. The effect of this recommendation would be to eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a departmental officer below the executive level in departments. This is consistent with the accountability Chief Executives have under the Public Service Act for the ethical conduct of all employees and the integrity of their departments.</p>
<p><b>Recommendation 4</b> <i>refer Section 6.1.4.4</i></p>	<p>In relation to advice a former designated person can seek from the Integrity Commissioner “post separation” that:</p> <ol style="list-style-type: none"> <li>the PSC post separation employment directive be updated to make it clear what constitutes a “related lobbying activity” under the Integrity Act, and</li> <li>Section 20A (2) of the Act be amended to clarify that Integrity Commissioner advice is limited to related lobbying activity.</li> </ol>
<p><b>Recommendation 5</b> <i>refer Section 6.1.5</i></p>	<p>That:</p> <ol style="list-style-type: none"> <li>Section 12 (1) (f) (that allows a ministerial staff member who gives, or person engaged to give, advice to a Minister to unilaterally seek the Integrity Commissioner’s advice) be amended to read chief of staff with the knowledge of the Minister, and</li> <li>Section 12 (1) (g) (that allows an Assistant Minister staff member who gives, or person engaged to give, advice to an Assistant Minister to unilaterally seek the Integrity Commissioner’s advice) be repealed, and</li> <li>Section 18 (b) be repealed, (as a consequential amendment), and</li> <li>Section 17 (d) (that provides for a Minister to ask for the Integrity Commissioner’s advice on an ethics or integrity issue) be amended to read “a ministerial staff member who gives, or a person engaged to give, advice to a Minister”, and</li> <li>Section 18 (a) (that provides for an Assistant Minister to ask for the Integrity Commissioner’s advice on an ethics or integrity issue) be amended to read “an assistant minister staff member who gives, or a person engaged to give, advice to the Assistant Minister”.</li> </ol> <p>This suite of amendments will eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a ministerial staff member. Given the Minister or Assistant Minister becomes accountable for any action subsequently taken by staff member it is appropriate the Minister or Assistant Minister be informed when a staff member is intending to seek advice and satisfied as to the scope and nature of the advice being sought. The recommendation also gives effect to Recommendation 5 of the CCC “Keller Report” discussed in Section 6.1.4.3.</p>
<p><b>Recommendation 6</b> <i>refer Section 6.2</i></p>	<p>There be no change to the disclosure provisions of the Act designed to ensure confidentiality surrounds the requesting and the provision of advice.</p>
<p><b>Recommendation 7</b> <i>refer Section 6.3</i></p>	<p>That:</p> <ol style="list-style-type: none"> <li>Section 40E of the Act (that relates to statutory office holder Declaration of Interests being filed with the Integrity Commissioner) be repealed, and</li> <li>Section 101 and 185 of the PSA be amended to remove the requirement for Chief Executive Declarations of Interest be provided to the Integrity Commissioner.</li> </ol> <p>Statutory Officers are required to provide a declaration of interests to the appropriate Minister and/or Parliamentary Committee to which the officer holder is accountable. The Integrity Commissioner has no statutory function to perform in relation to the declarations. The effect of the recommendation would relieve the Integrity Commissioner of an administrative responsibility that has no relevance to the function.</p>

Recommendation	Detail
<b>Integrity Commissioner's lobbying regulation function</b>	
<b>Recommendation 8</b> <i>refer Section 7.1</i>	While not broadening the definition of "lobbyist", amend Section 41 of the Act to clarify the meaning of entity, to include an individual, organisation or related party (as defined in the ASA550 Auditing Standard).
<b>Recommendation 9</b> <i>refer Section 7.1</i>	To enhance transparency in respect of contact by those employed within organisations and associations who represent that entity's own interest: <ul style="list-style-type: none"> <li>a) the Government provide more specific criteria as to the information that must be included in Ministerial diaries as to the purpose of the meeting, including the possibility of a pre-set menu of options, and</li> <li>b) the Leader of the Opposition's diary contain similar detail in respect of meetings with those employed within organisations and associations to represent that entity's own interests.</li> </ul>
<b>Recommendation 10</b> <i>refer Section 7.2</i>	For the avoidance of doubt, Section 44 of the Act be amended to include reference to Statutory Officers as responsible persons for reporting unregistered lobbying activity to ensure all third-party lobbying activity is appropriately captured through regulatory functions.
<b>Recommendation 11</b> <i>refer Section 7.2</i>	To improve its effectiveness, the Act be amended to make unregistered lobbying activity an offence, together with penalties commensurate with those in other legislation for acts of deception intended to subvert the integrity of public administration.
<b>Recommendation 12</b> <i>refer Section 7.3.1</i>	To enable auditing of lobbyists records and monitor compliance, the Act be amended to require departments and agencies to provide meeting records and other relevant documents when requested by the Integrity Commissioner.
<b>Recommendation 13</b> <i>refer Section 7.3.2</i>	To improve the efficiency of the registered lobbyists regulatory regime: <ul style="list-style-type: none"> <li>a) the provisions pertaining to the issuing of a show cause notice be retained, and</li> <li>b) the Act be amended to enable the Integrity Commissioner, by notice to a registered lobbyist, seek an explanation and/or issue a direction to take remedial action about a compliance matter, without first having to send a show cause notice.</li> </ul>
<b>Recommendation 14</b> <i>refer Section 7.3.3</i>	To improve the effectiveness in the regulation of lobbying: <ul style="list-style-type: none"> <li>a) the Act be amended to provide for the Integrity Commissioner to: <ul style="list-style-type: none"> <li>i. refer matters to the CCC when there is information available that the activities of a registered lobbyist or an individual who is not a registered lobbyists but is undertaking lobbying activities (as defined by the Act) may offend the provisions of Section 15 of the <i>Crime and Corruption Act</i>, and</li> <li>ii. retain discretion as to what other matters constitute serious misconduct of such gravity as to warrant investigation and should be referred to the CCC, and</li> <li>iii. be given powers to warn lobbyists of inappropriate conduct without reference to the CCC.</li> </ul> </li> <li>b) there be consequential amendments to the <i>Crime and Corruption Act</i> (if necessary) to enable the investigation of alleged corrupt activity on the part of a lobbyist, (as distinct from the public official who is the subject of the alleged corrupt activity and is already covered by the <i>Crime and Corruption Act</i>), and any other matter referred by the Integrity Commissioner as constituting serious misconduct of such gravity as to warrant investigation.</li> </ul>
<b>Recommendation 15</b> <i>refer Section 7.4</i>	To improve transparency in relation to the nature of contacts with government representatives and Opposition representatives, lobbyists be required, when entering details on the Lobbyist Register, to provide a short explanation of the subject matter when selecting the 'other' category.
<b>Recommendation 16</b> <i>refer Section 7.5</i>	That in relation to lobbyists working in an advisory capacity to political parties, the Integrity Commissioner update the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration.

Recommendation	Detail
<b>Recommendation 17</b> <i>refer Section 7.5</i>	That the Act provide for the Integrity Commissioner to issue directives from time to time concerning the application of policies as circumstances require.
<b>Recommendation 18</b> <i>refer Section 7.5</i>	<p>To ensure possible conflict of interest situations are properly addressed, where a company is supplying services to government but also works for non-government clients, the Queensland Government Supplier Code of Conduct be amended to provide that:</p> <ol style="list-style-type: none"> <li>when submitting a proposal to undertake work for the Government, a firm be required to make a specific statement addressing Item 3.2 (Managing conflicts of interest) and attach a copy of the company Conflict of Interest policy where they have one, and</li> <li>Conflict of Interest be added as one of the due diligence checks to be made as part of the evaluation process.</li> </ol>
<b>Integrity Commissioner's public awareness function</b>	
<b>Recommendation 19</b> <i>refer Section 8.1</i>	That the Integrity Commissioner continue to develop education resources as this can reduce the demand on the office to respond to requests for basic information, freeing time and resources to conduct the advisory and lobbyist regulation functions.
<b>Recommendation 20</b> <i>refer Section 8.2</i>	<p>The expertise and knowledge of the Integrity Commissioner be used to build capacity and competency across the public sector by:</p> <ol style="list-style-type: none"> <li>continuing to make presentations to statutory Boards and agency chief executives regarding best practice in meeting community expectations in respect of integrity in public administration, and</li> <li>continuing the education and development of those in public sector agencies who are charged with advising on integrity issues relevant to the administration of the agency and its employees.</li> </ol>
<b>Recommendation 21</b> <i>refer Section 8.3</i>	<p>To improve understanding of the requirements of Chapter 4 of the Act (Regulation of Lobbying Activities), its intent and obligations, the Integrity Commissioner:</p> <ol style="list-style-type: none"> <li>develop educational materials tailored to needs of registered lobbyists and relevant public officials and undertake training sessions, and</li> <li>create a compulsory training module that promotes best practice within the lobbying industry active in Queensland, and</li> <li>require successful completion of the module by all currently registered lobbyists and those who intend to register, as a condition for registration.</li> </ol>
<b>Performance of the Integrity Commissioner's functions</b>	
<b>Recommendation 22</b> <i>refer Section 9.1.2</i>	That written advice provided pursuant to Section 21 and 23 of the Act contain a summary of the advice as the first section of the document.
<b>Recommendation 23</b> <i>refer Section 9.2.2</i>	<p>The technology platform on which the Lobbyist Register sits be upgraded and replaced and that:</p> <ol style="list-style-type: none"> <li>the Integrity Commissioner and the DPC IT complete, as a priority, work being undertaken to scope an upgrade or replacement of the platform, and</li> <li>once a solution has been identified that funding be provided to enable its prompt implementation.</li> </ol>



Recommendation	Detail
<b>Organisational arrangements supporting the Integrity Commissioner</b>	
<b>Recommendation 24</b> <i>refer Section 10.1</i>	<p>To enhance the independence of the Integrity Commissioner:</p> <ol style="list-style-type: none"> <li>there should formally be established an Office of the Integrity Commissioner as an independent unit within DPC consistent with the function being one within the portfolio of the Premier, and</li> <li>the Integrity Commissioner be accountable for the performance of the office in discharging the functions under the Act within the budget provided, and financial delegations commensurate with achieving accountability for prudent financial management, and</li> <li>staff be appointed directly to the office and (although public servants) be managed autonomously by the Integrity Commissioner.</li> </ol>
<b>Recommendation 25</b> <i>refer Section 10.2.1</i>	<p>To ensure business continuity and a sustainable service to those requiring timely advices:</p> <ol style="list-style-type: none"> <li>at the time the Integrity Commissioner is appointed, two Deputy Commissioners be appointed for the same term as the Integrity Commissioner to be engaged on a sessional basis only when the Integrity Commissioner is unavailable or where they have a conflict of interest,</li> <li>the Act be amended to provide the Integrity Commissioner delegation powers to assign functions to a Deputy Commissioner to cover periods of leave and in circumstances where the Integrity Commissioner may have a conflict of interest,</li> <li>the Integrity Commissioner be required to advise the Speaker and the Parliamentary Committee prior to the delegation is being exercised, and the circumstances,</li> <li>the delegation powers should not prevent the Integrity Commissioner continuing to perform their functions in the circumstance that a Deputy Commissioner is given a specific advice request, for example, due to a conflict of interest.</li> </ol>
<b>Recommendation 26</b> <i>refer Section 10.2.2</i>	<p>If an Office of the Integrity Commissioner is established (Recommendation 24) its structure include:</p> <ol style="list-style-type: none"> <li>Director, Advice and Office Manager (Change from Director Legal and Operations), and</li> <li>Director, Lobbying (Change from Senior Legal Officer), and</li> <li>two administrative support positions, and</li> <li>two sessional Deputy Commissioners (to be called upon only when the Integrity Commissioner is on leave or has a conflict of interest).</li> </ol>
<b>Recommendation 27</b> <i>refer Section 10.2.3</i>	That the Integrity Commissioner be relieved of the responsibility for the receipt and management of AASB124's as these are not related to the functions under the Act.

### 3.4 Alignment to the Terms of Reference

Table 2 provides an overview of how each matter identified in the Terms of Reference is addressed in the report. The Terms of References are provided in Appendix A.

**Table 2 | Terms of Reference cross-reference to the report structure**

No.	Matter for attention	Location in document
1	Have regard to the functions of the Integrity Commissioner and purpose of the Act in assessing the ongoing economy, efficiency, and effectiveness of the office of the Integrity Commissioner.	Sections 6, 7, 8, 9 and 0
2	Have regard to the Integrity Commissioner's annual reports, strategic plan, the organisational structure, goals, operational conduct, internal/external policies, operational management, corporate management, and service provision of the Integrity Commissioner.	Section 10

No.	Matter for attention	Location in document
3	Consider comparative models, practices and procedures used by offices in other jurisdictions equivalent to the Integrity Commissioner.	Section 5 and Appendix B
4	Consider the recommendations from the 2015 strategic review, the recommendations of the former FAC report on the 2015 strategic review, and the Government's response to the former FAC's report, particularly to the extent to which they have been implemented and whether they are achieving the desired objectives.	Appendix C
5	Consider any matters raised during the performance of the Parliamentary Committee's functions under Section 89 of the Act.	None raised.
6	Consider whether existing provisions are appropriate and effective in regulating contact between lobbyists and government and Opposition representatives, including by former government and Opposition representatives, having regard to public expectations of transparency and integrity.	Section 7
7	Consider whether specific investigative powers are required to effectively regulate lobbying activities.	Section 7.3.3
8	Consider the powers and responsibilities of similar offices in other Australian jurisdictions.	Section 5.3 and 5.5

Released under RTI - DPC

## 4 Background

This section provides detail on:

- The context for the strategic review
- The Terms of Reference for the review
- The independent reviewer
- Consultation undertaken throughout the review.

### 4.1 Context for the strategic review

The role of the Integrity Commissioner (Queensland Integrity Commission) was first established under the Public Sector Ethics Act 1994. The first commissioner was the Hon. Alan Demack (2000-2004) who, it is noted with sadness, passed away during the period of the review.

Dr Nikola Stepanov (PhD), the fifth Queensland Integrity Commissioner, was appointed on 1 July 2017 and has held the position continuously since that time. There have been consultations with Dr Stepanov and the staff assigned to her office in the preparation of this report, and the opportunity provided to comment upon the content of it. The co-operation of Dr Stepanov and office staff in providing information, documentation and reports as requested through the review period is acknowledged with appreciation.

This review constitutes the second Strategic Review of the Queensland Integrity Commissioner (the Integrity Commissioner). The requirements for the review are specified under Section 86 of the Act, allowing for a review of both the Integrity Commissioner's functions and the performance of those functions, with a view to assessing whether they are being performed economically, effectively and efficiently.

The Act specifies that the strategic review must be conducted by an appropriately qualified person acting as independent reviewer. The independent reviewer must have no pecuniary interest in the outcome of the review and have no established relationship with the Integrity Commissioner. In conducting the strategic review, the reviewer has the powers of an authorised auditor under the *Auditor-General Act 2009* for an audit of an entity.

Section 88 of the Act specifies that the independent reviewer's proposed report is to be provided to the Premier and the Integrity Commissioner for comment. The Premier and Integrity Commissioner may subsequently give the reviewer written comments on the content of the proposed report, with the independent reviewer then able to revise on the basis of these comments. Any comments that are not disposed of should be included, in full, in the report.

If there are differences of professional opinion outstanding at the time of submitting this Final Report they will be noted in the body of the report and included in full at Appendix I. In the interests of transparency, complete copies of all comments on the proposed report provided by the Premier, and the Integrity Commissioner will be included at Appendix J.

The final review report is to be presented to the Premier and the Integrity Commissioner, tabled in the Legislative Assembly and referred to the EGC for examination. The Committee may comment on any aspect of the report and make recommendations.

## 4.2 Terms of Reference

The Terms of Reference for the strategic review were decided by the Governor in Council.

The scope of the strategic review is outlined as follows:

- Review of the Integrity Commissioner's performance of the functions to assess whether they are being performed economically, effectively and efficiently.
- Examine all structural and operational aspects of the Integrity Commissioner, as well as its relationship with public sector entities, relevant Ministers, Assistant Ministers, the Parliamentary Committee and the Legislative Assembly.

Additional information relating to scope was outlined in the methodology section of this document. In conducting the strategic review, the reviewer is to:

- have regard to the functions of the Integrity Commissioner and purpose of the Act in assessing the ongoing economy, efficiency, and effectiveness of the office of the Integrity Commissioner;
- have regard to the Integrity Commissioner's annual reports, strategic plan, the organisational structure, goals, operational conduct, internal/external policies, operational management, corporate management, and service provision of the Integrity Commissioner;
- consider comparative models, practices and procedures used by offices in other jurisdictions equivalent to the Integrity Commissioner;
- consider the recommendations from the 2015 strategic review, the recommendations of the former FAC report on the 2015 strategic review, and the Government's response to the former FAC's report, particularly to the extent to which they have been implemented and whether they are achieving the desired objectives; and,
- consider any matters raised during the performance of the Parliamentary Committee's functions under Section 89 of the Act.

The reviewer is to give consideration to the lobbying provisions of the Act, and in particular, consider:

- whether existing provisions are appropriate and effective in regulating contact between lobbyists and government and Opposition representatives, including by former government and Opposition representatives, having regard to public expectations of transparency and integrity; and,
- whether specific investigative powers are required to effectively regulate lobbying activities.

The Terms of Reference are reproduced in full at Appendix A.

## 4.3 Independent reviewer

Kevin Yearbury was appointed as independent reviewer by Governor in Council on 11 March 2021 to conduct the strategic review of the Integrity Commissioner's functions in accordance with Chapter 6 of the Act.

Mr Yearbury PSM. BA. Dip TP. FIML, has over 40 years' experience in public policy and administration. He previously has been Director-General of several Queensland government departments. The Department of Local Government and Planning (1996-1998); the Department of Communication and Information, Local Government, Planning, Regional Communities and Sport (1998-2001); and the Department of Innovation

and the Information Economy (2001-2002). He was a member of the Australian Building Codes Board (1996-2000), and the Board of the Institute of Molecular Bioscience (2001-2002).

As Chief Executive of Stadiums Queensland from 2002 to 2016, Mr Yearbury oversaw the redevelopment of Suncorp Stadium, an expansion of the Gabba, and the construction of four other sports venues representing a combined \$1.3billion of assets under management.

Mr Yearbury served as a Commissioner on the Electoral Boundaries Commission 1998, and the Local Government Reform Commission 2007.

In 2001, Mr Yearbury was awarded a Centenary Medal for distinguished service to the public sector, and in 2017 a Public Service Medal for outstanding service to the State of Queensland.

## 4.4 Consulted parties and research

In line with the suggested methodology as set out in the Terms of Reference, a range of relevant stakeholders were consulted including:

- the Integrity Commissioner;
- other Integrity related bodies;
- Parliamentary Representatives; and
- Public service stakeholders.

Lobbyists were specifically invited to make submissions to the review and participate in a survey to in respect of industry trends and current issues.

In addition, the review also undertook further documentary research and investigation.

Consultations with the above groups are outlined below.

As per the Terms of Reference, interviews were held with the current Integrity Commissioner, Dr Nikola Stepanov, and Acting Integrity Commissioner, Mr Mark Glen; as well as staff members assigned to the Integrity Commissioner's office including:

- Ms Nikki Linneth, Senior Legal Officer
- Mr Russell Hood, Senior Legal Advisor
- Ms Pua Samia, Administration Officer.

### Queensland Parliament

The reviewer met with members of the EGC, the Queensland Parliamentary Committee that oversees the performance of the Queensland Integrity Commissioner under Section 89 of the Act. The Committee comprises:

- Member for Logan, Mr Linus Power, MP, Chair
- Member for Mermaid Beach, Mr Ray Stevens, MP, Deputy Chair
- Member for Coomera, Mr Michael Crandon, MP
- Member for Macalister, Mrs Melissa McMahon, MP

- Member for Ninderry, Mr Dan Purdie, MP
- Member for Hervey Bay, Mr Adrian Tantari, MP

The reviewer also met with the Speaker of the Queensland Parliament, the Hon. Curtis Pitt, MP, Member for Mulgrave, and the Clerk of the Parliament, Mr Neil Laurie.

### Queensland public sector integrity agencies

All Queensland public sector integrity agencies were consulted to gain a comprehensive understanding of the Integrity Commissioner's functions and performance within the broader integrity system.

Those consulted were:

- Crime and Corruption Commission (CCC),
  - Mr Alan MacSporran QC, Chair
  - Mr Paxton Booth, Executive Director Corruption Strategy, Prevention and Legal.
- Queensland Ombudsman, Mr Anthony Reilly
- Queensland Auditor-General, Mr Brendan Worrall
- Independent Assessor, Ms Kathleen Florian
- Electoral Commissioner, Mr Pat Vidgen and Assistant Electoral Commissioner, Wade Lewis
- Acting Queensland Racing Integrity Commissioner, Mr Mark Ainsworth
- Information Commissioner, Ms Rachael Rangiheta
- Right to Information Commissioner, Ms Louisa Lynch.

### Queensland Public Sector

- Department of State Development Infrastructure, Local Government and Planning (DSDILGP)
  - Mr Jim Myers, Director Ethics.
- Public Service Commission (PSC)
  - Mr Rob Setter, Chief Executive.
  - Ms Megan Berry, Deputy Commissioner
  - Mr Shaun Gordon, Director Performance Analysis.
- Coordinator-General, Ms Toni Power
- Department of Premier and Cabinet (DPC), Mr Ian Gibson, Acting Chief Information Officer and staff who provide information and communication technology (ICT) support to the office of the Integrity Commissioner including:
  - Mr Glen Sweeney, Projects Manager, IT Services
  - Ms Carol-Ann Ball, ICT Projects Portfolio Manager
  - Mr Steven Wishart, Senior IT Advisor
  - Mr Adam Stein, Principal Cyber Security Advisor

- Ms Cindy Rideout, Principal Business Analyst.
- Queensland Health
  - Ms Dawn Schofield, Executive Director
  - Ms Jess Byrne, Director Ethical Standards Unit.

### Local Government

- Local Government Association of Queensland (LGAQ)
  - Mr Greg Hallam, Chief Executive Officer (CEO)
  - Ms Allison Smith, Head of Advocacy.
- Local Government Division, Department of State Development, Infrastructure, Local Government and Planning (DSDILGP), Mr Jordon Watts, A/Director Policy and Legislation.

### Consultations with lobbyists

The reviewer sought submissions from lobbyists on the efficiency, effectiveness and economy of the lobbying function as it is administered by the Queensland Integrity Commissioner. Contact with lobbyists was facilitated by the Office of Integrity Commissioner. A total of eight (8) submissions were received from lobbyist across Queensland. A summary of the key themes from submissions are included at Appendix D.

Following receipt of submissions, lobbyists were invited to participate in an online survey. The survey was designed based on the key themes identified in submissions and sought to dive deeper into key issues. The survey questions are reproduced at Appendix E.

Conclusions drawn from this have informed findings in Sections 7 and 9.2.

### Submissions to the review

The review sought submissions broadly through a submission page available on the Integrity Commissioner's webpage. The submissions were open for a period of two weeks from 21 June to 2 July 2021. No submissions were received.

Prior to 21 June a submission to the Review was received from the LGAQ. The submission is reproduced in Appendix F.

### Research and investigation

To complement the information gathered from these consultations, the review also considered desktop information from a wide variety of relevant sources, including:

- recent literature concerning integrity and ethics in public administration both in Australia and overseas;
- reports and publications including those of Parliamentary committees, and 'Open Government' reform publications; and,
- management documents of the Office of the Integrity Commissioner, including strategic plans, annual reports and publications posted on the website.

The review also engaged with Mr Conor McGarrity, Risk Insights, on the trends in lobbying data.

A complete bibliography is provided at Section 13.

# 5 Overview of the current state of integrity in public administration

## 5.1 Integrity in government and public administration

Integrity in government and public administration is a multi-faceted concept. At its centre is the notion that those who carry some responsibility within the Westminster democratic system, (whether as Members of Parliament, the Ministry who form executive government, or officials who implement public policy and deliver programs) behave in an ethical manner and act in the public interest.

Integrity in government and public administration is not limited to eliminating corruption. It also involves actively developing systems and a culture which encourages ethical behaviours, deters misconduct and makes it difficult for corruption to take root. Public trust in government and confidence in public institutions is enhanced when those given responsibility by the citizenry carry out their duties in a moral manner.<sup>2</sup>

## 5.2 Characteristics of a high-quality integrity system of government

A fit-for-purpose integrity system is one that contributes to the building of trust in government through guiding the conduct of public officials and protecting the public interest.<sup>3</sup> The literature nominates six (6) principles which denote an effective system of integrity.<sup>4,5</sup>

1. **Independence.** An appropriately resourced statutory body which can perform its role independent of the functions of government. In other words, an entity that is permanent and protected from political intervention and unjustified budgetary constraints imposed to lessen its effectiveness.
2. **Transparency.** An effective public integrity system encourages politicians and senior public servants to make their actions open to the public, demonstrating that decisions are made in the best interests of citizens.
3. **Simplicity.** A public integrity system works best when it is well understood and does not place excessively burdensome demands on those working within it.
4. **Consistency.** Access to the decision-making processes should be equitable and reliable.
5. **Reasonableness and proportionality.** Issues that have the greatest potential to impact the public's interests should be afforded the most attention by the integrity system.
6. **Evidence based.** The functions and actions of an integrity body should be informed by the evidence and be fit-for-purpose.

---

<sup>2</sup> Independent Commission Against Corruption. (2018). Public integrity is great, but what is it?

<sup>3</sup> The Australia Institute & Transparency International Australia. (2017). Principles for designing a National Integrity Commission: A briefing paper prepared in November 2017 by the National Integrity Committee. Accessed from <https://australiainstitute.org.au/wp-content/uploads/2020/12/Principles-for-designing-a-National-Integrity-Commission.pdf>

<sup>4</sup> The Australia Institute & Transparency International Australia. (2017). Principles for designing a National Integrity Commission: A briefing paper prepared in November 2017 by the National Integrity Committee. Accessed from <https://australiainstitute.org.au/wp-content/uploads/2020/12/Principles-for-designing-a-National-Integrity-Commission.pdf>

<sup>5</sup> Transparency International Australia & Griffith University. (2020). Australia's National Integrity System: The Blueprint for Actions. *National Integrity System Assessment*.



Further, integrity systems should comprise functions ranging from preventing ethical misconduct, to regulating and investigating integrity-related activities<sup>6,7</sup>, including:

- **Education.** To inform the community and public sector about corruption and its effects.
- **Prevention.** To actively prevent corruption through providing advice and assistance.
- **Codes of practice.** To develop and educate individuals about complying with Codes of Conduct.
- **Access to advice on specific matters and issues.** To provide advice on matters related to ethics or integrity.
- **Oversight and regulation of lobbying activity.** To ensure transparency, integrity and fairness in the lobbying regime.
- **Investigatory powers.** To investigate and expose corrupt conduct in the public sector.

## 5.3 The Queensland integrity framework

### 5.3.1 The Parliament

The Queensland Parliament has recognised the essential role integrity, ethical conduct and transparency play in maintaining public trust and confidence in representative democracy. It has enacted legislation, set standards and adopted codes to govern the conduct of its members.

### 5.3.2 The Government

The Queensland Government has a responsibility to ensure integrity underpins public administration across the State. To support this objective, agencies across the public sector set the standards for integrity and ethical conduct. There are a number of agencies that comprise Queensland's integrity system. Their relationship with the Integrity Commissioner is outlined below.

### 5.3.3 Queensland's integrity agencies

Public confidence in government is enhanced when there is belief public policy is being conducted ethically and with integrity. In Queensland a broad, multi-agency framework exists to promote and manage integrity.

Queensland's integrity agencies, through a range of functions, bring the transparency and accountability that is necessary to generate confidence that public interest is being served across all aspects of public administration, and the associated political and electoral processes.

Over the years the integrity system has grown and developed to meet the changing needs of the sector and community expectations. While the integrity regime in Queensland is significantly more disaggregated than many other jurisdictions with each agency performing specific functions, in combination the overall system is one that exhibits the characteristics outlined at Section 5.2. One strength of such a disaggregated system may be that it mitigates against the centralisation of functions such that

---

<sup>6</sup> Transparency International Australia and Griffith University. (2020). Australia's National Integrity System: The Blueprint for Actions. National Integrity System Assessment.

<sup>7</sup> Ng, Yee-Fui. (2020). Regulating the influencers: The evolution of Lobbying regulation in Australia. *Adelaide Law Review*, 41(2).

checks and balances give way to a single way of thinking and paradigm capture. The integrity agencies which make up the Queensland integrity landscape and key functions of each body are depicted in Figure 1.

The Queensland Integrity Commissioner is one component of this framework.

The primacy of the public interest is made clear at Section 4 of the Act, and this sets the tone for the Integrity Commissioner's functions.

## 5.4 Clear separation of compliance and advice bodies in Queensland

The Integrity Commissioner has no investigative powers. Functions such as monitoring, compliance, and enforcement are the responsibility of separate agencies such as the CCC and the Ombudsman.<sup>8</sup>

The Integrity Commissioner's separation from and lack of investigative and enforcement functions is aimed at engendering greater confidence and trust in those seeking advice.<sup>9</sup>

Released under RTI - DDO

---

<sup>8</sup> Stepanov, N. & Vickers M. (2020). Submission on the Commonwealth Integrity Commission – Proposed Reforms. Accessed from <https://www.ag.gov.au/sites/default/files/2020-05/Dr-nikola-stepanov-queensland-integrity-commissioner.pdf>

<sup>9</sup> Stepanov, N. & Vickers M. (2020). Submission on the Commonwealth Integrity Commission – Proposed Reforms. Accessed from <https://www.ag.gov.au/sites/default/files/2020-05/Dr-nikola-stepanov-queensland-integrity-commissioner.pdf>

Figure 1 | Queensland integrity bodies and functions<sup>10 11</sup>

QUEENSLAND'S INTEGRITY SYSTEM									
PUBLIC SERVICE COMMISSION	AUDIT OFFICE	CLERK OF PARLIAMENT	INTEGRITY COMMISSION	INFORMATION COMMISSION	OMBUDSMAN	CRIME & CORRUPTION COMMISSION (CCC)	ELECTORAL COMMISSION	OFFICE OF THE INDEPENDENT ASSESSOR	RACING INTEGRITY COMMISSIONER
<p>Enhance and promote an ethical culture and integrity in decision making across the Queensland public sector including through the publication of Codes of Conduct and standards setting.</p> <p>Publish policies and guidelines for public service leaders in respect of conflicts of interest, declarations of interest, and gifts and benefits. Collect and publish Chief Executive declarations of interest.</p> <p>Undertake reviews and/or administrative inquiries about particular matters including department's handling of work performance matters.</p> <p>Convene the Community of Practice for Ethical Behaviour (CoPEB), a cross agency whole of government forum to advise on, coordinate, promote and disseminate ethical standards and integrity in public sector decision making.</p>	<p>Provide annual independent audit opinions on the accuracy and reliability of the financial statements of all Queensland public sector entities, including local governments.</p> <p>Examine the efficiency, effectiveness, and economy of public sector entities by conducting approximately 10 to 12 annual performance audits (based on a three (3) year rolling work plan).</p> <p>Conduct investigations about financial waste and mismanagement within public sector entities.</p> <p>Produce public reports on Audits undertaken and recommending improvements to public sector entities on their financial and risk management, internal controls, and delivery of public services.</p>	<p>Provide advice and guidance to the Speaker and Members of Parliament on the law and practice of Parliament including matters within the Code of Ethical Standards.</p> <p>Is the Registrar of the Registers of Members' and Related Persons' Interests.</p> <p>Provide advice to Members as requested on what matters should be declared on the Registers.</p> <p>Provide advice to Members as requested on what matters should be declared on an ad hoc basis in the Legislative Assembly or Committees.</p> <p>Maintain custody of all documents in the possession of the Legislative Assembly and its committees.</p>	<p>Provide ethics and integrity advice to Ministers, Members of Parliament, other senior public sector officers and local government Mayors and Councillors.</p> <p>Regulate lobbyist activities.</p> <p>Raise public awareness of ethics and integrity matters.</p> <p>Publish guides on ethics and integrity standards in decision making.</p>	<p>Promote awareness to improve proactive release and appropriate privacy safeguards to build trust and confidence through transparency.</p> <p>Conduct audits and evaluations of public sector compliance and good practices, reporting to Parliament on outcomes including recommendations.</p> <p>Conduct independent merit reviews of public sector Right to Information and Privacy access decisions.</p> <p>Mediate information privacy complaints in the public sector.</p> <p>Provide information tools and resources, assistance and training to support public sector agencies to comply with the law and promote transparency.</p>	<p>Investigate complaints about the actions and decisions of public sector bodies.</p> <p>Improve the quality of decision-making and administrative practice in the public sector.</p> <p>Provide oversight of public interest disclosures.</p>	<p><b>Corruption function (section 33)</b> Raise standards of integrity and conduct in the public sector. Deal with (including investigate) allegations of suspected corruption in the public sector. <b>Prevention function (sections 23 and 24)</b> Raise public awareness, advise public sector agencies on corruption prevention, and provide advice and training on enhancing integrity within the public sector, analysing intelligence and the result of investigations and increasing the capacity of public sector agencies to prevent corruption. <b>Research function (section 52)</b> Undertake research to the support the proper performance of the CCC's other functions, including corruption and prevention. <b>Intelligence function (section 55)</b> Analyse intelligence data collected to support the CCC's other functions including corruption and prevention.</p>	<p>Register and publish political donations and electoral expenditure.</p> <p>Regulate electoral funding and disclosure requirements.</p> <p>Ensure compliance and enforcement in relation to the above (and with Electoral Acts more generally).</p>	<p>Investigate and assess complaints about councillor conduct.</p> <p>Provide advice, training and information to councillors, local government employees, and other persons about dealing with alleged or suspected inappropriate conduct, misconduct or corrupt conduct.</p> <p>Prosecute misconduct and Local Government Act offences.</p>	<p>Oversee the integrity and welfare standards of racing animals and participants in Queensland.</p> <p>Prevent and detect crime within the Queensland racing industry.</p>
PUBLIC SECTOR FOCUS			PUBLIC SECTOR/COMMUNITY			SECTOR SPECIFIC			
JURISDICTION									

In addition to the integrity agencies outlined above, Queensland Government Departments also have a role in ensuring integrity and ethical standards within their organisations. Most departments have an Ethical Standards Unit whose role is to ensure standards are developed and complied with.

<sup>10</sup> The functions outlined do not necessarily include all functions performed by each respective body or agency.

<sup>11</sup> Department of the Premier and Cabinet (2013): Open government reform: Information paper no. 2: overview of Queensland's integrity framework.

## 5.4.1 The role of the Integrity Commissioner within this framework

The objectives, responsibilities and duties of the Queensland Integrity Commissioner are detailed in the Act.

Section 4 provides that “the purpose of the Act is to encourage confidence in public institutions by:

- a) helping Ministers, Members of the Legislative Assembly, and others to deal appropriately with ethics or integrity issues; and
- b) regulating contact between lobbyists and State or local government representatives and contact between lobbyists and key representatives for the Opposition, so that lobbying is conducted in accordance with public expectations of transparency and integrity.

To achieve this purpose, the Integrity Commissioner performs the following functions:

- a) to give written advice to a designated person or former designated person on ethics or integrity issues;
- b) to meet with, and give written or oral advice to, Members of the Legislative Assembly on ethics and integrity issues relevant to the register of members’ interests;
- c) to keep the lobbyists register and have responsibility for the registration of lobbyists;
- d) to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the integrity commissioner’s functions; and,
- e) to provide advice to the Premier as requested on:
  - an ethics or integrity issue involving a designated person (other than a non-government member); or,
  - standard setting for ethic and integrity issues.

For the purposes of this review, we have considered functions under Section 7 (a) and (b) together as the advisory function.

### The advisory function

Under the Act, the Integrity Commissioner must give written advice to designated persons about ethics or integrity issues, including conflicts of interest. This category is defined in Section 12 of the Act as including:

- a Member of the Legislative Assembly;
- a Statutory Office Holder;
- a Chief Executive of a department of government or a public service office;
- a Senior Executive and Senior Officer;
- a Chief Executive of, or a Senior Officer equivalent employed in, a government entity who is nominated by the Minister responsible for administering the entity, a ministerial staff member who gives, or a person engaged to give, advice to a Minister;
- an assistant minister staff member who gives, or a person engaged to give, advice to an Assistant Minister; and,
- other persons nominated by a Minister or Assistant Minister.

Requests for advice on ethics or integrity issues must be in writing. In providing advice, the Integrity Commissioner must have regard to relevant approved codes of conduct or approved ethical standards and other standards as outlined in Section 21 (3).

Section 22 and 23 of the Act provides that an MP may request a meeting with the Integrity Commissioner on "interests issues" for the member. The Integrity Commissioner may give advice orally or in writing.

The Premier may ask for the Integrity Commissioner's advice involving any person who is, or has been, a designated person, other than a non-government MP. The Premier may also ask for advice on standard setting for ethics or integrity issues.<sup>12</sup>

### **The lobbying function**

Since 2010 the Integrity Commissioner has been responsible for administering the regulation of lobbying activities under the Act. This function involves the maintenance of the Register of Lobbyists and approval of a Code of Conduct for lobbyists. The regulation of lobbying activity is set out in Chapter 4 of the Act.

The regulatory system is based on the requirement, in Section 71 of the Act, that "government representatives or Opposition representative must not knowingly permit an entity that is not a registered lobbyist to carry out a lobbying activity for a third-party client with the government representative or Opposition representative".

In addition, lobbyists are required to comply with a Lobbyists Code of Conduct, approved by the Integrity Commissioner and published on the website. The purpose of the code is to provide standards of conduct for lobbyists designed to ensure that contact between lobbyists and government and Opposition representatives is carried out in accordance with public expectations of transparency and integrity.

---

<sup>12</sup> *Queensland Integrity Act 2009*, Section 16.

## 5.5 Comparison of Queensland’s integrity framework with similar jurisdictions

Integrity bodies in Australia and internationally in countries with Westminster systems of government have a wide and variable range of functions. The review has examined the integrity functions as they are conducted in a cross-section of functions in governmental systems similar to Queensland. The systems of Ontario, Scotland, New South Wales (NSW) and Tasmania are described below and compared with the Queensland model. These are explored below in Table 3, with further detail provided in Appendix G.

Table 3 | Comparison of Queensland’s integrity framework

Office of the Integrity Commissioner (Integrity Commissioner) of Ontario	The Commissioner of Ethical Standards for Public Life in Scotland	The NSW Independent Commission Against Corruption (ICAC) and Electoral Commission	The Integrity Commission of Tasmania	Queensland Integrity system
<b>PREVENTION</b>				
<ul style="list-style-type: none"> <li>The Integrity Commissioner provides conflict of interest advice to Members of Provincial Parliament (MPPs), ministers’ staff, Ethics Executives and the Premier’s office during employment and for a period post-separation.</li> <li>The Integrity Commissioner receives and reviews financial declarations of MPPs and public servants annually.</li> <li>The Integrity Commissioner approves conflict of interest rules of public bodies and ethics plans of administrative tribunals.</li> </ul>	<p>The Integrity Commissioner provides advice to councils, devolved public bodies and Members of the Scottish Parliament (MSPs) to assist them in promoting high standards of conduct.</p>	<p>Provides advice to public authority, public official or other persons (on the request of the authority, official or person) and assistance to prevent corruption.</p>	<p>The Integrity Commissioner provides advice to public officers and the public about standards of conduct, propriety and ethics.</p>	<ul style="list-style-type: none"> <li>The Integrity Commissioner provides advice to Ministers’, Ministers’ staff, Members of Parliament, senior public officials and persons nominated by a Minister or Assistant Minister about ethics or integrity issues, including conflicts of interest.</li> <li>The Integrity Commissioner meets annually with all government members to discuss matters related to their entries on the Register of Member Interests.</li> <li>The Clerk of Parliament receives Members of Parliament declarations of interests and provides advice on ethics and integrity issues in relation to declarations of interests for MPs.</li> <li>The Auditor-General conducts independent audits on public sector entities and Public Interest Disclosures.</li> <li>The CCC provides information and advice on corruption prevention strategies.</li> </ul>

Office of the Integrity Commissioner (Integrity Commissioner) of Ontario	The Commissioner of Ethical Standards for Public Life in Scotland	The NSW Independent Commission Against Corruption (ICAC) and Electoral Commission	The Integrity Commission of Tasmania	Queensland Integrity system
				<ul style="list-style-type: none"> <li>The PSC receives Directors-General (DG) declarations of interest, which are published on an annual basis. The PSC also hosts the Community of Practice for Ethical Behaviour (CoPEB) comprising (inter alia) those who work in departmental ethical units as a mechanism to enhance and promote ethical decision making across the public service. The Ombudsman provides advice and training on the principles of good and ethical decision making.</li> </ul>
INVESTIGATION				
<ul style="list-style-type: none"> <li>The Integrity Commissioner has the power to investigate complaints received from an MPP regarding the activities of another MPP under the <i>Members' Integrity Act, 1994</i> (the Act).</li> <li>The Integrity Commissioner has authority to receive and deal with allegations of wrongdoing from public servants working in ministries and public bodies.</li> </ul>	<p>The Integrity Commissioner investigates complaints about the conduct of MSPs, local authority councillors, board members of regulated public bodies and lobbyists and report to the Standards Commission for Scotland.</p>	<p>Investigates and exposes corrupt conduct in the public sector. However, these powers do not extend to the investigation of complaints concerning the conduct of police officers.</p>	<p>The Integrity Commissioner receives and assesses complaints and conducts investigations into allegations of misconduct.</p>	<ul style="list-style-type: none"> <li>The CCC investigates and reports on allegations of suspected corruption in the public sector including Ministers and Members of Parliament, Parliamentary Services, government corporate entities and departments and local government. Corruption includes specified conduct that would or could impair confidence in public administration.</li> <li>The Local Government Independent Assessor assesses and investigates complaints about councillor conduct and prosecutes misconduct and Local Government Act offences.</li> </ul>
EDUCATION				
<ul style="list-style-type: none"> <li>The Integrity Commissioner provides education to MPPs, ministers' staff, Ethics Executives and the Premier's</li> </ul>	<p>The Integrity Commissioner provides advice to councils, devolved</p>	<p>Educates the community and public sector about</p>	<p>The Integrity Commissioner delivers education and training</p>	<ul style="list-style-type: none"> <li>The Integrity Commissioner delivers education and raises public awareness of ethics and integrity issues by contributing to public discussions.</li> </ul>

Office of the Integrity Commissioner (Integrity Commissioner) of Ontario	The Commissioner of Ethical Standards for Public Life in Scotland	The NSW Independent Commission Against Corruption (ICAC) and Electoral Commission	The Integrity Commission of Tasmania	Queensland Integrity system
office on Conflicts of Interests.	public bodies and MSPs to assist them in promoting high standards of conduct.	corruption and its effects.	relating to ethical conduct.	<ul style="list-style-type: none"> <li>The PSC develops resources and induction programs for public servants to raise awareness of their responsibility under the Code of Conduct developed to (inter alia) strengthen the integrity and accountability of the Queensland public service.</li> <li>The Ombudsman provides training on practical ethics for state government and local government.</li> <li>The Information Commissioner provides training on the role Right to Information plays in enhancing transparency in decision making. The CCC raises public awareness and provides advice on enhancing integrity within the public sector.</li> </ul>
<b>LOBBYING</b>				
<ul style="list-style-type: none"> <li>The Integrity Commissioner maintains the lobbyist registry.</li> </ul>	Not applicable.	The Electoral Commission oversees lobbying activity.	The DPC oversees lobbying activity.	<ul style="list-style-type: none"> <li>The Integrity Commissioner regulates lobbying activities under the Act including maintaining the Register of Lobbyists and approves a Code of Conduct for lobbyists.</li> <li>The CCC investigates suspected corruption and commences criminal proceedings if an offence is alleged to have occurred.</li> </ul>

As shown in the table, the key difference between the Queensland system and other jurisdictions is the number of agencies involved in integrity related functions. The multi-agency approach provides Queensland integrity agencies with independence and mutually reinforcing accountability for integrity across the agencies.



## 6 Integrity Commissioner's advisory function

The review identified three issues in relation the Integrity Commissioner's advisory function under the Act, viz:

- The growth in the number of requests for the Integrity Commissioner's advice has increased significantly in recent years.
- The Act does not compel designated persons to disclose the nature of advice received from the Integrity Commissioner.
- Declaration of Interests to the Integrity Commissioner by Statutory Office Holders and Public Service Chief Executives is duplicative and of limited utility.

Each issue is explored below.

### 6.1 The scope of the Integrity Commissioner's advisory functions has increased exponentially in recent years

The scope of the Integrity Commissioner's advisory functions today is substantially different from that of the first Queensland Integrity Commissioner. Matters identified relating to this change are as follows:

- Functions in addition to those of the Integrity Commissioner under the *Public Sector Ethics Act 1994* were included with the passing of the Act in 2009.
- The scope of the role has increased over time, partly due to the growth in persons eligible to access the advice of the Integrity Commissioner.
- Section 12 (1) (h) enables a Minister or Assistant Minister to nominate an individual or class of persons as a designated person.
- Duplication and overlap in advice available to some groups of designated persons is costly and inconsistent with jurisdictional responsibilities.
- There is a risk to Ministers if Ministerial staff seek Integrity Commissioner's advice without the Minister's knowledge.

Each of these matters is explored below.

#### 6.1.1 Functions in addition to those of the Integrity Commissioner under the *Public Sector Ethics Act 1994* were included with the passing of the Act in 2009

The role of Integrity Commissioner was initially established in 1999 under the *Public Sector Ethics Act 1994*. At this time the remit of the Integrity Commissioner was limited to providing advice about issues concerning ethics and integrity to designated persons including the Premier, Ministers, Assistant Ministers, DG's and Senior Executives within a public service office, and standard setting.

With the passing of the Act in 2009 the remit expanded with:

- Members of the Legislative Assembly being included as persons who could seek advice from the Integrity Commissioner, in relation to both ethics and integrity issues and "interests issues";

- the Integrity Commissioner being required to meet annually with Government Members of Parliament to discuss matters related to their respective statement of interests; and,
- compliance by Chief Executives of government agencies in respect of the lodgement of statements of interest to be checked and reported.

In addition, the Integrity Commissioner's functions expanded beyond just being an advisory role with the Act assigning responsibility for the regulation and monitoring of certain lobbying activity. This increased the scope of the Integrity Commissioner's responsibilities significantly.

## 6.1.2 The scope of the role has increased over time, partly due to the growth in persons eligible to access the advice of the Integrity Commissioner

Section 12 (1) (h) provides that a Minister or Assistant Minister can nominate a person or category of person as being eligible to request the Integrity Commissioner's advice. This has seen:

- inclusion in 2011 of Hospitals and Health Services established under the *Hospital and Health Boards Act 2011*;
- nomination of Mayors and Councillors as designated persons under the Act in 2018; and,
- nomination of District Senior Officer, health executives employed under the *Hospital and Health Boards Act 2011*, and the Queensland Ambulance Service Commissioner and 'Senior Executive' equivalent under the *Ambulance Service Act 1991* also in 2018.

Additional functions have also been added to the Integrity Commissioner's role including:<sup>13</sup>

- requirement in 2010 that Statutory Office Holders provide the Integrity Commissioner with Declaration of Interests annually;
- the filing of AASB 124's, a disclosure of related interests shareholding Ministers are required to make in the financial statements of government owned corporations; and,
- extension of designated persons access to the Integrity Commissioner up to two (2) years post separation.

There has been a sustained and heightened commitment to ethics and integrity by those responsible to the public. The escalation in the numbers eligible to receive advice together with an expansion in functions has resulted in the Integrity Commissioner having to prioritise requests in terms of the public interest. Consequently, some requestees have been informed that due to limits in the capacity to meet their request (service limits) there will be a delay in responding. Where appropriate, other avenues where advice might be obtained more expeditiously are suggested.

### Finding

The number of persons eligible to seek advice from the Integrity Commissioner has grown significantly since the passing of the Act. Additional (largely administrative but nevertheless time consumptive) functions have also been assigned.

<sup>13</sup> "Over time it would be our expectation that it should not be necessary to expand the office as members become more effective at avoiding conflicts of interest and the need for advice." (The Hon Peter Beattie Hansard, 11 November 1999, pg. 5017).

The 2015 Coaldrake Report recommended a reduction in staffing to 2.4 FTEs should the then scope of functions be maintained. It has not been maintained. The office currently has an establishment of four (4) permanent FTE positions. This has been insufficient to meet all requests for advice in a timely manner, resulting in the Integrity Commissioner imposing service limits to manage demand.

### Recommendation 1

The ability of the Integrity Commissioner to meet the current level of demand for advice be addressed by either:

- a) funding an additional 0.5 Deputy Integrity Commissioner position to whom requests for advice can be directed during times capacity limits are reached, bringing the total staff complement up to 5.5 (including the Integrity Commissioner) together with necessary office infrastructure to enable the Deputy Commissioner to work remotely when called upon, or
- b) discontinuing, or reassigning to other more appropriate agencies, superfluous functions and amending the Act to eliminate duplication where other appropriate advice structures exist, (as outlined in Recommendations 2 to 7). This will enable the advice function to be performed without additional resources and, in addition, deliver consequential improvements in the economy and efficiency of the integrity system, enhanced accountability and greater transparency.

## 6.1.3 Section 12 (1) (h) enables a Minister or Assistant Minister to nominate an individual as a designated person

The Integrity Commissioner advises particular persons they have been nominated pursuant to Section 12 (1) (h) as individuals in their own right. The Act intends that advice be provided in the context of the public service role an individual performs. However, the confidentiality provisions of the Act mean there is no public disclosure of the number of individuals who may have been nominated, what role or function they perform and the reason for their being nominated. Furthermore, in all other cases the designated person can seek the advice of the Integrity Commissioner for only so long as they hold the position that qualifies them, this is not so with individual nominations. An individual nominated by a Minister would appear to hold the right to seek Integrity Commissioner advice in perpetuity.

Where the Integrity Commissioner has received notice that the scope of the designated persons list is to be expanded, there has been no specific appropriation allocated to fund the increased workload. It is unusual that a Minister or Assistant Minister can impose a functional obligation on an agency that sits within the portfolio of another Minister, (in this case the Premier) and for which there are budgetary implications, merely by way of administrative action.

### Finding

The way in which Section 12 (1) (h) enables a Minister or Assistant Minister to nominate an individual as a designated person under the Act presents some difficulties. The Integrity Commissioner is an Officer of the Parliament, and the House is its own master. The Parliamentary EGC has oversight of the Integrity Commissioner. It would therefore seem appropriate that any action to increase the scope or reach of the Act should be by way of legislative instruments, either by way of an amendment to the Act or by Regulation after consultation with the Parliamentary Committee.

## Recommendation 2

To ensure Members of Parliament and government representatives who have significant decision making responsibilities are able to receive timely advice in accordance with the Act's original purpose:

- a) Section 12 (1) (h) of the Act that allows a Minister or Assistant Minister to (without limitation) nominate an individual class of person be repealed, and
- b) there be a sunseting of the right of individuals previously nominated under this provision to request advice at the time the section is repealed, and
- c) Section 17 (e) be repealed (as a consequential amendment).

The effect of this recommendation is that any future additions to the categories of persons eligible to receive Integrity Commissioner advice would be way of legislative amendment or regulation. It would ensure the eligibility relates to the performance of a significant public service role and eliminate the situation where, (because of the confidentially provisions of the Act), the nominations of particular individuals and the reason they have been nominated, is not known. The problem of individuals once nominated having access to advice in perpetuity irrespective of whether circumstances change would also be resolved.

### 6.1.4 Duplication and overlap in advice available to some groups of designated persons is costly and inconsistent with jurisdictional responsibilities

The review has identified several groups of persons nominated by a Minister or Assistant Minister under Section 12 (1) (h), and certain other categories of designated persons have access to alternative sources of advice in relation to integrity matters including managing conflicts of interest. These include:

- Mayors and Councillors;
- Queensland Health and Queensland Ambulance Service Senior Officers, Senior Executives and health officer equivalents;
- Senior Executives and Senior Officers; and,
- Designated persons who can access the Integrity Commissioner up to two (2) years post separation.

These four classes of persons may not have previously had adequate access to advice. However, in recent years capability and capacity of Queensland's public sector to provide advice on integrity related matters has matured as agencies have established dedicated units within their governance structures.

The institutional apparatus that now exists within departments and in special purpose authorities means there is duplication and overlap in advice structures to these four groups. This is inefficient, costly to the taxpayer, and in some cases advisees themselves when jurisdictional responsibilities are unclear.

#### 6.1.4.1 Mayors and Councillors

The 2015 Coaldrake Report recommended the advisory function of the Integrity Commissioner be not expanded to include local government members. The then FAC agreed and endorsed the recommendation. However, in 2018 Mayors and Councillors were nominated as designated persons in

response to a recommendation the CCC Belcarra Report concerning complaints about local government elections.<sup>14</sup>

Since that time there has been a strengthening of the institutional integrity framework including with the establishment of the Office of the (Local Government) Independent Assessor. To continue to include Mayors and Councillors as designated persons eligible to seek the advice of the Integrity Commissioner would seem not to be consistent with the original intent and purpose of the Act.

Local Government is not covered by the Parliament of Queensland Act which references a range of procedural, declaratory and accountabilities that apply to MP's and which are reference points when providing advice. These do not apply to Local Government Mayors and Councillors.

Local Government has its own Act to deal with the specific conflict of interest requirements within that jurisdiction. The prescriptive detail in the Local Government Act pertaining to conflicts of interest means advice to Mayors and Councillors, if it is to be useful, needs to be informed by their legal obligations not just by the applicable codes.

The Parliament has enacted Law that sets out explicitly the standards to apply to Mayors and Councillors in the exercise of their responsibilities. In December 2018 the Office of the Local Government Independent Assessor was established to deal with matters such as inappropriate conduct, misconduct or corrupt conduct on the part of Councillors.

In addition to the education and training provided by the Office of the Independent Assessor on matters relevant to its jurisdiction, Mayors and Councillors can seek general advice on integrity matters from the Local Government Division (DSDILGP), the LGAQ, and can access legal advice as required.

### Finding

The administration of Local Government is governed by a set legal framework specific to itself. Since 2018 when Mayors and Councillors were nominated as designated persons there has been a strengthening of the local government institutional integrity framework including with the establishment of the Office of the (Local Government) Independent Assessor. Mayors and Councillors have access to advice on matters of integrity (including managing conflicts of interest) from entities with specialist knowledge of that jurisdiction. To continue to have Mayors and Councillors able to access to the Integrity Commissioner for advice is not only a duplication but inefficient given the Integrity Commissioner needs to acquire the specialist knowledge that already resides in the Local Government Division (DSDILGP), the LGAQ and the Office of the Independent Assessor.

The ambiguity and complexity caused by this duplication acts against transparency and accountability and does not serve the interests of economy in public administration.

If Recommendation 2 is adopted Mayors and Councillors would cease to have access to Integrity Commissioner advice. They would instead obtain such advice from appropriate agencies within the local government sector.

#### 6.1.4.2 Queensland Health and Queensland Ambulance Service Senior Officers, Health Executives and equivalents

In 2018 The Minister for Health and Minister for Ambulance Services updated a previous request from 2007 to include certain classes of Health officials as designated persons to address restructuring withing

<sup>14</sup> Crime and Corruption Commission. (2019). Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government. Recommendation 28, pg. 86. Accessed from <https://www.ccc.qld.gov.au/sites/default/files/2019-08/Operation-Belcarra-Report-2017.pdf>

Queensland Health. The Minister nominated District Senior Officers, Health Executives (not including the Chief Executive) employed under the *Hospital and Health Boards Act 2011*, and the Queensland Ambulance Service Commissioner and 'Senior Executive' equivalent under the *Ambulance Service Act 1991* as designated persons under Section 12 (1) (h).

Note the Chief Executives in health already have access to advice via the Integrity Commissioner as designated persons as per Section 12 (c).

Since that time, Queensland Health has developed within its devolved structure Integrity/Ethical Standards Units staffed with people able to provide advice to Hospital and Health Services employees on ethics and/or integrity issues, including conflict of interest matters. Requirements regarding ethical conduct are operationalised through policy and procedures. Training in relation to codes of conduct is provided to all Queensland Health employees at induction sessions and periodically thereafter, and the availability of Integrity/Ethical Standards Units to provide advice as required.

### Finding

The advice this group of employees can now access from the integrity units within Queensland Health duplicates that which is available from the of the Integrity Commissioner. There is no discernible need for this group of employees to continue to access the Integrity Commissioner when the advice available to them from within Queensland Health Integrity/Ethical Standards Units is informed from the codes of conduct, approved standards and legislation relevant to their employment, and to which advice from the Integrity Commissioner would be similarly informed.

The broader issue of the Senior Officers and equivalents having direct access to the Integrity Commissioner is explored further below.

If Recommendation 2 is adopted and the nominations made under Section 12 (1) (h) of District Senior Officers, would cease to have direct access to Integrity Commissioner advice. These persons will still have access to the Integrity/Ethical Standards Units within Queensland Health as avenues to seek advice. All Senior Executives within the Ministers nomination would continue to have access to Integrity Commissioner advice by virtue of "a Senior Executive" being a designated person.

#### 6.1.4.3 Senior Officers can access Integrity Commissioner advice through their Chief Executive

The 2015 Coaldrake Report noted "Senior Executives and officers are unable to seek advice from the Integrity Commissioner without the consent of their Chief Executive".<sup>15</sup> It recommended Senior Executives and Senior Officer equivalents be able to request advice from the Integrity Commissioner without the need for managerial consent.

The Coaldrake Report noted the recommendation was based on concerns of the then Integrity Commissioner that:

- the requirement to obtain consent may result in significant delay in obtaining advice;
- it may act as a deterrent to seeking advice; and,
- the Chief Executive may refuse to provide consent in an instance where it would have been more appropriate for advice to have been sought.

<sup>15</sup> Coaldrake, P. (2015). Strategic Review of the functions of the Integrity Commissioner – Final report, pp.19. Accessed from <https://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2015/5515T804.pdf>

The CCC identified an arrangement where an individual who does not carry ultimate accountability for the consequences of actions claimed to be based on such advice, but not disclosed, problematic.

It recommended:

*"That consideration be given to amending the Integrity Act 2009 to impose an obligation on a designated person to disclose any advice received from the Integrity Commissioner to the designated person's reporting supervisor to ensure any actual, potential or perceived conflicts of interest are appropriately managed and monitored. This should include all advice about whether a conflict of interest is identified or not."*<sup>16</sup>

### **Senior Officers have access to advice through their respective agencies**

The 2015 Coaldrake Report recommended that Senior Executives and Senior Officer equivalents be able to request advice from the Integrity Commissioner without the need for managerial consent may have had merit at the time, the reasons for inclusion of Senior Officers seem to now have largely dissolved. The broader Queensland integrity system has matured. Integrity/Ethical Standards Units are now very much part of the governance apparatus of departments and agencies (see Appendix H).

This maturing of the institutional integrity framework reflects the growing community expectation that a commitment to integrity and ethical conduct should be an essential part of the governance of any organisation and embedded its culture. Accordingly, many of the Integrity/Ethical Standards Units that have emerged within departments, as well as many of the statutory independent integrity units, go beyond just providing advice. The staff of these units are actively engaged in pursuing best practice by producing codes of conduct and guidelines, undertaking education and training, as well as monitoring and compliance functions. They are networked through the PSC who sponsored the Community of Practice for Ethical Behaviour (CoPEB). Agencies too small to have a stand-alone unit invariably access such advice through service level agreements with a larger department.

This apparatus within departments, supported by the PSC, provides both Chief Executives and public servants with contextualised real time advice, consistent with the principle that integrity and ethical behaviour is an integral part of good corporate governance. The advice is available to all employees and addresses the first concern of the Coaldrake report regarding the timeliness of advice.

While Chief Executives should still be able to access the advice of the Integrity Commissioner given their accountabilities for the ethical performance of their agencies, retaining the provision that enables Senior Officers to request advice from the Integrity Commissioner without the need for managerial consent is, within the current framework, inefficient and potentially dysfunctional.

### **There is a risk to the Integrity Commissioner and agencies if public servants seek Integrity Commissioner's advice without agency oversight**

Section 12 (1) (d) of the Act provides that "Senior Officers" can unilaterally seek advice from the Integrity Commissioner.

The PSA states the Chief Executive is responsible for the ethical conduct of their staff and accountable for the proper governance of the department.<sup>17</sup> However, because of the way Section 12 (1) (d) operates they are left without the capacity to do so. Furthermore, the reputation of the whole department can potentially be put at risk.

---

<sup>16</sup> Queensland Crime and Corruption Commission. (2020). Investigation Keller: An investigation into allegations relating to the former Chief of Staff to the Honourable Anastacia Palaszczuk MP, Premier of Queensland and Minister for Trade. Recommendation 5, pg. 55

<sup>17</sup> Queensland Public Service Act 2008. Sections 11, 91, & 98.

The confidentiality provisions of the Act mean there is no obligation on the Senior Officer to inform the Chief Executive they have sought advice, the nature of that advice and whether they are acting upon it. Yet every subsequent action taken by that Senior Officer in relation to the matter is done as an agent of, and under the auspices of, the department. The practical effect of Section 12 (1) (d) therefore seems inconsistent with the accountabilities of both the Chief Executive and a public servant under the PSA.

The Integrity Commissioner has expressed concern at the prospect of a selective and personalised presentation of matters when advice is sought by a Senior Officer. Since the Integrity Commissioner cannot disclose to a third-party (including to the Chief Executive of the department) that a request has been received they are left with only the advisee's version of the circumstances upon which to base the advice. The Senior Officer may not be fully conversant with the full corporate context of the matter, leaving the Integrity Commissioner, and therefore, the broader public interest, somewhat exposed.

There are a number of Senior Executives who hold statutory or executive positions outside of departmental structures and are the accountable officer. It is appropriate therefore they continue to have access to Integrity Commissioner advice.

### Finding

Any advice a Senior Officer wishes to seek from the Integrity Commissioner would have to do with the discharging of their duties as a public servant within a government agency. It is therefore reasonable and appropriate consultation first occurs with the integrity units of their department.

This would not prevent the integrity unit and employee agreeing Integrity Commissioner advice be obtained through the Chief Executive if the matter warranted it. If the employee felt staff of the integrity unit were themselves conflicted in respect of the matter, they could approach the Chief Executive directly to frame a request to the Integrity Commissioner.

The accountability and transparency objective sought to be achieved by Recommendation 5 of the CCC Keller Report is addressed by such an approach.

It should be noted that such a regime does not impact the ability of an individual public servant to raise a matter of alleged impropriety. The Public Interest Disclosure Act 2010 exists to facilitate disclosure in the public interest of alleged wrongdoing (such matters are beyond the scope of the Act). If a public servant has any reasonable suspicion of corrupt conduct, they are required to report it to the CCC.

### Recommendation 3

Section 12 (1) (d) of the Act that provides for "a Senior Executive or Senior Officer" to unilaterally seek advice from the Integrity Commissioner be amended to omit "Senior Officer".

There is a large cohort of "Senior Officers" within the public sector who have access to advice through departmental structures. The effect of this recommendation would be to eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a departmental officer below the executive level in departments. This is consistent with the accountability Chief Executives have under the Public Service Act for the ethical conduct of all employees and the integrity of their departments.



#### 6.1.4.4 Designated persons with access to the Integrity Commissioner up to two years post separation

The 2015 Coaldrake Report recommended designated persons continue to have access to the Integrity Commissioner up to two (2) years post separation from the Public Service. The purpose of this recommendation was to ensure individuals had appropriate access to advice should conflicts of interest arise following separation from employment. As a result of the recommendation Section 20A was inserted in the Act.

The PSA requires the separation contract between employee and employer cover (inter alia) conflicts of interest.

The Integrity Commissioner has advised that where a designated person who is a public servant has requested post-separation advice, this invariably involves the interpretation of their post-separation contract. As such the Integrity Commissioner is sought to be drawn into the realm of legal interpretation that is neither appropriate to the role, nor productive. Since conflicts of interest is a subject already addressed by the separation contract the only likely matter on which advice might be required would be the interpretation of the relevant Sections in a particular situation. This a matter of law upon which the former employee should either seek clarification from the PSC or obtain their own legal advice.

Further the PSC post separation employment directive fails to make a clear distinction between those activities which might meet the definition of "related lobbying activity" (matter relevant to Section 70 of the Integrity Act) as opposed to a "business meeting" between the former employee and a government representative. This results in requests for advice that are either beyond the jurisdiction of Integrity Commissioner which is unproductive for the person seeking advice and the Integrity Commissioner.

#### Finding

Section 70 of the Integrity Act provides that for two years after a person becomes a former senior government representative, they must not carry out a related lobbying activity for a third-party.

It is in the public interest that the Integrity Commissioner be able to provide advice to former Ministers and former Opposition leaders in relation to this obligation due to the significance of the positions they held.

However, where the former senior government representative is a senior public servant, the PSA requires the separation contract between employee and employer covers (inter alia) conflicts of interest.

Section 20A is too broad in that it does not distinguish sufficiently between the jurisdiction of the Integrity Commissioner to regulate and advise on lobbying activity by former designated persons (as defined by the Act), and the jurisdiction of the PSC to regulate and advise on other dealings between public sector employees and former persons but which do not meet the definition of related lobbying activity.

#### Recommendation 4

In relation to advice a former designated person can seek from the Integrity Commissioner “post separation” that:

- a) the PSC post separation employment directive be updated to make it clear what constitutes a “related lobbying activity” under the Integrity Act, and
- b) Section 20A (2) of the Act be amended to clarify that Integrity Commissioner advice is limited to related lobbying activity.

### 6.1.5 There is a risk to Ministers if Ministerial staff seek Integrity Commissioner’s advice without the Minister’s knowledge

Section 12 (1) (f) provides that a ministerial staff member who gives, or person engaged to give, advice to a Minister can unilaterally seek the Integrity Commissioner’s advice. Just as the PSA places ultimate responsibility for the actions of staff within a department on the Chief Executive, Ministers carry similar responsibilities in respect of their office staff. The Ministerial Handbook places a positive obligation on Ministers to ensure their staff are aware of, and comply with, the Code of Conduct for Ministerial Staff Members. The accountability Ministers carry in respect of their staff is reinforced by the requirement that Ministerial staff submit a Declaration of Interest form to their Minister at the time of commencing employment, whenever there is a change of Minister and whenever there is a change to the Staff member’s interest.<sup>18</sup>

A Minister cannot fulfil the obligation to ensure a staff member is complying with the Code of Conduct if they are left uninformed of advice being sought by a staff member and for what purpose. Since the reason for seeking advice can only have to do with their official duties in assisting the Minister to fulfil their portfolio responsibilities, the Minister is entitled to know the nature of the matter at issue. Indeed, given where the ultimate accountability for actions taken in the name of the Ministerial office rests, it may be the Minister has particular matters they wish to be included in the request for advice.

#### Finding

The current situation leaves Ministers exposed to consequences of actions taken by a staff member based on advice of which the Minister may have had no knowledge.

It is appropriate a Minister be informed when a staff member is intending to seek advice and is satisfied as to the scope and nature of the advice being sought.

The accountability and transparency sought by Recommendation 5 of the CCC Keller Report is achieved by such an approach.

It should be noted this does not impact the ability of Ministerial staff members to disclose alleged impropriety. The Public Interest Disclosure Act 2010 exists to facilitate disclosure in the public interest of alleged wrongdoing (such matters are beyond the scope of the Act).

<sup>18</sup> Department of Premier and Cabinet. (2019). Ministerial Code of Conduct. Section 3.4.2.

## Recommendation 5

That:

- a) Section 12 (1) (f) (that allows a ministerial staff member who gives, or person engaged to give, advice to a Minister to unilaterally seek the Integrity Commissioner's advice) be amended to read chief of staff with the knowledge of the Minister, and
- b) Section 12 (1) (g) (that allows an Assistant Minister staff member who gives, or person engaged to give, advice to an Assistant Minister to unilaterally seek the Integrity Commissioner's advice) be repealed, and
- c) Section 18 (b) be repealed, (as a consequential amendment), and
- d) Section 17 (d) (that provides for a Minister to ask for the Integrity Commissioner's advice on an ethics or integrity issue) be amended to read "a ministerial staff member who gives, or a person engaged to give, advice to a Minister", and
- e) Section 18 (a) (that provides for an Assistant Minister to ask for the Integrity Commissioner's advice on an ethics or integrity issue) be amended to read "an assistant minister staff member who gives, or a person engaged to give, advice to the Assistant Minister".

This suite of amendments will eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a ministerial staff member. Given the Minister or Assistant Minister becomes accountable for any action subsequently taken by staff member it is appropriate the Minister or Assistant Minister be informed when a staff member is intending to seek advice and satisfied as to the scope and nature of the advice being sought. The recommendation also gives effect to Recommendation 5 of the CCC "Keller Report" discussed in Section 6.1.4.3.

## 6.2 The Act does not compel designated persons to disclose the nature of advice received from the Integrity Commissioner

A foundation principle of the Act, and its antecedent (the 1999 amendment to the Public Sector Ethics Act 1994), is the notion that the Integrity Commissioner would provide confidential advice on conflicts of interest and related ethics and integrity matters to those eligible to seek such counsel ("designated persons").<sup>19</sup> Indeed, the fundamental importance of confidentiality in respect to a person seeking and receiving advice is emphasised by the Act imposing a penalty of up to 85 penalty units or one (1) year imprisonment for unauthorised disclosure.

The principle of confidentiality is seen as critical if designated persons are not to be deterred from seeking advice. The situation is not dissimilar to the legal privilege that applies when one seeks legal advice. The Integrity Commissioner can provide advice appropriate to the circumstances only if the person provides all relevant details. If confidentiality is not guaranteed they may be deterred from seeking advice or may be selective in what information they choose to provide to the Integrity Commissioner, meaning the advice received may have limited applicability or not be able to be relied upon. This would defeat the core purpose of the Act. There is little argument amongst stakeholders that confidentiality needs to remain if the Integrity Commissioner's function is to maintain its efficacy.

---

<sup>19</sup> Public Sector Ethics Amendment Bill 1999. Explanatory Notes.

## Concerns around misuse of confidentiality

There is a concern (including by those who strongly support the confidentiality principle) that some designated persons choose to represent their position as being informed by advice from the Integrity Commissioner knowing full well that the advice will not be disclosed. Designated persons can infer they have acted appropriately by stating they have “been to” the Integrity Commissioner, however this is not able to be verified. Further, the Integrity Commissioner has no ability to correct false or misleading information provided by an advisee, including in instances where no advice has been provided at all.

Some advocate that if an individual states they have “been to” the Integrity Commissioner they should be required to release the advice provided. This would remove any ambiguity as to whether advice has actually been received and ensure accountability by allowing their actions to be assessed against that advice. Others assert that to do so would be to fundamentally change the core concept of the Act such that individuals would be deterred from seeking advice, hence reducing the value and efficacy of the Integrity Commissioner’s role.

## Potential avenues to maintaining confidentiality while preserving the integrity of the advice

The two objectives of confidentiality (so as not to deter a designated person seeking advice and that advice is fully informed), and transparency in respect of a recipient inferring they are resting on advice but not disclosing it, are not easily reconciled. Advice can contain information of a sensitive personal nature, that is commercial in confidence, or might relate to a third-party. Releasing a version of the advice agreed with the Integrity Commissioner that redacted such sensitive information would be one way of ensuring transparency and addressing the concerns.

To release the Integrity Commissioner advice, even in a form agreed with the Integrity Commissioner to excise sensitive, personal, third-party or commercial-in-confidence information may, in instances where the recipient has not acted entirely in accordance with it, open up the advice to commentary, critique and even debate as to the interpretation that should be placed upon it. The potential to draw the role of and/or the Integrity Commissioner themselves into the political process in the course of such a debate may well compromise the independence of the Integrity Commissioner.

There is also the possibility of a person exercising the right to confidentiality provided by the Act and choosing to not disclose they are the recipient of Integrity Commissioner advice nevertheless being asked to confirm if this is the case. If then obliged to release the advice would see them denied the very confidentiality to which they are entitled and sought to exercise.

In circumstances where an individual falsely claims advice has been provided it is perhaps not unreasonable the Integrity Commissioner should be able to set the record straight. Being able to provide a clarifying statement affords the Integrity Commissioner some protection against an impression being formed that an individual is acting in accordance with advice that has not in fact been provided. However, a difficulty arises if the individual subsequently does decide to seek advice. The Integrity Commissioner would need to retract the statement. By signalling the position has changed the individual would effectively lose the confidentiality protection afforded by the Act.

The Act is clear that individuals are responsible for conducting themselves in an ethical manner and with integrity including in managing conflicts of interest. It is significant that there are no provisions that portray the Integrity Commissioner as the watchdog on conflicts of interest, as if to reinforce the point that responsibility and accountability for ethical conduct rests with the individual alone. The role of the Integrity Commissioner is as an advisor to assist the person in meeting this responsibility. It is the individual who remains solely accountable for any action subsequently taken to, and through, the institutions in which they discharge their responsibilities. For the public servant, that accountability is against

the relevant PSC and agency specific codes of conduct. If breached sanctions are incurred up to and including dismissal or, if corruption is established, criminal charges.

For a Member of Parliament (MP), that accountability is examined (at times intently) through the scrutiny of the political process, including on the floor of the Parliament, the Committees of the House, referrals to the CCC and the fourth estate, consistent with the principle that it is the individual MP who is ultimately accountable for their actions. The consequences of misleading or being untruthful are severe, in certain circumstances leading to criminal charges and imprisonment.<sup>20</sup> Even on occasions such allegations are not substantiated, there can be a high personal price (including resignation) if, as a result, of such scrutiny the standards expected of political representatives (or their staff) are perceived not to have been met.

### Finding

The purpose in having an Integrity Commissioner is to encourage designated persons to access advice where they can't resolve an ethical dilemma relating to the performance of their public duty. The relevance and utility of such advice is dependent on an individual being able to fully disclose all relevant information (often of a sensitive personal nature) confident that such information and associated communication will be protected.

A change to the confidentiality provisions to require disclosure of advice in the event an individual makes reference to having received it could dissuade, if not deter, the seeking of such advice. It could also constrain the information provided to the Integrity Commissioner to the point that the Act's efficacy is significantly impaired. It could also detract from the independence of the Integrity Commissioner if the merits of such advice become the subject of political debate should there be some argument as to whether or not it had been appropriately followed.

While disclosure would certainly establish the veracity of statements made by those claiming to rest upon Integrity Commissioner advice, retaining the primacy of the principle of confidentiality is considered essential to the Integrity Commissioner being able to discharge the purpose and function of the role to its fullest extent. There are other mechanisms to hold people accountable for claims made regarding communications with the integrity Commissioner.

To require the disclosure of advice, even if only in circumstances where an individual declares to be in possession of it, would be to cause a fundamental shift in the core concept of the Act.

### Recommendation 6

There be no change to the disclosure provisions of the Act designed to ensure confidentiality surrounds the requesting and the provision of advice.

## 6.3 Declaration of Interests to the Integrity Commissioner by Statutory Office Holders, and Public Service Chief Executives is duplicative and of limited utility

Section 40E of the Act places a responsibility on a Statutory Officer Holder to provide the Integrity Commissioner with a copy of their Declaration of Interests annually and within a one-month period where a conflict arises. The PSA places a similar obligation on Chief Executives of government departments. This

<sup>20</sup> Criminal Law (False Evidence Before Parliament) Amendment Bill 2012. Explanatory Notes.

results in several hundred declarations being lodged with the Integrity Commissioner. Receipting and filing Declaration of Interests by the Integrity Commissioner of all the relevant persons adds a significant workload burden on the office.

Why Declarations of Interest must be provided to the Integrity Commissioner is unclear to both the Integrity Commissioner and stakeholders. The declarations currently contain limited detail of persons' interests. Significantly greater detail, as the nature of Statutory Office Holder or a Chief Executive interests, would need to be provided at the time any advice was sought. Therefore, the declarations are not imperative to the Integrity Commissioner conducting the advice function and serve only to add to the administrative burden of the office.

## Finding

Statutory Office Holders are required to provide their Declarations of Interest to the appropriate Minister and/or Parliamentary Committee. Chief Executives provide their Declarations of Interest to their Minister and the Public Service Commissioner, and they are posted on the PSC website. Lodging the Declarations of Interest with the Integrity Commissioner is an unnecessary duplication as it serves no useful purpose in the performance of the Integrity Commissioner's functions.

## Recommendation 7

That:

- a) Section 40E of the Act (that relates to statutory office holder Declaration of Interests being filed with the Integrity Commissioner) be repealed, and
- b) Section 101 and 185 of the PSA be amended to remove the requirement for Chief Executive Declarations of Interest be provided to the integrity Commissioner.

Statutory Officers are required to provide a declaration of interests to the appropriate Minister and/or Parliamentary Committee to which the officer holder is accountable. The Integrity Commissioner has no statutory function to perform in relation to the declarations. The effect of the recommendation would relieve the Integrity Commissioner of an administrative responsibility that has no relevance to the function.

## 7 Integrity Commissioner's lobbying regulation function

Lobbying is a legitimate part of the process of a democratic system of representative government. It is predicated on individuals, interest groups, businesses and whole communities being able to express their wishes to their elected representatives and the Government of the day and be heard in relation to issues that affect them. Lobbying, when it is conducted ethically, can contribute to outcomes that are in the public interest and/or deliver a public good.

Difficulties arise when there exists a public perception that undue influence is being exerted by virtue of:

- a third-party or intermediary being engaged specifically due to a personal connection that provides a level of access to a decision maker that is not available to others with an interest in the particular matter<sup>21</sup>;
- the decision maker receives a benefit either directly or indirectly due to the association they have or develop as a result of the close personal connection; or,
- donations, gifts or gratuities being provided to the decision making such that a perception exists they are in some way obligated to reciprocate by way of a favourable decision.

All these have the potential to leave the perception that opportunities for personal benefit played some part in the decision rather than it being made exclusively in terms of public interest considerations, even when this may not be the case. At their worst they can constitute corruption.

For their part Ministers and other public officials are expected to balance all relevant considerations and the merits of a matter on which they have decision making responsibilities and be accountable for both the decision itself and the manner in which it was made.

Transparency is the key to ensuring lobbying activity does not go beyond the legitimate by seeking to induce an outcome by virtue of the decision maker receiving a personal benefit or being unduly influenced by other means.

To achieve clarity as to whose interests are being represented when professional third-party lobbyists approach government representatives, and to provide transparency around such interactions, provisions to regulate lobbying activities and the establishment of the publicly available Register of Lobbyists were included in the Act.<sup>22</sup>

The Review Terms of Reference requires consideration being given to whether:

---

<sup>21</sup> Some argue the difficulty arises because those with "connections" have greater level of access to decision makers while, in theory at least, all those with an interest in a matter should have equal access. While a laudable pursuit in all matters of public policy, equal access is probably unattainable. Most decisions of Government are the product of a process in which there are a range of public officials interacting, sometimes with external advisors contributing relevant expertise, and sometimes involving consultation with individuals, community bodies or representative organisations with an interest in the matter. It is simply not realistic to expect that all those with an interest in a matter will have equal access at all stages of a decision-making process. In a sense the essential skill of the politician true to their calling of being the community's representative is to discern exactly where the public interest lies in respect of a matter irrespective of the inevitable unevenness of access by those with a stake in the outcome, including the community at large. Transparency in respect of decision-making process is the key to ensuring there is clarity as to the nature and frequency of third-party or intermediary access and imposes an accountability that such a connection did not crowd out the perspectives of others being considered, and ultimately that decision serves the public interest. Transparency allows scrutiny also that such interactions occur.

<sup>22</sup> *Queensland Integrity Bill 2009*. Explanatory Notes.

- the existing provisions of the Integrity Act are appropriate and effective in regulating contact between lobbyists and government and opposition representatives, including by former government and opposition representatives having regard to public expectations of transparency; and
- specific investigative powers are required to effectively regulate lobbying activities.

In the consideration of these two matters, a number of specific issues were identified. Namely:

- whether the definition of a lobbyists is appropriate for the purposes of achieving the desired degree of transparency of lobbying activity;
- the adequacy of the provisions requiring the reporting of, and dealing with, unregistered lobbying;
- the powers of the Integrity Commissioner in respect of requiring compliance with provisions of the Act;
- the appropriateness of the Integrity Commissioner having powers to investigate matters of non-compliance;
- the effectiveness of the Lobbyists Register in providing transparency in respect of lobbying activity; and,
- potential for conflicts of interest when consultancy firms with clients impacted by government policy have employees who work to government, and lobbyists who work with political parties and represent clients seeking to influence government policy.

Each issue is explored within a conceptual framework that balances the principles discussed above that:

- Lobbying (if conducted ethically) is a legitimate activity.
- Transparency brings accountability that decisions taken are in accordance with public expectations of integrity and honesty and serve the public interest.
- Economy in the regulation required to achieve this (that is to say the cost of administration and compliance do not produce a net public benefit, or one that is disproportionately small compared to the cost involved).

## 7.1 The definition of lobbyists is appropriate for the purposes of achieving the desired degree of transparency of lobbying activity

Section 41 (1) of the Act defines lobbyists as “an entity that carries out a lobbying activity for a third-party client or whose employees or contractors carry out a lobbying activity for a third-party client”. Submissions received from a number of registered lobbyists argue the Act in its current form regulates only one type of lobbying, that undertaken by an entity representing or acting on behalf of a third-party. It does not regulate lobbying activity undertaken by those who provide specialist professional advice to clients (such as accountants, lawyers, architects, engineers etc). Neither does it capture the activity of employees of an organisation or business representing that entity’s interests to government and in the political process more generally (referred to as “in-house lobbyists”). Many of the submissions received from registered lobbyists were to the effect that the Act should regulate all lobbying activity irrespective of who is undertaking it, not just those who act on behalf of a third-party. See Appendix D for a summary of lobbyist submission key themes.



## Exploration of the purpose of regulating lobbying activities

The Explanatory Notes accompanying the introduction of the Integrity Bill makes it clear the intention of the Act is to bring transparency to the activities of those “carrying out lobbying on behalf of a third-party client”. Entities (and their employees) which conduct lobbying activities “for the purpose of representing the entities own interests”, and professional occupations where lobbying may be incidental to the purpose for which they are employed, were not included in regulatory regime. The Explanatory Notes explicitly states this exclusion is an integral part of the core concept that informed the legislation.<sup>23</sup>

This issue was canvassed at some length by the then Parliamentary Finance and Administration Committee in the course of considering the recommendation in the 2015 Coaldrake Report that the definition of lobbyists be expanded to include regulation of in-house lobbyists and other professionals discharging the lobbying function. The Committee concluded the current legislative regime, regulating the activities of third-party lobbyists, achieves the purpose intended by the Act.<sup>24</sup>

The most recent investigation into lobbying in an Australian jurisdiction was that undertaken by the NSW ICAC. Amongst its recommendations is that “all professional lobbyist” (third-party and in-house) be included on the NSW Lobbyist Register and record lobbying activity undertaken.<sup>25</sup>

The investigation upon which the report is based was commissioned by ICAC on its own initiative.<sup>26</sup> It references accountability and transparency as the essential measures against which it assessed the performance of the NSW lobbyists regime that led to the reforms proposed.<sup>27</sup> The NSW Government is yet to advise its response to the ICAC report and any consequential legislation yet to be presented to the Parliament.

The ICAC investigation (undertaken over a two-year period) does not provide any information on the likely costs expanding the definition of lobbyists to include “all professional lobbyists” (third-party and in-house) on the NSW Lobbyist Register. It simply states a “Government commitment to an appropriate level of funding” is required.

## Economic considerations relating to the regulation of lobbying activity

The Terms of Reference for this review requires that regard be had to the economic considerations (as well as efficiency and effectiveness) in assessing performance of the integrity regime as provided for in the Act.

There are around 280,000 registered businesses in Queensland.<sup>28</sup> By far the greatest number are small and medium size enterprises. Many small businesses have regular dealings with the Government on a range of procurement, policy, regulatory and development issues. They employ professionals (lawyers, accountants, architects, engineers etc) to assist in the presentation of their representations. These professional or technical experts are engaged to provide specialist advice within the field of their discipline. Any advocacy that occurs is incidental to the provision of such specialist expertise. There is something like 9000 larger firms who would have employees engaging with the government and Opposition representatives on matters affecting their interests

---

<sup>23</sup> *Queensland Integrity Bill 2009*. Explanatory Notes, pg. 16.

<sup>24</sup> Finance and Administration committee. (2015). *Inquiry into the Report on the Strategic Review of the functions of the Integrity Commissioner*.

<sup>25</sup> Independent Commission Against Corruption. (2021). *Investigation into the regulation of Lobbying, Access and Influence in NSW*. Recommendation 7, pg.12.

<sup>26</sup> Independent Commission Against Corruption. (2021). *Investigation into the regulation of Lobbying, Access and Influence in NSW*. Recommendation 7, pg. 21.

<sup>27</sup> Independent Commission Against Corruption. (2021). *Investigation into the regulation of Lobbying, Access and Influence in NSW*. Recommendation 7, pg. 17.

<sup>28</sup> Australia Bureau of Statistics. (2021). *Counts of Australian businesses, including entries and exits*. Canberra: ABS.

Representative organisations and Associations similarly have myriad of contact points across the Government and with members of the Opposition. Their primary purpose is to represent the interests of their sector or occupational group. As such many of the employees in these Associations are involved government relations in some capacity or other.

Regulatory models that seek to capture all forms of lobbying activity (not just that done by third parties) invariably provide for exemptions around various thresholds, size of business or frequency of contact are two which are commonly used. Even so there is a cost incurred in determining and applying the criteria and then ensuring compliance in circumstances that are not black and white. Administrative and compliance costs increase with complexity and so it is important that the overall benefit in terms of greater transparency is sufficient to justify them.

Currently the Office of the Integrity Commissioner has on its Register 123 entities, and 277 registered persons. The administration associated with this number of registrations accounts for two (2) FTEs within the office. Even accepting exemptions for organisations that lobby infrequently (as proposed the ICAC model) there would still need to be a very substantial scaling up of current Integrity Commissioner Office staff to manage the volume of reporting required. That much is clear from the ICAC report itself when it recommends the establishment of a dedicated office of a Lobbying Commissioner to “provide the administrative and compliance apparatus needed to take on the new and expanded functions”.<sup>29</sup>

#### **Balancing achieving lobbying transparency with economic efficiency and value**

There can be no disagreement that transparency is important in achieving probity in the conduct of lobbying activity and to deter dishonest or corrupt behaviour. Regulation carries with it a cost. Since lobbying is a legitimate activity, any regulation of it needs to be proportionate and imposed only to the extent needed to achieve the transparency required to understand what activity is being undertaken and in who’s interest. Extending the regulatory regime to capture all lobbying activity whenever it occurs, as opposed to just third-party lobbyists, seems not to be justified (on a cost against net benefit basis unless) unless there are clear deficiencies in achieving the required transparency that cannot be addressed in a less costly way.

It is obvious in whose interest the lobbying is being undertaken when the contact is with employees of an organisation. It is to advance the interest of that organisation. Conversely, the identity of those for whom third-party lobbyists act from the lobbyist’s success is not self-evident. The register is the mechanism that brings the same level of transparency as to who the beneficiary is of the third-party lobbying activity, as is evident when an entity acts on its own behalf. That is the core concept on which the regulation is based.

There are other elements within the wider policy regime that deliver this transparency when the employees of an organisation have contact with a Minister. The Queensland Ministerial Handbook requires Ministers to proactively disclose on a monthly basis portfolio related meetings and events. These disclosures include the name of the organisation and individuals with whom the Minister meets.

The 2015 Coaldrake report noted open diaries provide transparency and ensure that Ministers bear political responsibility and accountability for their actions and behaviours, and those of their staff. A review of a sample of Ministerial diaries show consistency in recording the name of the organisation or individual with whom the Minister is meeting. There is less consistency in the information as to the purpose of the meeting. While some include this detail others simply repeat “meeting”. The transparency intended by publishing diaries is better achieved if the purpose of the meeting or contact were to be specifically stated.

---

<sup>29</sup> Independent Commission Against Corruption. (2021). Investigation into the regulation of Lobbying, Access and Influence in NSW. Key finding 2, pg. 9.

The NSW ICAC report proposes a pre-set menu of options be used in the diary summary of Ministers to indicate the purpose of the meeting.<sup>30</sup>

There would be a very substantial (and to a large degree unquantifiable) costs on the public purse to support the administrative and compliance apparatus required if the definition of lobbyists was expanded. It would impose on Queensland businesses and representative associations something of a tariff in the form of a (another) compliance cost simply to represent their own interests to government and in the political process.

Weighing the economic aspects associated with expanding the definition as required under the Terms of Reference suggests this significant cost both in public administration and to business would be disproportionately high compared to the net overall result in terms of the transparency objective.

### Driving greater clarity regarding the definition of a third-party lobbyist

Some consider the Act's definition of a third-party lobbyist in the Act is unclear. Section 41 (1) defines lobbyists as "an entity". The Act does not specifically define 'entity' leading to some questions as to who is, and is not, captured under the Act as a lobbyist. The absence of definition also presents some difficulty in apply the provisions of Section 71 (1) of the Act relating to unregistered entities being prohibited from lobbying.

There is room to provide greater clarity in respect of the definition of third-party lobbyist.

#### Finding

The intention of the Act is to achieve transparency as to on whose behalf a third-party lobbyist is acting is achieved by the reporting of contact through the Register of Lobbyists.

Those who provide professional and technical services are sometimes retained by a company to provide specialist advice within the field of their discipline. This distinguishes them from those engaged specifically to influence State or local government decision making.

The interests sought to be advanced is self-evident when a meeting is held with, or contact made by, employees representing a company or organisation and transparency is achieved through Ministerial diaries which specify the purpose of such meetings or contact.

The substantial additional cost to public administration and to business likely to be incurred by expanding the definition of lobbyist to include in-house lobbyists and professional or technical occupations with specialist expertise is disproportionately high, compared to the net overall result in terms of the transparency objective.

The transparency intended by publishing diaries would be better achieved if the purpose of the meeting or contact were to be specifically stated. The definition of third-party lobbyist in the Act and what constitutes an entity within this definition is unclear.

#### Recommendation 8

While not broadening the definition of "lobbyist", amend Section 41 of the Act to clarify the meaning of entity, to include an individual, organisation or related party (as defined in the ASA550 Auditing Standard).

<sup>30</sup> Independent Commission Against Corruption. (2021). Investigation into the regulation of Lobbying, Access and Influence in NSW. Key finding 2, pg. 67.

## Recommendation 9

To enhance transparency in respect of contact by those employed within organisations and associations who represent that entity's own interest:

- a) the Government provide more specific criteria as to the information that must be included in Ministerial diaries as to the purpose of the meeting, including the possibility of a pre-set menu of options, and
- b) the Leader of the Opposition's diary contain similar detail in respect of meetings with those employed within organisations and associations to represent that entity's own interests.

## 7.2 The provisions requiring the reporting of, and dealing with, unregistered lobbying activity are inadequate

Section 71 of the Act provides (inter alia) that where a government representative or Opposition representative is aware of unregistered lobbying activity occurring, details of the unregistered organisation and lobbyist must be provided to the Integrity Commissioner. This assists the Integrity Commissioner maintain oversight of lobbying occurring across the State.

There are two issues in respect of the operation of Section 71. Firstly, there is some uncertainty as to whether statutory officers are captured within the definition of a government representative at Section 44. The issue has to do with whether the Statutory Officers are a public sector officer given many are Governor in Council appointments made independently of the Public Service Act. To all intents and purposes Statutory Officers are agents of the government and should therefore be under the same reporting obligation as other government representatives.

Secondly, once the Integrity Commissioner has received details of unregistered lobbying activity Section 71 is silent as to how the Integrity Commissioner should deal with the matter. The Act contains no provisions for dealing with unregistered activity, or if lobbying activity is conducted by an entity or individual whose registration has been cancelled under Section 66 of the Act.

Deception or dishonesty in the form of undertaking unregistered lobbying is precisely what the Act seeks to prevent. If there is no sanction for the conduct of unregistered lobbying the purpose of the Act is undermined. It opens up the potential for outcomes inimical to the public interest. For these reasons unregistered lobbying activity should be an offence.

### Finding

There is uncertainty as to whether the definition of 'responsible persons' required to report unregistered lobbyists and activity includes Statutory Officers. The Integrity Commissioner has no powers under the Act to deal with unregistered activity, or if lobbying activity is conducted by an entity or individual whose registration has been cancelled. Having no capacity to deal with reports of unregistered activity by way of penalty or sanction impacts the effectiveness of the Act.

### Recommendation 10

For the avoidance of doubt, Section 44 of the Act be amended to include reference to Statutory Officers as responsible persons for reporting unregistered lobbying activity to ensure all third-party lobbying activity is appropriately captured through regulatory functions.

### Recommendation 11

To improve its effectiveness, the Act be amended to make unregistered lobbying activity an offence, together with penalties commensurate with those in other legislation for acts of deception intended to subvert the integrity of public administration.

## 7.3 The powers of the Integrity Commissioner are limited

The Integrity Commissioner's powers to monitor and regulate non-compliance of the Act are limited due largely to:

- the Integrity Commissioner's inability to compel departments, agencies or government representatives to provide meeting records;
- the Act providing no mechanism to apply proportionate corrective action in the course of monitoring compliance; and,
- there being no powers to investigate allegations of serious misconduct or noncompliance.

Each issue is explored below.

### 7.3.1 The Integrity Commissioner cannot compel departments, agencies or government representatives to provide meeting records

Section 72A (2) of the Act states "the responsible person for the government representative or Opposition representative may give the Integrity Commissioner information about a lobbyist or lobbying activity if the person reasonably believes the information may be relevant to the functions or powers of the Integrity Commissioner". The Integrity Commissioner relies on the provision of such information to be able to audit lobbyists contacts and to check compliance with the requirements of the Act.

The discretionary nature of the provision leaves the Integrity Commissioner unable to fulfil the function in circumstances where a responsible person declines to provide relevant information even when requested to do so. This inhibits the Integrity Commissioner fulfilling a key statutory responsibility.

### Finding

The Integrity Commissioner does not have powers under the Act to compel government representatives or Opposition representatives to provide meeting records or other information required to monitor compliance. This inhibits the Integrity Commissioner in undertaking compliance audits and monitoring lobbying activity.

## Recommendation 12

To enable auditing of lobbyists records and monitor compliance, the Act be amended to require departments and agencies to provide meeting records and other relevant documents when requested by the Integrity Commissioner.

### 7.3.2 The Act does not allow for proportionate corrective action in the course of monitoring compliance

Where the Integrity Commissioner considers the activity of a lobbyist to be inconsistent with the Code of Conduct or suspects non-compliance in relation to the lobbyists register, the Act empowers the Integrity Commissioner to issue a “show cause” notice as to why the lobbyists registration should not be cancelled.

The following courses of action can be taken based on the outcome of the show cause notice:

- Where the registered lobbyist is unable to provide evidence of compliance, the Integrity Commissioner has the power to suspend or cancel the lobbyists registration. Alternatively, under Section 62 (2) and 66 (a), the Integrity Commissioner can issue the lobbyist with a warning; and,
- Where the registered lobbyist provides evidence of compliance, but the Integrity Commissioner believes there was still a breach of the Code of Conduct, the Integrity Commissioner is able to issue a warning.

The show cause notice is considered to be a severe first step for suspected non-compliance and does not provide lobbyists and organisations the opportunity to address non-compliance of a minor nature without first having to respond to a formal “show cause” notice. Neither is it an efficient way to deal with what might be administrative oversights or minor indiscretions. The formality associated with the issuing of and responding to a show cause notice also imposes a disproportionate cost on both the Integrity Commissioner and the lobbyist.

## Finding

The Integrity Commissioner has limited options in dealing with suspected non-compliance of registered lobbyists. The legislative requirement that a show cause notice be issued before any remedial action can be taken is inflexible and severe. It is inefficient. In instances where the matter is minor in nature or one of administrative oversight and readily remedied, the necessity to first have to issue a show cause notice imposes a disproportionate cost on the Integrity Commissioner and the lobbyist.

## Recommendation 13

To improve the efficiency of the registered lobbyists regulatory regime:

- a) the provisions pertaining to the issuing of a show cause notice be retained, and
- b) the Act be amended to enable the Integrity Commissioner, by notice to a registered lobbyist, seek an explanation and/or issue a direction to take remedial action about a compliance matter, without first having to send a show cause notice.

### 7.3.3 Within the integrity system, there is not currently an appropriate investigatory body for lobbying

The Integrity Act contains no provisions for the Integrity Commissioner to undertake investigations into allegations of misconduct on the part of registered lobbyists, or lobbying activity undertaken by unregistered lobbyists. The Act is also largely silent in respect of matters the Integrity Commissioner can refer to other investigatory bodies. Therefore, as the Act stands, the Integrity Commissioner does not have the power to investigate or prosecute those who might wilfully ignore the statutory prohibition against unregistered lobbying. Given the high degree of public interest in the regulation of unlawful or improper lobbying activities, the current provisions are not fit-for-purpose.

The effectiveness of the Act is in part dependent upon there being a capacity to investigate issues of non-compliance and alleged activity involving unethical or dishonest conduct. This could be achieved by assigning powers of investigation to the Integrity Commissioner.

There are two considerations that do not support such a change. Firstly, the Integrity Commissioner has an obligation to provide advice to a designated person. The communications between that person and the Integrity Commissioner are privileged and protected by confidentiality. The Integrity Commissioner would be conflicted if subsequently a matter involving an individual to whom advice had been given became a person relevant to an investigation (even if they themselves were not the subject of it).

Secondly, there is a sophisticated apparatus and highly developed skill set required to conduct investigations into behaviour that seeks to avoid scrutiny. This requires substantial investment in equipment, technology, developing expertise and a multidisciplinary skill set. The cost of developing such a capability within the Integrity Commission cannot be justified when there already exists the Crime and Corruption Commission which was specifically set up and funded for the purpose of, amongst other things, investigating corrupt conduct.

Under Section 15 of the Crime and Corruption Act, the CCC has a function to investigate misconduct and/or corruption within the public sector. The definition of corrupt conduct includes activities by a person that could (inter alia):

- adversely affect the performance of function, or exercise of powers, by a person holding public office impair public confidence in public administration;
- results, or could result in performance of such functions in a way that is dishonest or is not impartial;
- involves a breach of trust placed in a person holding an appointment, either knowingly or recklessly;
- impairs, or could impair, public confidence in public administration; and,
- dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds.<sup>31</sup>

The purpose for the regulation of lobbying activities under the Integrity Act is to prevent such outcomes. However, there would be a high cost incurred to provide the apparatus for the Integrity Commissioner to properly undertake investigations into misconduct for the likely few occasions it would be called upon. This cost is not justified when the capability to undertake such investigations already exists within the CCC.

An explicit head of power is required in the Integrity Act to enable the Integrity Commissioner to refer to the CCC a matter for investigation when there is information available to the Integrity Commissioner that the activities of a registered lobbyist may offend the provisions of Section 15 of *Crime and Corruption Act*.

---

<sup>31</sup> Queensland Crime and Corruption Act 2001, Section 15.

This head of power also needs to allow referral of individuals who are conducting lobbying activities as defined by the Act but are unregistered.

Given the nature of lobbying activity and its overlap with the public sector, it would be logical for the CCC's existing powers to be extended to include the assessment, investigation and prosecution of alleged unlawful lobbying activity and/or serious misconduct by registered lobbyists. Whilst allegations of corruption would automatically be referred to the CCC, it is not the case that all complainants made involving registered lobbyists would need to be referred. The Integrity Commissioner should have the discretion to determine what constitutes serious misconduct of sufficient gravity to refer for investigation. In instances involving minor matters Commissioner should have the power to warn registered lobbyists and require remedial action rather than referring the matter to the CCC.

### Finding

The Integrity Commissioner has no powers to commence or undertake an investigation into misconduct or non-compliance on the part of registered lobbyists or those undertaking lobbying activity as defined by the Act, but not registered.

It is not appropriate that the Integrity Commissioner be assigned investigatory powers as this could conflict with the advisory function and would be an uneconomic use of public resources. The CCC has both the mandate and the capability to conduct investigations into matters pertaining to dishonest and unethical conduct that impairs, or could impair, confidence in public administration. To assign investigatory powers to the Integrity Commissioner would duplicate that which is already a core function of the CCC.

### Recommendation 14

To improve the effectiveness in the regulation of lobbying:

- a) the Act be amended to provide for the Integrity Commissioner to:
  - i. refer matters to the CCC when there is information available that the activities of a registered lobbyist or an individual who is not a registered lobbyist but is undertaking lobbying activities (as defined by the Act) may offend the provisions of Section 15 of the Crime and Corruption Act, and
  - ii. retain discretion as to what other matters constitute serious misconduct of such gravity as to warrant investigation and should be referred to the CCC, and
  - iii. be given powers to warn lobbyists of inappropriate conduct without reference to the CCC.
- b) there be consequential amendments to the Crime and Corruption Act (if necessary) to enable the investigation of alleged corrupt activity on the part of a lobbyist, (as distinct from the public official who is the subject of the alleged corrupt activity and is already covered by the Crime and Corruption Act), and any other matter referred by the Integrity Commissioner as constituting serious misconduct of such gravity as to warrant investigation.

## 7.4 The Lobbyist Register does not provide complete transparency in respect of lobbying contact

The Act requires the Integrity Commissioner to maintain a register of registered lobbyists (Section 53) and publish and maintain a Code of Conduct for lobbyists (Section 68). The Lobbyist Register was established



to enable lobbyists to comply with requirements of registration. See Section 9.2.2 of this report for further discussion of issues relating to the Lobbyist Register.

The lobbying Code of Conduct states that lobbyists are required to disclose all lobbying contacts. Reliability and accuracy of the register is essential to the Integrity Commissioner being able to monitor compliance and providing transparency in respect of lobbying activity upon which public confidence is dependant.

To ensure transparency as to the nature and content of a meeting the lobbyist is required to identify the purpose of the interaction from the following list:

- the development or amendment of a government policy or program;
- the awarding of a government contract or grant;
- the allocation of funding;
- the making of a decision about planning;
- giving of a development approval under the Sustainable Planning Act 2009;
- commercial-in-confidence; or,
- other.

The categories 'other' and 'commercial-in-confidence' are commonly selected. In the six months January to June 2021, lobbyists categorised 58 per cent of their contacts as 'other' (19 per cent) or 'commercial-in-confidence' (39 per cent).<sup>32</sup> These categories are problematic as the nature and reason for the meeting remains opaque.

Lobbyists in responding to the questionnaire argued the genuine need for category, 'commercial-in-confidence'.

The category 'other' appears to be used when following up on a previous meeting, exchanging correspondence or when arranging media activities. However, these activities still relate to a particular matter which remains obscure. The category 'other' reduces the transparency of interactions between lobbyist and government representatives and Opposition representatives, detracting from effectiveness of the register in achieving its purpose.

## Finding

The Lobbyist Register has ample categories to select the purpose of an interaction. Despite the lengthy list of possible purposes for contact, the category 'other' is commonly selected by lobbyists. With a large proportion of contacts being categorised as 'other' the transparency of interactions between lobbyist and government representatives and Opposition representatives is significantly reduced detracting from effectiveness of the register in achieving its purpose.

<sup>32</sup> Data extracted from the Queensland Lobbyist Register, 2021.

## Recommendation 15

To improve transparency in relation to the nature of contacts with government representatives and Opposition representatives, lobbyists be required, when entering details on the Lobbyist Register, to provide a short explanation of the subject matter when selecting the 'other' category.

## 7.5 Conflicts of interest have been raised regarding lobbyists working with political parties and firms who consult to government and to non-government organisations

An issue raised in submissions received from registered lobbyists relates to the potential for conflicts of interest to arise when consultancy firms with clients impacted by government policy have employees who work to government. A solution proposed was some sort of formalised cooling off period which would prevent those who work to government from also working for a client of the firm whose interests coincide with the area in which the government work was performed.

The Government Procurement Policy has as one of its aims integrity, probity and accountability in the procurement and delivery of services to the Government. Suppliers need to comply with a Supplier Code of Conduct which requires (at Item 3.2) the disclosure of conflicts of interest (actual, reasonably perceived or that could arise in the future).<sup>33</sup>

Most businesses of scale, and consultancy firms in particular, routinely have policies regarding the managing of conflicts of interest to ensure one client's information is not transferred to another and employees are quarantined from the respective assignments.

The template for the evaluation of proposals requires a due diligence check be undertaken in respect of a number of matters including such things as ABN validation, insurance, security etc. As part of ensuring compliance with relevant part of the Supplier Code of Conduct it would be appropriate to require firms to attach a copy of their Conflict of Interest Policy to any proposal to undertake work for the Government. Compliance with the requirement to disclose conflict of interests should be undertaken as part of the due diligence check.

Similar issues have been raised in relation to registered lobbyists working for political parties in the period leading up to an election where policies are being developed that might impact one or more of their clients. The lobbying provisions in the Act do not stipulate any constraints around lobbyists working for a political party within the office of a Minister. However, the Ministerial Code of Conduct does require there be "a clear delineation between the activities of the Executive Government under their portfolio and that of their political party. For example (Ministers) should not allow party officials to become involved in, or to review or oversight, the operations of Executive Government".<sup>34</sup> While the Code of Conduct makes it clear ethical conduct is the responsibility of the Ministers, the Integrity Commissioner is, of course, to able to provide advice to them on ethical and integrity issues as required.

The Lobbyists Code of Conduct issued by the Integrity Commissioner requires that:

- "Lobbyists keep strictly separate from their duties and activities as lobbyists any personal activity or involvement on behalf of a political party" and further

<sup>33</sup> Queensland Government Supplier Code of Conduct, Section 3.2.

<sup>34</sup> Department of Premier and Cabinet. (2017). Ministerial Code of Conduct Ministerial Handbook. Appendix 1 Ministerial Code of Conduct.

- “That they advise government representatives and Opposition representatives they have informed their clients of any ... conflict of interest and obtained informed consent before proceeding or continuing with an undertaking.”<sup>35</sup>

In the survey conducted for the purposes of the review, some lobbyists stated they have internal processes to manage conflicts of interest and ensure campaign activities do not involve participation in policy development in accordance with the Code of Conduct.

An update of the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy might serve to bring some consistency and clarity for the benefit of all. It could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and Lobbyists could be required to make a commitment to this as part of registration.

## Finding

When lobbyists work with political parties, they are under the scrutiny of the public eye and media. Lobbying activity that occurs simultaneously with the assignment and subsequently must be declared in the register of contacts. This provides a degree of transparency in respect of how any conflicts of interest are being managed.

An update of the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration, may bring consistency and clarity in situations where lobbyists work for both political parties and non-government clients.

The Integrity Commissioner is available to provide advice to a Minister on any manner pertaining to potential conflicts of interest and in respect of any matter concerning the Ministerial Code of Conduct. However, the Integrity Act places the onus for ethical conduct on the individual Minister and for which they are ultimately held accountable by way of public scrutiny.

Firms undertaking work for the Government should be required to make a specific statement addressing Item 3.2 of the Queensland Government Supplier Code of Conduct and attach a copy of the company Conflict of Interest Policy where they have one. Conflict of Interest should be added as one of the due diligence checks to be made as part of the evaluation process.

## Recommendation 16

That in relation to lobbyists working in an advisory capacity to political parties, the Integrity Commissioner update the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration.

## Recommendation 17

That the Act provide for the Integrity Commissioner to issue directives from time to time concerning the application of policies as circumstances require.

<sup>35</sup> Queensland Integrity Commissioner Lobbyist Code of Conduct Qld 3.1 (g) & (k).

### Recommendation 18

To ensure possible conflict of interest situations are properly addressed, where a company is supplying services to government but also works for non-government clients, the Queensland Government Supplier Code of Conduct be amended to provide that:

- a) when submitting a proposal to undertake work for the Government, a firm be required to make a specific statement addressing Item 3.2 (Managing conflicts of interest) and attach a copy of the company Conflict of Interest policy where they have one, and
- b) Conflict of Interest be added as one of the due diligence checks to be made as part of the evaluation process.

Released under RTI - DPC

## 8 Integrity Commissioner's public awareness function

In relation to the Integrity Commissioner's public awareness function under the Act, there are three matters of note, viz:

- Online resources have proven useful for designated persons.
- Building capacity across the public sector will reduce the burden on the Integrity Commissioner over the long term.
- Ongoing education and training for lobbyist and public sector officials will support ethical practice.

Each issue is explored below.

### 8.1 Online resources have proven useful for designated persons

The raising of public awareness of ethics or integrity issues by contributing to public discussion on issues relevant to the Integrity Commissioner's functions is one of responsibilities required under the Act.<sup>36</sup> The Coaldrake 2015 strategic review recommended the Integrity Commissioner publish hypothetical case studies addressing common issues and the principles on which they are based. In addition, it was recommended that the Integrity Commissioner target education regarding the role and functions of the Integrity Commissioner to designated persons, whilst not limiting the Integrity Commissioner from undertaking additional public awareness raising.

The Integrity Commissioner has posted hypothetical case studies on the website. In addition, there are a number of useful educational resources to build the knowledge of designated persons currently identified in the Act, as well as the general public. These are available under the 'Education resources' tab on the Integrity Commissioner's website and include information on conflicts of interest, decision making frameworks and post-separation employment from the public service.

#### Finding

In line with the recommendations made in the last strategic review, the Integrity Commissioner has created a library of online resources. The educational material published by the Integrity Commissioner is well regarded by stakeholders who find them to be very useful. These resources raise awareness of the Integrity Commissioner's function and inform designated persons of their responsibilities under the integrity Act, providing guidance in respect of such matters as conflicts of interests, disclosures, post separation obligations etc.

#### Recommendation 19

That the Integrity Commissioner continue to develop education resources as this can reduce the demand on the office to respond to requests for basic information, freeing time and resources to conduct the advisory and lobbyist regulation functions.

<sup>36</sup> Queensland Integrity Act 2009, Section 7 (1) (9d)

## 8.2 Building capacity within the sector will reduce the burden on the Integrity Commissioner over the long term

The previous strategic review recommended the Integrity Commissioner provide education to relevant communities more actively. Over the financial year 2020-21, the Integrity Commissioner has led or contributed to the training and education of various groups throughout Queensland on 146 occasions.

Those with whom presentations and workshops have been held include:

- Statutory Boards;
- Statutory Office Holders, including Queensland Fire and Emergency Services;
- Mayors and Councillors; and,
- Chief Executives and senior officers.

These presentations, workshops, roundtable discussions and training sessions were aimed at improving transparency and accountability in government and providing education on such matters as the appropriate handling of integrity issues, when designated persons may seek advice, and conflicts of interest.

Over the past few years there has been a sustained and heightened commitment to ethics and integrity by public officials. This has in part been the result of work by the Integrity Commissioner and the other integrity agencies as well as champions within departments themselves.

The development of capacity within departments has led this review to the conclusion that certain categories of designated persons are able to access quality, timely and appropriate advice from expertise available through Ethical Standards Units within agencies. This not only frees the Integrity Commissioner to focus on providing advice to those who make very significant public interest decisions (as the role was initially conceived) but provides some capacity to contribute to capability building across the sector.

Working with, and through, existing forums (such as the Integrity Committee<sup>37</sup>, the CoPEB and the Integrity/Ethical Standards Units in departments), provides opportunities to leverage the expertise of the Integrity Commissioner in developing best practice approaches to ethics and integrity across the sector. As the capability builds and integrity and ethics become increasingly integrated in the institutional culture, so should there be a reduction in the need for the Integrity Commissioner to deal with individual issue-by-issue responses, particularly those emanating from departments and agencies.

### Finding

As a result of the Integrity Commissioner's efforts over the past few years, there is now a high level of awareness amongst designated persons of the purpose of the Act and the mechanisms it provides to assist public officials meet community expectations regarding matters of integrity and ethics.

Presentations and training sessions by the Integrity Commissioner, as well as participation in community of professional interest forums, have served to strengthen the capacity of both designated persons and those across the public service involved in advising on integrity issues.

<sup>37</sup> The Integrity Committee is an informal committee that meets four times a year. Members are the heads of other integrity agencies in Queensland: The Chairperson of the Crime and Corruption Commission, The Queensland Ombudsman, The Commissioner of the Public Service Commission, The Information Commissioner, The Auditor-General, The Electoral Commissioner, The Queensland Racing Integrity Commissioner, and The Independent Assessor.

The Integrity Commissioner can (in combination with other integrity agencies) play an influential role in building capability across the public sector to promote a culture of ethical conduct in agencies and help continue the development of expertise within departments to advise on integrity issues relevant to the administration of the agency and their employees. This should be the focus for the next five (5) years.

### Recommendation 20

The expertise and knowledge of the Integrity Commissioner be used to build capacity and competency across the public sector by:

- a) continuing to make presentations to statutory Boards and agency chief executives regarding best practice in meeting community expectations in respect of integrity in public administration, and
- b) continuing the education and development of those in public sector agencies who are charged with advising on integrity issues relevant to the administration of the agency and its employees.

## 8.3 Ongoing education and training for lobbyist and public sector officials will support ethical practice

In submissions received and in responses to the questionnaire, registered lobbyists indicated greater support from the Integrity Commissioner in responding to enquires and providing advice would assist in adherence to the Code of Conduct and the legislation more generally.

Crucial to achieving the purpose of the Act is the monitoring of lobbying activity by public officials. Advice on the responsibilities they have under the lobbying provisions of the Act would be of assistance in understanding their obligations. The circumstances as to when an interaction is reportable under Section 71 (3)<sup>38</sup> is a matter public officials have particularly mentioned as one which they would benefit from some clarity.

To address these issues, and in support of the Act's objective of attaining ethical conduct across the lobbying sector, some submissions advocated the Integrity Commissioner develop enhanced education and training modules specially in relation to Chapter 4 of the Act (Regulation of Lobbying Activities) and the outcomes it seeks to achieve.

### Finding

Submissions received suggest there is an appetite within the community of registered lobbyists to support the principles contained in the Code of Conduct and promote best ethical practice. They see this as being assisted by the Integrity Commissioner having an increased capacity to respond to enquires and to educate the industry on how to operate within the scope of the Code. There is also a demand more generally for enhanced education and training in relation to Chapter 4 of the Act (Regulation of Lobbying Activities), its intent and the obligations it places on various parties.

<sup>38</sup> A government representative or Opposition representative is required to report instances of third-party lobbying by unregistered entities to the Integrity Commissioner.

### Recommendation 21

To improve understanding of the requirements of Chapter 4 of the Act (Regulation of Lobbying Activities), its intent and obligations, the Integrity Commissioner:

- a) develop educational materials tailored to needs of registered lobbyists and relevant public officials and undertake training sessions, and
- b) create a compulsory training module that promotes best practice within the lobbying industry active in Queensland, and
- c) require successful completion of the module by all currently registered lobbyists and those who intend to register, as a condition for registration.

Released under RTI - DPC



## 9 Performance of Integrity Commissioner's functions

There were no issues raised in the course of stakeholder consultations regarding the performance of the functions by the Integrity Commissioner. Diligence and commitment were mentioned by many as characterising the experience when interacting with the Integrity Commissioner's Office. Matters for attention were identified regarding the advisory and lobbying regulation function as outlined below.

### 9.1 Performance of Integrity Commission advisory function

Two recurring themes emerged from the consultations in relation to the Integrity Commissioner advisory function, viz:

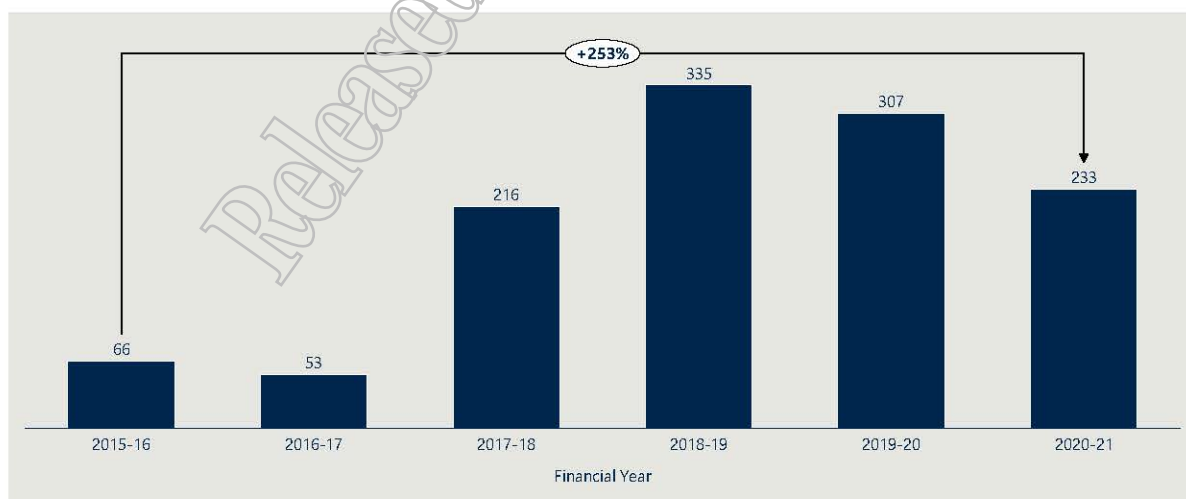
- the Integrity Commissioner's office does not have the resources to meet current demand for advice resulting in the introduction of interim service limits; and,
- advices have increasingly become more complex and legalistic in nature.

Each is explored below.

#### 9.1.1 The Integrity Commissioner's office does not have the resources to meet current demand for advice resulting in the introduction of interim service limits

There has been a significant increase in demand for advices since the last (2015) strategic review. The increase represents a more than 250 per cent growth in the number of requests for advices and advice-related meetings as shown below in Figure 2.

Figure 2 | Requests for advice and meetings<sup>39</sup>



<sup>39</sup> Data provided by the Integrity Commissioner, 2021.

There was an initial substantial spike in demand for advices which occurred in the financial years 2017-18 and 2018-19. This coincided with heightened public scrutiny regarding the conduct of Government generally at State and local levels, including as a result of various Crime and Corruption Commission activities. Mayors and Councillors were nominated as designated persons in February 2018 consistent with a recommendation in the Crime and Corruption Commission's 'Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government' (2017), that:

- a) the advisory and public awareness functions of the Queensland Integrity Commissioner under the Integrity Act 2009 be extended to local government councillors.<sup>40</sup>

The consistently high volume of advice requests since the 2017-2018 appears to be a product of a number of factors including a greater commitment by Government to ethics and integrity overall. Further, scrutiny of fairness and transparency around the personal interests of decision makers involved in major projects, and who are advising Ministers in relation to significant policy decisions is generating more requests for advice from Ministers and Members of Parliament in particular. This is the Act fulfilling its purpose.

Integrity around the process by which a decision is made is part of the accountability that lies with the decision maker. Scrutiny of integrity and ethical practice in government, and the political process of which it forms part, shapes the perceptions of the community in assessing good and competent government and the performance of those who represent them in the Parliament. Demand for advice in relation to conflicts of interest and personal associations, amongst other things, is therefore unlikely to diminish as political representatives and government decision makers seek to meet community expectations for transparency and accountability in public administration.

The slight decline in demand for advices in the past two financial years (2019-20 and 2020-21) are reportedly partly due to the impact of the global Covid-19 pandemic and the associated lockdowns.

The Integrity Commissioner has not received additional resourcing relative to the increase in demand for advices. Even so the Act requires the Integrity Commissioner to provide advice to designated persons as requested. Without additional resources to manage the growth in demand, the Integrity Commissioner has relied on "service limits" and prioritising persons seeking advice, with Ministers, Assistant Ministers, other Members of Parliament, Statutory Office Holders and Chief Executives/DG's taking precedence. All others are triaged and provided with a realistic timeframe of when the Integrity Commissioner will be able to provide advice. Where triaging is required, priorities are determined based on public interest considerations.

These persons are also offered alternative pathways for advice via, for example, other integrity agencies where appropriate and departmental Integrity/Ethical Standards Units. For Mayors and Councillors, recent changes to legislation mean that most issues pertaining to them are a matter of legal interpretation and not strictly ethics and integrity. Therefore, appropriately, these parties are referred to relevant services within the local government sector.

The 2019 expansion of the Integrity Commissioner's jurisdiction to include providing advice on post-separation matters for a period of two (2) years after those persons have left their public purpose work has been problematic. This is because these advice requests compete with other matters where the public interest is at stake, while post-separation matters relate to personal contractual obligations. That is, they are matters that are personal to the individual and not ethics and integrity matters affecting the public interest. This matter is discussed in detail in Section 6.1.4.4.

---

<sup>40</sup> Crime and Corruption Commission. (2019). Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government. Recommendation 28, pg. 86. Accessed from <https://www.ccc.qld.gov.au/sites/default/files/2019-08/Operation-Belcarra-Report-2017.pdf>

## Finding

There has been a significant growth in the number of requests for advices since the last strategic review in 2015. The current level of demand is unlikely to fall as political representatives and government decision makers seek to meet community expectations for transparency and accountability in public administration.

Public interest in ethics and integrity in public administration continues to grow.

### 9.1.2 Advices have increasingly become more complex and legalistic

The Act states the purpose of the Integrity Commissioner is to provide advice in respect of ethical and integrity issues to Ministers, MP's and public servants with significant decision making responsibilities. In addition, the Integrity Commissioner provides to MP's on "interests issues".

Some who have received advice indicated that overtime these have grown lengthier and seem more legalistic. This sometimes makes the practical application of the advice not immediately obvious to the recipient. A small number of stakeholders indicated that following receipt of the advice they had sought further assistance to interpret it.

The Integrity Commissioner willingly engaged in an exploration of the matter. Previous Integrity Commissioners reportedly provided shorter advices comparatively. These apparently did not include documenting the reasoning and relevant reference points which informed the advice. Upon appointment the Integrity Commissioner was asked to ensure advices were comprehensive and included a complete picture of facts and circumstances pertaining to the issue giving rise to the request. This presumably was in recognition that the advice would be relied upon by the recipient in taking subsequent action.

Given the confidential nature of any advice provided, the review could not read any specific documentation. However, a de-identified template was viewed. The template is used by the Integrity Commissioner to ensure advice provided is comprehensive by including:

- a statement of facts of the situation as provided by the designated person;
- reference to relevant standards and codes applicable to the situation;
- any relevant sections of the Act that are applicable;
- a discussion of the issues; and,
- a summary of the advice.

Section 21 of the Act establishes the parameters for advice provided to designated persons and Section 23 for MPs in relation to "interests issues". Both Sections stipulate advices must have regard to a number of codes and standards. The number of codes and standards to which the Integrity Commissioner is required to have regard has continued to grow. So too has the number and length of agency policy documents concerning matters such as conflicts of interest. Advice inevitably becomes lengthier in such circumstances and particularly when weighing which code or standard should take pre-eminence where more than one is applicable to a situation. The Integrity Commissioner believes detailed advice which includes reference to evidence and precedence ensures advices are in accordance with the intention of the Act.

## Finding

Advice provided by the Integrity Commissioner under Chapter 3 of the Act will be relied upon by the recipient in taking subsequent action. The current Integrity Commissioner has developed a structure to ensure advice provided to designated persons is consistent with the requirements of Sections 21 and 23 of the Act. The number of codes, standards and other documents to which the Integrity Commissioner is required to have regard (and which continue to increase) inevitably brings with it a level of complexity. A statement of facts is included to ensure clarity as to the circumstances to which the advice relates.

In combination this accounts for the length of some advice. The Integrity Commissioner believes it is necessary the advice contains this material to ensure there is clarity as to the specific matter to which the advice relates, the advice meets the requirements set out in the Act and advisees are apprised as to considerations that informed the advice (including the codes and standards referenced).

## Recommendation 22

That written advice provided pursuant to Section 21 and 23 of the Act contain a summary of the advice as the first section of the document.

## 9.2 Performance of Integrity Commission lobbying regulation function

The Integrity Commissioner has responsibility under the Act for the regulation of lobbying activities. The review examined the efficiency and effectiveness in the performance of this function. Two issues were identified:

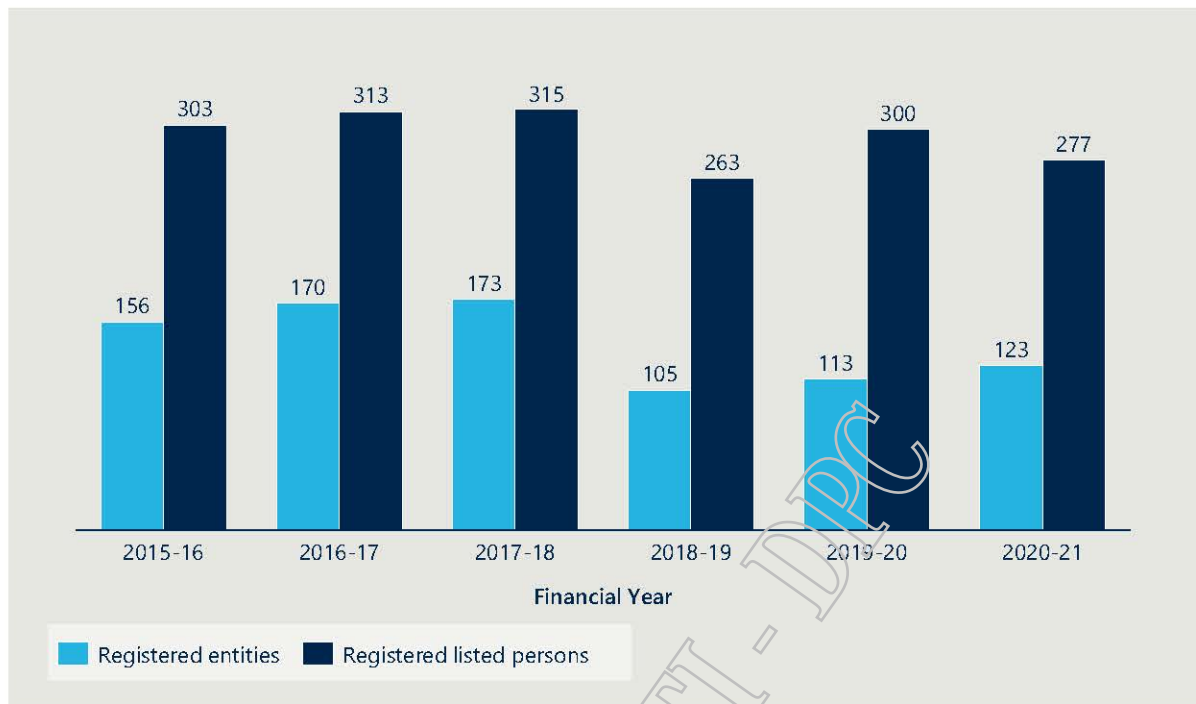
- A growth in lobbying activity has increased the scale of the regulation function.
- The Lobbyist Register is not fit-for-purpose.

These issues are explored below.

### 9.2.1 Growth in lobbying and lobbying activity has increased the scope of the lobbying regulation function

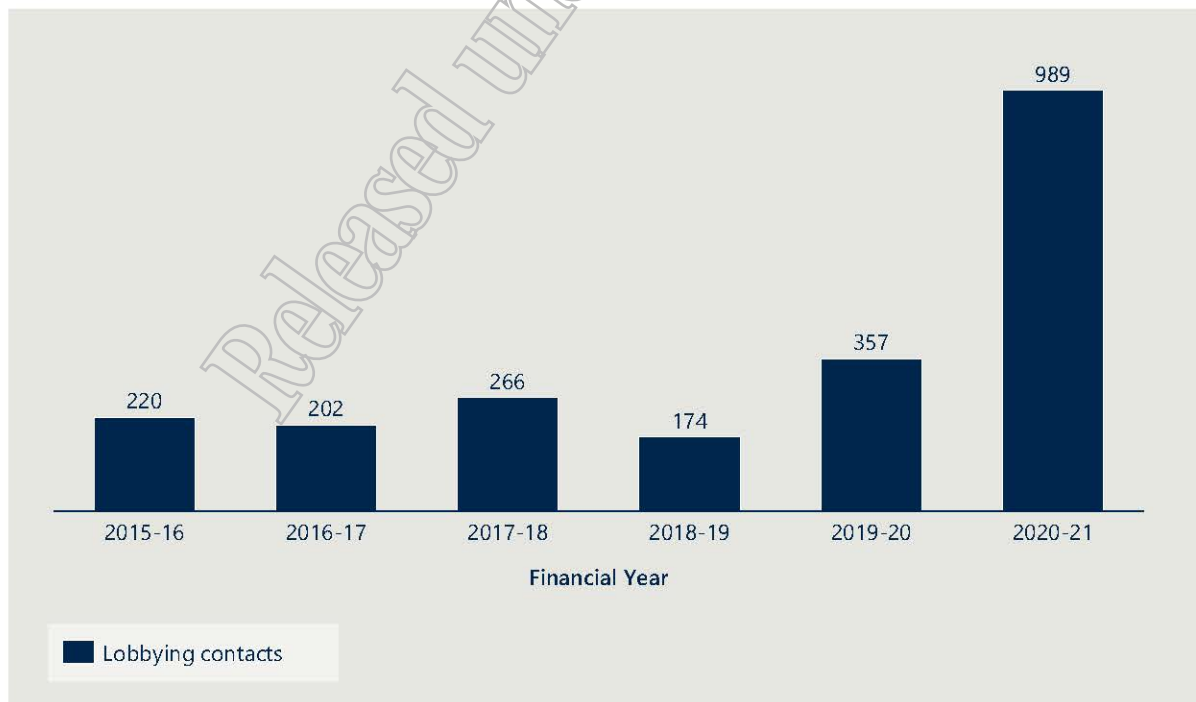
The number of registered lobbyists (both registered entities and registered persons) have numbered around the 400 since the financial year 2018-19, as shown in Figure 3. Data prior to the financial year 2018-19 includes entities and persons registered on the Lobbyist Register who were no longer actively lobbying. A review and clean-up of the register in 2018-19 to remove inactive lobbyists accounts for the numeral decline of both registered entities and persons between 2017-18.

Figure 3 | Growth in registered lobbyists



Over the past three (3) years there has been a growth in third-party lobbying activity in Queensland reflected by the number of lobbying contacts, as shown in Figure 4.

Figure 4 | Growth in lobbying contacts



Findings from the survey conducted with lobbyists as part of this review indicated the increase in lobbying activity has come as a result of:

- growth in economic activity in Queensland;
- changing political and social landscapes, including new laws and regulations and their potential impacts;
- greater acceptance of the role lobbyists play by clients and potential clients; and,
- client confusion as to whom they should make representations.

The growth in lobbying contacts, as measured by the contact register, has increased the workload for the Integrity Commissioner in regulating lobbyist activity and also in providing advice sought from lobbyists. Despite the workload increase related to the lobbying function, the Integrity Commissioner has not seen a relative increase in resourcing.

### Finding

While the number of registered lobbyists has remained reasonably constant over the last three (3) years, there has been a significant increase in the number of lobbying contacts, particularly in the last financial year.

## 9.2.2 The Lobbyist Register is not fit-for-purpose

The Lobbyist Register is an online platform with two functions:

- to record the details of registered lobbyists (both individuals and organisations); and
- to disclose lobbying contacts.

The register was established in 2009 for the Integrity Commissioner by a member of the DPC IT team. Some enhancements to the register were made in 2012. Since then, there has been no substantial upgrade of the register, and the technology is now outdated. Both lobbyists and the Integrity Commissioner report a myriad of functionality and reliability issues associated with the legacy platform on which the register sits.

Some of the issues include, but are not limited to:

- Inability for the Integrity Commissioner to rely on the data. This affects the ability to successfully prosecute the Show Cause functions of the Act.
- Limited search function to locate a lobbyist or lobbyist organisation.
- User accounts are created by a lobbyist without a standardised username format. The system allows lobbyists to choose their username freely without a standardised format. This means lobbyists can choose any username they wish (e.g., usernames currently include their name, a combination of names and numbers etc). To reset a password the lobbyist must know their username. A number of lobbyists do not remember their username and therefore contact the Commission for assistance. The Commission is unable to search for lobbyists in the system and are therefore left scrolling through pages to find the lobbyist's account. This imposes an administrative burden on the office.
- No required contact person for each registered organisation or indication of 'active' and 'inactive' users. This makes it extremely hard when an organisation has turnover to identify who is the current contact person.
- Poor visibility of when a lobbyist organisation adds or removes an individual from the register.

- Auto-log-off after 60 minutes in the register results in lost data if not saved. From an administrative perspective constant logging off slows down the process when working on reports and attending to auditing.
- Error messages regularly appear when lobbyists access specific pages on the website.
- Account locking requiring the administrator to reset. This can occur when a lobbyist using the website out-of-hours. They are then required to wait until the next business day before they can access the register again.

The outdated register increases the administrative burden on the Integrity Commissioner's office. Manual input of data is required when there are issues with the online platform in its current state. The register does not provide the functionality required to adequately regulate and monitor lobbying activity. Nor does the technology enable lobbyists to report their activity easily and conveniently. A platform with such extensive issues compromises the reliability of data. For registered lobbyists, compliance costs will be reduced when reporting if the technology platform is upgraded so reporting can be done efficiently and conveniently at a time of the entities choosing (including out of business hours).

The Integrity Commissioner has engaged the DPC IT team to conduct an options analysis and business case for a technology solution that:

- is functionality suited to the registration, monitoring, real time disclosure, and auditing of lobbying activities;
- remediates the risk to the Integrity Commissioner being able to fulfill a key function; and,
- leverages user experience to ensure it meets business requirements as well as legal, security and policy obligations.

Given the business-critical nature of the register, the circa \$200,000 understood to be required to upgrade or replace the technology on which it sits is considered a prudent investment. It will deliver substantial benefits in the efficiency and effectiveness of the Integrity Commissioner's Office and remediate a business risk. It will also reduce compliance costs for registered lobbyists.

### Finding

The Lobbyist Register was developed with limited resources and the technology platform on which it sits is outdated and its functionality limited. Its unreliability impacts the Integrity Commissioner's ability to perform the required lobbying monitoring and auditing functions. The difficulties lobbyists experience with the register impacts their ability to meet their obligations under the Act. The Integrity Commissioner has been working with the DPC IT providers to address this business risk. Given its criticality in providing accurate real time data to ensure transparency in lobbying activity, upgrading or replacing the technology platform on which the register sits is considered the highest priority for the Integrity Commissioner's Office.

### Recommendation 23

The technology platform on which the Lobbyist Register sits be upgraded and replaced and that:

- a) the Integrity Commissioner and the DPC IT complete, as a priority, work being undertaken to scope an upgrade or replacement of the platform, and
- b) once a solution has been identified that funding be provided to enable its prompt implementation.

## 9.3 Monitoring and reporting of Integrity Commission functions

The Integrity Commissioner is required to submit to the Speaker and the Parliamentary Committee a written report about the performance of the Integrity Commissioner's functions each financial year. The annual report contains adequate demand and performance data, as well as information on the Integrity Commissioner's functions.

The Integrity Commissioner's office currently utilises programs including Microsoft Excel and TRIM for monitoring and reporting. The Integrity Commissioner is currently working to transfer legacy paper documents onto the TRIM system. Once completed this will mean all Integrity Commissioner's office records will be on an electronics data base. This will deliver efficiencies in the Integrity Commissioner's office administration.

The office uses Microsoft Excel to provide visualisation of key performance data for day to day management and performance reporting.

### Finding

The Integrity Commissioner's current systems are appropriate for monitoring and reporting data. The Integrity Commissioner continuously looks for opportunities to improve office efficiency, and the quality of reporting. The annual and bi-annual reports are useful tools to communicate the Integrity Commissioner's office's activity and the performance of its functions.



## 10 Organisational arrangements supporting the Integrity Commissioner

The organisational arrangements supporting the Integrity Commissioner's functions were analysed as part of the strategic review. Issues to be addressed were identified regarding the governance and, office structure, staffing and workload as outlined below.

### 10.1 Governance

The current governance arrangements of the Integrity Commissioner's office are ambiguous. The Integrity Commissioner is a statutory independent officer of the Parliament, appointed under the Act. The Integrity Commissioner sits within the Premier's portfolio for functional purposes, however, the administrative and management responsibility for all the Integrity Commissioner's staff lies with the PSC. The validity of this governance model, where an office headed by a statutorily independent officer but staffed by employees of the PSC, was raised by Peter Bridgman in his 2019 report.<sup>41</sup>

Under the current arrangements, staff within the office can be removed in response to PSC priorities. As a result, the Integrity Commissioner has little control over staff resources. Staff leave is approved by the PSC independently of the Integrity Commissioner, without oversight of workflow and surge periods. This poses a significant business continuity risk. The arrangement is inefficient. The Integrity Commissioner and the staff invest time and develop their skills to build expertise in what is becoming an increasingly specialised and complex area. However, with no ability to determine the tenure of this expertise, knowledge can quickly be lost.

Commission staff expressed some disquiet at the uncertainty caused by the current arrangements. While attracted to specific roles within the office, being ultimately PSC staff leaves them open to a reposting to a job for which they did not originally apply.

#### Finding

The governance arrangements are not appropriate for the needs of the office. They impact the efficient administration and management of the Integrity Commissioner's office functions and create a business continuity risk. To enhance its independence and reduce business continuity risk an Office of the Integrity Commissioner should be established. The Office of the Integrity Commissioner should sit within the DPC commensurate with the portfolio responsible for the function resting with the Premier.

<sup>41</sup> Bridgman, P. (2019). A fair and responsive public service for all: Independent Review of Queensland's State Employment Laws. Accessed from <http://www.bridgman.com.au/wp-content/uploads/2021/03/A-fair-and-responsive-public-service-for-all-compressed.pdf>

## Recommendation 24

To enhance the independence of the Integrity Commissioner:

- a) there should formally be established an Office of the Integrity Commissioner as an independent unit within DPC consistent with the function being one within the portfolio of the Premier, and
- b) the Integrity Commissioner be accountable for the performance of the office in discharging the functions under the Act within the budget provided, and financial delegations commensurate with achieving accountability for prudent financial management, and
- c) staff be appointed directly to the office and (although public servants) be managed autonomously by the Integrity Commissioner.

## 10.2 Office structure, staffing and workload

The review identified three issues in relation to the Integrity Commissioner's office structure, staffing and workload, as follows:

- There are business continuity risks as the Act does not provide the Integrity Commissioner with appropriate delegation powers.
- The resourcing of the office does not meet the current workload.
- The scope of the Integrity Commissioner's responsibilities has extended outside of those mentioned in the Act.

Each issue is explored below.

### 10.2.1 There are business continuity risks as the Act does not provide the Integrity Commissioner with appropriate delegation powers

The Act does not provide the Integrity Commissioner with appropriate delegation powers when taking leave or where a conflict of interest arises for the Integrity Commissioner. Where a conflict of interest arises involving the Integrity Commissioner, the Act requires this be brought to the attention of the Speaker. However, the Act gives no direction on how the matter should be handled. As there is no Deputy Integrity Commissioner, the matter cannot be referred. This presents a risk to the Integrity Commissioner's office and the reputation of the Integrity Commissioner if such a circumstance prevents advice being provided to a designated person.

The Act prevents the Integrity Commissioner from being able to continue work when powers have been delegated to an Acting Integrity Commissioner. This is inefficient. In the situation where a conflict of interest matter might be referred to an Acting Commissioner, the Integrity Commissioner should be able to continue to discharge all other responsibilities.

To bring in an Acting Integrity Commissioner, the Integrity Commissioner must first notify the Speaker and Parliamentary Committee as to the reason for an Acting to be appointed. There can be difficulties in identifying a suitable Acting Integrity Commissioner at the time needed. Once the availability of a suitable Acting has been established, the matter then goes to Governor in Council, and the Acting is sworn in. This process can be lengthy, often leaving little, if any, time for the Integrity Commissioner to handover to the Acting.

If there were suitability qualified persons already commissioned who could be called upon to act in circumstances where the Integrity Commissioner is on leave or has a conflict of interest, the business continuity risk would be mitigated, and the need for repetitive appointment process (each time an Acting Commissioner is required) eliminated. Two Deputy Commissioners would provide a contingency in the circumstances where one was not available at the time required. The Deputy Commissioners should be sessional and receive no remuneration other than when they are acting by way of a specific delegation. The Integrity Commissioner should be required to advise the Speaker and the Parliamentary Committee prior to the delegation being exercised and the circumstances that necessitate it. The remuneration of the Deputy Commissioner while acting under delegation should be met from within the budget of the Office of the Integrity Commissioner.

### Finding

The Integrity Commissioner does not have appropriate delegation powers when taking leave (both planned and unplanned) or where a conflict of interest arises for the Integrity Commissioner. The process of engaging an Acting Integrity Commissioner requires adequate notice and planning. It does not account for unplanned leave which may render the position vacant for a period. These risks leave the designated persons unable to access advice.

### Recommendation 25

To ensure business continuity and a sustainable service to those requiring timely advice:

- a) at the time the Integrity Commissioner is appointed, two Deputy Commissioners be appointed for the same term as the Integrity Commissioner to be engaged on a sessional basis only when the Integrity Commissioner is unavailable or where they have a conflict of interest,
- b) the Act be amended to provide the Integrity Commissioner delegation powers to assign functions to a Deputy Commissioner to cover periods of leave and in circumstances where the Integrity Commissioner may have a conflict of interest,
- c) the Integrity Commissioner be required to advise the Speaker and the Parliamentary Committee prior to the delegation is being exercised, and the circumstances,
- d) the delegation powers should not prevent the Integrity Commissioner continuing to perform their functions in the circumstance that a Deputy Commissioner is given a specific advice request, for example, due to a conflict of interest.

## 10.2.2 The resourcing of the office does not meet the current workload

The current Integrity Commissioner's office resourcing is outlined in Figure 5.

Figure 5 | Current office structure and resourcing



The current structure and resourcing arrangements do not support business continuity and sustainability of the Integrity Commissioner's role. As described in Sections 6, 7 and 8 of this report, the scope in all areas of the Integrity Commissioner's functions have increased and the workload of the Integrity Commissioner's office is significant. The current level of resourcing does not support the workload of the office as evidenced by the introduction of service limits.

This report makes a number of recommendations directed at significantly reducing the number of extraneous functions and proposing certain categories of designated persons seek integrity advice as they require it from their respective agencies or through avenues that are more accessible and appropriate to their circumstances (See Recommendations 2 to 5, 7 and 27).

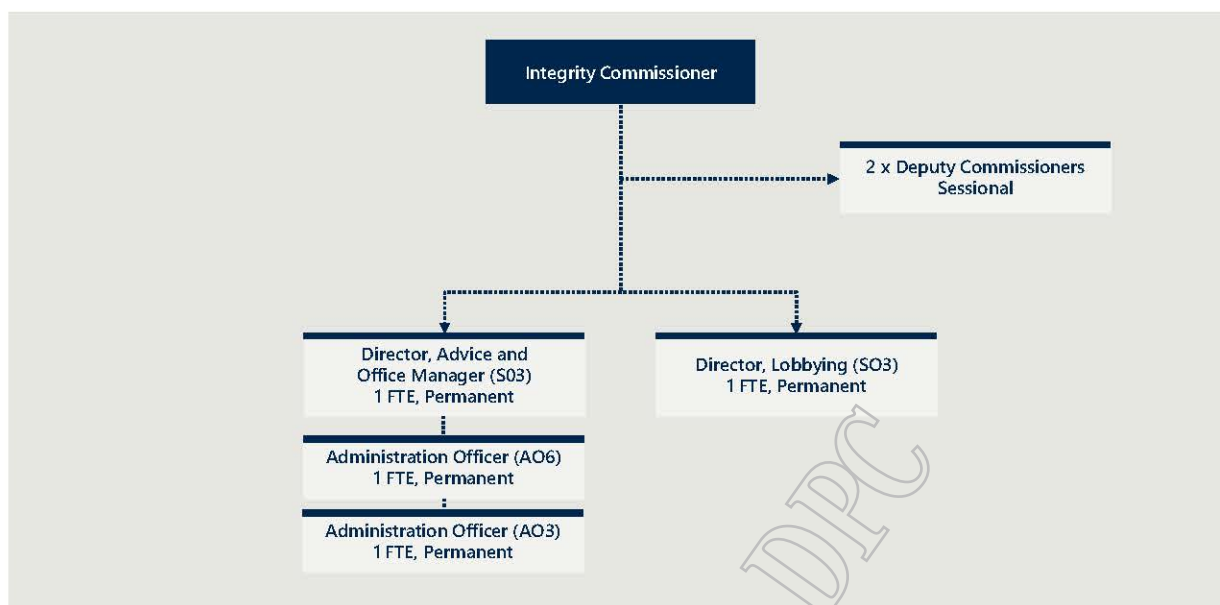
The consequence of implementing these recommendations would be to return the role of Integrity Commissioner to that as it was originally envisaged, as a source of informed confidential advice on ethics, conflicts of interest and integrity related matters to MPs, Ministers and to those who exercise very significant powers on behalf of the Government of the day and whose functions are of significant public interest.

If this were to occur, an establishment of five (5) FTEs (inclusive of the Integrity Commissioner), is considered appropriate. That would enable timely provision of advice, assuming requests continue at about current levels, but capacity also to update the Code of Conduct (Recommendation 16 refers), and the Lobbyists (best practice) education and training modules (Recommendation 21). It will also be necessary for the Commissioner to establish criteria and a procedure for prosecution should offences for unlawful lobbying (Recommendation 11) be adopted, and to develop a protocol with the CCC regarding the referral of matters for investigation (should Recommendation 14 be adopted).

If an Office of the Integrity Commissioner were to be established and the recommendations regarding the advice function and the lobbying functions adopted (or substantially so) then the structure proposed at Figure 6 would reflect:

- The anticipated demand for advice if the recommendation at Section 6 are adopted (including sessional deputies as outlined in Recommendation 25).
- The demand anticipated if the recommendations at Section 7 are adopted, along with support for the Integrity Commissioner to provide enhanced education and training in relation to Chapter 4 of the Act (Regulation of Lobbying Activities) as per Recommendation 21.

Figure 6 | Proposed office structure and resourcing



If recommendations 2 to 5, 7 and 27 are not adopted (or substantially so) a workforce review should be undertaken to identify the resources required to respond to all the requests for advice (including those currently the subject of service limits) in a timely manner to an acceptable standard of timeliness, quality and service. Initial indications are that perhaps an additional two (2) FTE would be required, with one being a permanently delegated Deputy Commissioner to handle the overflow of requests that are currently not receiving attention.

### Finding

The current resourcing of the office has proven insufficient to meet demand for advice which has significantly increased in recent years. If the current scope of the advice function is not reduced, additional staff will be required because there are already service limits being imposed.

The structure and resourcing of the Integrity Commissioner's office should be aligned to support business continuity and sustainability. An alternative structure to that currently in place is considered better aligned to the anticipated future work of the Office if recommendations made in Section 6 and 7 are adopted.

### Recommendation 26

If an Office of the Integrity Commissioner is established (Recommendation 24) its structure include:

- Director, Advice and Office Manager (Change from Director Legal and Operations), and
- Director, Lobbying (Change from Senior Legal Officer), and
- two administrative support positions, and
- two sessional Deputy Commissioners (to be called upon only when the Integrity Commissioner is on leave or has a conflict of interest).

### 10.2.3 The scope of the Integrity Commissioner's responsibilities have extended outside of those mentioned in the Act

The Integrity Commissioner has inherited a responsibility for the receipt, checking (including auditing) and filing of AASB 124's (a disclosure of related interests shareholding Ministers are required to make in the financial statements of government owned corporations).

This responsibility has likely evolved from convenience due to the Integrity Commissioner's office housing a secure physical filing system. It is however unrelated to the Integrity Commissioner's functions and is not required under the Act. The Integrity Commissioner receives no funding or resources (either temporary or permanent) for this task, which does place a burden on an already constrained resource environment within the Integrity Commissioner's office.

#### Finding

The Integrity Commissioner has inherited the administrative responsibility for AASB 124's. This responsibility has placed burden on an already resource constrained office. The administrative responsibility for AASB 124's has no relevance to the Integrity Commissioner's functions under the Act.

#### Recommendation 27

That the Integrity Commissioner be relieved of the responsibility for the receipt and management of AASB124's as these are not related to the functions under the Act.

# 11 Strategic issues for the future

There are four matters that should be monitored in coming years and addressed in the next strategic review:

- The effectiveness of the investigatory regime (if the recommendations of this report are adopted).
- Adequacy of the Lobbyist Register in terms of its functionality and in terms of Client Relationship Management system.
- The appointment of the Integrity Commissioner could be four (4) years set from year two (2) of the Parliamentary term.
- The Terms of Reference should remain the same for future strategic reviews of the Integrity Commissioner's functions.

Each issue is explored below.

## 11.1 The effectiveness of any punitive powers introduced and the investigatory regime (if the recommendations of this report are adopted)

Regulation of lobbying in Queensland rests with the Integrity Commissioner who has no investigatory powers and few powers of enforcement.

This review proposes the Act be amended to make it an offence for lobbying (as defined by the Act) to be conducted by an unregistered lobbyist, and for penalties to apply.

This review also considered whether the Integrity Commissioner should have investigatory powers. It concluded that to do so may create a difficulty in situations where advice previously provided became material relevant to an investigation, even if indirectly so. To establish an investigatory function within the Office of the Integrity Commissioner would be to duplicate the function of the CCC, and as such could not be justified on cost to the public purse and economy in public administration considerations.

Should Recommendation 14 be adopted it will provide the Integrity Commissioner with greater powers of enforcement and new powers to refer matters to the CCC for investigation. As these will be new mechanisms they should be monitored as to their effectiveness over the next five (5) years and an evaluation of their efficacy be part of the next strategic review.

## 11.2 The Lobbyist Register

This review recommends the technology platform for the Lobbyists Register be replaced or upgraded (Recommendation 23). The site should be easily navigable by both lobbyists to enter data, and those seeking access to information regarding lobbying entities and contacts.

Prior to implementation there should be a report to the Premier and the Parliamentary Committee that confirms the functionality, reliability and redundancy features are such as that a user can access it 24/7, whether to input data or reference entries. It should also allow the Integrity Commissioner to cross tabulate data required for the purpose of monitoring and audit.

Commentary on the performance of the Lobbyists Register in terms of these criteria should form part of the Integrity Commissioner's biannual reports to the Committee.

The next strategic review should evaluate the extent to which it has assisted in management of the relationship with Clients through a CRM system.

### **11.3 The appointment of the Integrity Commissioner could be four (4) years set from year two (2) of the Parliamentary term**

To enhance the independence of the Integrity Commissioner, it has been suggested an appointment of four (4) years be adopted instead of the current five (5) year term.

This would more appropriately reflect the role of the Commissioner as an Officer of the Parliament as the appointment would not coincide with the term of a Government as might occur from time to time with the current five (5) year term.

This arrangement would be possible with a set four (4) year Parliamentary term and is suggested as a matter for consideration at the next review.

### **11.4 The Terms of Reference should remain the same for future strategic reviews of the Integrity Commissioner's functions**

The Terms of Reference for this strategic review provided a clear framework for reviewing the Integrity Commissioner's functions. In addition, they provided direction around the emerging issues around lobbying in Queensland. It would be helpful, if future reviews contained the same Terms of Reference as in this review, so it is possible to track progress in the Integrity Commissioner's functions.



# 12 Recommendations

The Review has highlighted 27 key areas for adjustment or improvement to support the Integrity Commissioner to deliver on the intent of the Act most effectively. The Review puts forward the following recommendations as outlined in Table 4.

**Table 4 | Strategic review recommendations**

Recommendation	Detail
<b>Integrity Commissioner’s advisory function</b>	
<p><b>Recommendation 1</b> <i>refer Section 6.1.2</i></p>	<p>The ability of the Integrity Commissioner to meet the current level of demand for advice be addressed by either:</p> <ul style="list-style-type: none"> <li>a) funding an additional 0.5 Deputy Integrity Commissioner position to whom requests for advice can be directed during times capacity limits are reached, bringing the total staff complement up to 5.5 (including the Integrity Commissioner) together with necessary office infrastructure to enable the Deputy Commissioner to work remotely when called upon, or</li> <li>b) discontinuing, or reassigning to other more appropriate agencies, superfluous functions and amending the Act to eliminate duplication where other appropriate advice structures exist, (as outlined in Recommendations 2 to 7). This will enable the advice function to be performed without additional resources and, in addition, deliver consequential improvements in the economy and efficiency of the integrity system, enhanced accountability and greater transparency.</li> </ul>
<p><b>Recommendation 2</b> <i>refer Section 6.1.3</i></p>	<p>To ensure Members of Parliament and government representatives who have significant decision making responsibilities are able to receive timely advice in accordance with the Act’s original purpose:</p> <ul style="list-style-type: none"> <li>a) Section 12 (1) (h) of the Act that allows a Minister or Assistant Minister to (without limitation) nominate an individual class of person be repealed, and</li> <li>b) there be a sunseting of the right of individuals previously nominated under this provision to request advice at the time the section is repealed, and</li> <li>c) Section 17 (e) be repealed (as a consequential amendment).</li> </ul> <p>The effect of this recommendation is that any future additions to the categories of persons eligible to receive Integrity Commissioner advice would be way of legislative amendment or regulation. It would ensure the eligibility relates to the performance of a significant public service role and eliminate the situation where, (because of the confidentially provisions of the Act), the nominations of particular individuals and the reason they have been nominated, is not known. The problem of individuals once nominated having access to advice in perpetuity irrespective of whether circumstances change would also be resolved.</p>
<p><b>Recommendation 3</b> <i>refer Section 6.1.4.3</i></p>	<p>Section 12 (1) (d) of the Act that provides for “a Senior Executive or Senior Officer” to unilaterally seek advice from the Integrity Commissioner be amended to omit “Senior Officer”.</p> <p>There is a large cohort of “Senior Officers” within the public sector who have access to advice through departmental structures. The effect of this recommendation would be to eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a departmental officer below the executive level in departments. This is consistent with the accountability Chief Executives have under the Public Service Act for the ethical conduct of all employees and the integrity of their departments.</p>

Recommendation	Detail
<b>Recommendation 4</b> <i>refer Section 6.1.4.4</i>	<p>In relation to advice a former designated person can seek from the Integrity Commissioner “post separation” that:</p> <ul style="list-style-type: none"> <li>a) the PSC post separation employment directive be updated to make it clear what constitutes a “related lobbying activity” under the Integrity Act, and</li> <li>b) Section 20A (2) of the Act be amended to clarify that Integrity Commissioner advice is limited to related lobbying activity.</li> </ul>
<b>Recommendation 5</b> <i>refer Section 6.1.5</i>	<p>That:</p> <ul style="list-style-type: none"> <li>a) Section 12 (1) (f) (that allows a ministerial staff member who gives, or person engaged to give, advice to a Minister to unilaterally seek the Integrity Commissioner’s advice) be amended to read chief of staff with the knowledge of the Minister, and</li> <li>b) Section 12 (1) (g) (that allows an Assistant Minister staff member who gives, or person engaged to give, advice to an Assistant Minister to unilaterally seek the Integrity Commissioner’s advice) be repealed, and</li> <li>c) Section 18 (b) be repealed, (as a consequential amendment), and</li> <li>d) Section 17 (d) (that provides for a Minister to ask for the Integrity Commissioner’s advice on an ethics or integrity issue) be amended to read “a ministerial staff member who gives, or a person engaged to give, advice to a Minister”, and</li> <li>e) Section 18 (a) (that provides for an Assistant Minister to ask for the Integrity Commissioner’s advice on an ethics or integrity issue) be amended to read “an assistant minister staff member who gives, or a person engaged to give, advice to the Assistant Minister”.</li> </ul> <p>This suite of amendments will eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a ministerial staff member. Given the Minister or Assistant Minister becomes accountable for any action subsequently taken by staff member it is appropriate the Minister or Assistant Minister be informed when a staff member is intending to seek advice and satisfied as to the scope and nature of the advice being sought. The recommendation also gives effect to Recommendation 5 of the CCC “Keller Report” discussed in Section 6.1.4.3.</p>
<b>Recommendation 6</b> <i>refer Section 6.2</i>	<p>There be no change to the disclosure provisions of the Act designed to ensure confidentiality surrounds the requesting and the provision of advice.</p>
<b>Recommendation 7</b> <i>refer Section 6.3</i>	<p>That:</p> <ul style="list-style-type: none"> <li>a) Section 40E of the Act (that relates to statutory office holder Declaration of Interests being filed with the Integrity Commissioner) be repealed, and</li> <li>b) Section 161 and 185 of the PSA be amended to remove the requirement for Chief Executive Declarations of Interest be provided to the Integrity Commissioner.</li> </ul> <p>Statutory Officers are required to provide a declaration of interests to the appropriate Minister and/or Parliamentary Committee to which the officer holder is accountable. The Integrity Commissioner has no statutory function to perform in relation to the declarations. The effect of the recommendation would relieve the Integrity Commissioner of an administrative responsibility that has no relevance to the function.</p>
<b>Integrity Commissioner’s lobbying regulation function</b>	
<b>Recommendation 8</b> <i>refer Section 7.1</i>	<p>While not broadening the definition of “lobbyist”, amend Section 41 of the Act to clarify the meaning of entity, to include an individual, organisation or related party (as defined in the ASA550 Auditing Standard).</p>

Recommendation	Detail
<p><b>Recommendation 9</b> <i>refer Section 7.1</i></p>	<p>To enhance transparency in respect of contact by those employed within organisations and associations who represent that entity's own interest:</p> <ul style="list-style-type: none"> <li>a) the Government provide more specific criteria as to the information that must be included in Ministerial diaries as to the purpose of the meeting, including the possibility of a pre-set menu of options, and</li> <li>b) the Leader of the Opposition's diary contain similar detail in respect of meetings with those employed within organisations and associations to represent that entity's own interests.</li> </ul>
<p><b>Recommendation 10</b> <i>refer Section 7.2</i></p>	<p>For the avoidance of doubt, Section 44 of the Act be amended to include reference to Statutory Officers as responsible persons for reporting unregistered lobbying activity to ensure all third-party lobbying activity is appropriately captured through regulatory functions.</p>
<p><b>Recommendation 11</b> <i>refer Section 7.2</i></p>	<p>To improve its effectiveness, the Act be amended to make unregistered lobbying activity an offence, together with penalties commensurate with those in other legislation for acts of deception intended to subvert the integrity of public administration.</p>
<p><b>Recommendation 12</b> <i>refer Section 7.3.1</i></p>	<p>To enable auditing of lobbyists records and monitor compliance, the Act be amended to require departments and agencies to provide meeting records and other relevant documents when requested by the Integrity Commissioner.</p>
<p><b>Recommendation 13</b> <i>refer Section 7.3.2</i></p>	<p>To improve the efficiency of the registered lobbyists regulatory regime:</p> <ul style="list-style-type: none"> <li>a) the provisions pertaining to the issuing of a show cause notice be retained, and</li> <li>b) the Act be amended to enable the Integrity Commissioner, by notice to a registered lobbyist, seek an explanation and/or issue a direction to take remedial action about a compliance matter, without first having to send a show cause notice.</li> </ul>
<p><b>Recommendation 14</b> <i>refer Section 7.3.3</i></p>	<p>To improve the effectiveness in the regulation of lobbying:</p> <ul style="list-style-type: none"> <li>a) the Act be amended to provide for the Integrity Commissioner to: <ul style="list-style-type: none"> <li>i. refer matters to the CCC when there is information available that the activities of a registered lobbyist or an individual who is not a registered lobbyists but is undertaking lobbying activities (as defined by the Act) may offend the provisions of Section 15 of the <i>Crime and Corruption Act</i>, and</li> <li>ii. retain discretion as to what other matters constitute serious misconduct of such gravity as to warrant investigation and should be referred to the CCC, and</li> <li>iii. be given powers to warn lobbyists of inappropriate conduct without reference to the CCC.</li> </ul> </li> <li>b) there be consequential amendments to the <i>Crime and Corruption Act</i> (if necessary) to enable the investigation of alleged corrupt activity on the part of a lobbyist, (as distinct from the public official who is the subject of the alleged corrupt activity and is already covered by the <i>Crime and Corruption Act</i>), and any other matter referred by the Integrity Commissioner as constituting serious misconduct of such gravity as to warrant investigation.</li> </ul>
<p><b>Recommendation 15</b> <i>refer Section 7.4</i></p>	<p>To improve transparency in relation to the nature of contacts with government representatives and Opposition representatives, lobbyists be required, when entering details on the Lobbyist Register, to provide a short explanation of the subject matter when selecting the 'other' category.</p>
<p><b>Recommendation 16</b> <i>refer Section 7.5</i></p>	<p>That in relation to lobbyists working in an advisory capacity to political parties, the Integrity Commissioner update the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration.</p>
<p><b>Recommendation 17</b> <i>refer Section 7.5</i></p>	<p>That the Act provide for the Integrity Commissioner to issue directives from time to time concerning the application of policies as circumstances require.</p>

Recommendation	Detail
<p><b>Recommendation 18</b> <i>refer Section 7.5</i></p>	<p>To ensure possible conflict of interest situations are properly addressed, where a company is supplying services to government but also works for non-government clients, the Queensland Government Supplier Code of Conduct be amended to provide that:</p> <ol style="list-style-type: none"> <li>when submitting a proposal to undertake work for the Government, a firm be required to make a specific statement addressing Item 3.2 (Managing conflicts of interest) and attach a copy of the company Conflict of Interest policy where they have one, and</li> <li>Conflict of Interest be added as one of the due diligence checks to be made as part of the evaluation process.</li> </ol>
<p><b>Integrity Commissioner's public awareness function</b></p>	
<p><b>Recommendation 19</b> <i>refer Section 8.1</i></p>	<p>That the Integrity Commissioner continue to develop education resources as this can reduce the demand on the office to respond to requests for basic information, freeing time and resources to conduct the advisory and lobbyist regulation functions.</p>
<p><b>Recommendation 20</b> <i>refer Section 8.2</i></p>	<p>The expertise and knowledge of the Integrity Commissioner be used to build capacity and competency across the public sector by:</p> <ol style="list-style-type: none"> <li>continuing to make presentations to statutory Boards and agency chief executives regarding best practice in meeting community expectations in respect of integrity in public administration, and</li> <li>continuing the education and development of those in public sector agencies who are charged with advising on integrity issues relevant to the administration of the agency and its employees.</li> </ol>
<p><b>Recommendation 21</b> <i>refer Section 8.3</i></p>	<p>To improve understanding of the requirements of Chapter 4 of the Act (Regulation of Lobbying Activities), its intent and obligations, the Integrity Commissioner:</p> <ol style="list-style-type: none"> <li>develop educational materials tailored to needs of registered lobbyists and relevant public officials and undertake training sessions, and</li> <li>create a compulsory training module that promotes best practice within the lobbying industry active in Queensland, and</li> <li>require successful completion of the module by all currently registered lobbyists and those who intend to register as a condition for registration.</li> </ol>
<p><b>Performance of the Integrity Commissioner's functions</b></p>	
<p><b>Recommendation 22</b> <i>refer Section 9.1.2</i></p>	<p>That written advice provided pursuant to Section 21 and 23 of the Act contain a summary of the advice as the first section of the document.</p>
<p><b>Recommendation 23</b> <i>refer Section 9.2.2</i></p>	<p>The technology platform on which the Lobbyist Register sits be upgraded and replaced and that:</p> <ol style="list-style-type: none"> <li>the Integrity Commissioner and the DPC IT complete, as a priority, work being undertaken to scope an upgrade or replacement of the platform, and</li> <li>once a solution has been identified that funding be provided to enable its prompt implementation.</li> </ol>
<p><b>Organisational arrangements supporting the Integrity Commissioner</b></p>	
<p><b>Recommendation 24</b> <i>refer Section 10.1</i></p>	<p>To enhance the independence of the Integrity Commissioner:</p> <ol style="list-style-type: none"> <li>there should formally be established an Office of the Integrity Commissioner as an independent unit within DPC consistent with the function being one within the portfolio of the Premier, and</li> <li>the Integrity Commissioner be accountable for the performance of the office in discharging the functions under the Act within the budget provided, and financial delegations commensurate with achieving accountability for prudent financial management, and</li> <li>staff be appointed directly to the office and (although public servants) be managed autonomously by the Integrity Commissioner.</li> </ol>

Recommendation	Detail
<b>Recommendation 25</b> <i>refer Section 10.2.1</i>	<p>To ensure business continuity and a sustainable service to those requiring timely advices:</p> <ul style="list-style-type: none"> <li>a) at the time the Integrity Commissioner is appointed, two Deputy Commissioners be appointed for the same term as the Integrity Commissioner to be engaged on a sessional basis only when the Integrity Commissioner is unavailable or where they have a conflict of interest,</li> <li>b) the Act be amended to provide the Integrity Commissioner delegation powers to assign functions to a Deputy Commissioner to cover periods of leave and in circumstances where the Integrity Commissioner may have a conflict of interest,</li> <li>c) the Integrity Commissioner be required to advise the Speaker and the Parliamentary Committee prior to the delegation is being exercised, and the circumstances,</li> <li>d) the delegation powers should not prevent the Integrity Commissioner continuing to perform their functions in the circumstance that a Deputy Commissioner is given a specific advice request, for example, due to a conflict of interest.</li> </ul>
<b>Recommendation 26</b> <i>refer Section 10.2.2</i>	<p>If an Office of the Integrity Commissioner is established (Recommendation 24) its structure include:</p> <ul style="list-style-type: none"> <li>a) Director, Advice and Office Manager (Change from Director Legal and Operations), and</li> <li>b) Director, Lobbying (Change from Senior Legal Officer), and</li> <li>c) two administrative support positions, and</li> <li>d) two sessional Deputy Commissioners (to be called upon only when the Integrity Commissioner is on leave or has a conflict of interest).</li> </ul>
<b>Recommendation 27</b> <i>refer Section 10.2.3</i>	<p>That the Integrity Commissioner be relieved of the responsibility for the receipt and management of AASB124's as these are not related to the functions under the Act.</p>

Released under RTIP - 10/25

## 13 Bibliography

This bibliography contains all material accessed during the research of the report.

1. Bridgman, P. (2019). A fair and responsive public service for all: Independent Review of Queensland's State Employment Laws. Accessed from <http://www.bridgman.com.au/wp-content/uploads/2021/03/A-fair-and-responsive-public-service-for-all-compressed.pdf>
2. Brown, A., J., Garycar, A., Kelly, K., Coghill, K., Prenzler, T., & Ransley, J. (2018). A National Integrity Commission – options for Australia. Accessed from [https://www.griffith.edu.au/\\_data/assets/pdf\\_file/0029/518249/Full-Report-National-Integrity-Options-August-2018.pdf](https://www.griffith.edu.au/_data/assets/pdf_file/0029/518249/Full-Report-National-Integrity-Options-August-2018.pdf)
3. Coaldrake, P. (2015). Strategic Review of the functions of the Integrity Commissioner – Final report, pp.19. Accessed from <https://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2015/5515T804.pdf>
4. Commonwealth of Australia. (2017). Select Committee on a National Integrity Commission. Parliament of Australia. (provided overview/comparison of Australian jurisdictions)
5. Crawford, M. (2020). The effectiveness of the financial arrangements and management practices in four integrity agencies. Audit Office of New South Wales
6. Crime and Corruption Commission. (2019). Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government. Recommendation 28, pg. 86. Accessed from <https://www.ccc.qld.gov.au/sites/default/files/2019-08/Operation-Belcarra-Report-2017.pdf>
7. Crime and Corruption Commission. (2020). Investigation Keller: An investigation into allegations relating to the former Chief of Staff to The Honourable Anastacia Palaszczuk MP, Premier of Queensland and Minister for Trade. Accessed from <https://www.ccc.qld.gov.au/publications/investigation-keller-investigation-report-allegations-relating-former-chief-staff>
8. Crime and Corruption Commission. (2020). Perceptions of corruption and integrity in local government. Accessed from <https://www.ccc.qld.gov.au/publications/perceptions-corruption-and-integrity-local-government>
9. Department of the Premier and Cabinet (2013): Open government reform: Information paper no. 2: overview of Queensland's integrity framework.
10. Department of Premier and Cabinet. (2019). Ministerial Code of Conduct. Section 3.4.2.
11. Ethical Standards Commissioner. (2020). 2019-2020 Annual report and accounts. Scotland. Accessed from <https://www.ethicalstandards.org.uk/publication/public-appointments-annual-report-2019-20>
12. Independent Commission Against Corruption New South Wales. (2018). Public integrity is great, but what is it?
13. Independent Commission Against Corruption New South Wales. (2020). Annual Report 2019-20. Accessed from <https://www.icac.nsw.gov.au/about-the-nsw-icac/nsw-icac-publications/nsw-icac-corporate-publications/annual-reports>
14. Independent Commission Against Corruption. (2021). Lobbying and the NSW public sector – the regulation of lobbying, access and influence in NSW (Operation Eclipse). Accessed from <https://www.icac.nsw.gov.au/investigations/past-investigations/2021/operation-eclipse>

15. Independent Commission Against Corruption SA. (2018). Public integrity is great, but what is it? Accessed from <https://icac.sa.gov.au/newsletter/public-integrity-is-great-but-what-is-it>
16. Integrity Commission Tasmania. (2020). Annual Report 2019-20. Accessed from [https://www.integrity.tas.gov.au/\\_data/assets/pdf\\_file/0011/589961/Integrity-Commission-Annual-Report-201920.PDF](https://www.integrity.tas.gov.au/_data/assets/pdf_file/0011/589961/Integrity-Commission-Annual-Report-201920.PDF)
17. Keeler Report 23 September 2020 Recommendation 5 Pg. 55
18. Ng, Yee-Fui. (2020). Regulating the influencers: The evolution of Lobbying regulation in Australia. *Adelaide Law Review*, 41(2).
19. Ng, Yee-Fui., & Tham, J.C. (2019). Enhancing the democratic role of direct lobbying in New South Wales: a discussion paper prepared for the New South Wales Independent Commission Against Corruption. NSW Independent Commission Against Corruption Accessed from <https://www.icac.nsw.gov.au/investigations/current-investigations/2019/operation-eclipse>
20. Ministerial Services, Department of the Premier and Cabinet. (2021). The Queensland Ministerial Handbook. Accessed from <https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/assets/ministerial-handbook.pdf?e>
21. Office of the Commissioner of Lobbying of Canada. (2021). Lobbying at the federal level – at a glance. Accessed from <https://lobbycanada.gc.ca/media/1868/lobbying-at-the-federal-level-at-a-glance-en.pdf>
22. Office of the Commissioner of Lobbying of Canada. (2021). Summary – Improving the Lobbying Act: Preliminary recommendations. Accessed from <https://lobbycanada.gc.ca/en/reports-and-publications/summary-improving-the-lobbying-act-preliminary-recommendations/>
23. Office of the Integrity Commissioner of Ontario. (2016). A guide to the Lobbyists Registration Act. Accessed from <http://www.oico.on.ca/docs/default-source/default-document-library/guide-to-the-lobbyists-registration-act.pdf?sfvrsn=2>
24. Office of the Integrity Commissioner of Ontario. (2020). Annual Report 2019-2020. Canada. Accessed from <http://www.oico.on.ca/home/annual-report-2019-2020>
25. Osler, Hoskin & Harcourt LLP. (2021). Lobbying in Canada. Accessed from <https://www.osler.com/en/resources/business-in-canada/browse-topics/additional/lobbying-in-canada>
26. Public Service Commission. (2010). Code of Conduct for the Queensland Public Service. Accessed from <https://www.forgov.qld.gov.au/about-code-conduct>
27. *Queensland Integrity Act 2009*.
28. *Queensland Public Service Act 2008*.
29. State Services Commission. (2019). Annual Report: For the year ended 30 June 2019. New Zealand
30. Stepanov, N. & Vickers M. (2020). Submission on the Commonwealth Integrity Commission – Proposed Reforms. Accessed from <https://www.ag.gov.au/sites/default/files/2020-05/Dr-nikola-stepanov-queensland-integrity-commissioner.pdf>
31. The Australia Institute. (2017). Queensland watchdog asleep at the gate: A comparison of the Queensland and NSW anti-corruption commission. Accessed from <https://australiainstitute.org.au/wp-content/uploads/2020/12/P352-Queensland-watchdog-asleep-April-FINAL.pdf>

32. The Australia Institute & Transparency International Australia. (2017). Principles for designing a National Integrity Commission: A briefing paper prepared in November 2017 by the National Integrity Committee. Accessed from <https://australiainstitute.org.au/wp-content/uploads/2020/12/Principles-for-designing-a-National-Integrity-Commission.pdf>
33. The Centre for Public Integrity. (2019). Integrity Reform Agenda. Accessed from <https://publicintegrity.org.au/wp-content/uploads/2019/07/Integrity-Reform-Agenda-The-Centre-for-Public-Integrity.pdf>
34. Transparency International Australia & Griffith University. (2020). Australia's National Integrity System: The Blueprint for Actions. National Integrity System Assessment.

Released under RTI - DPC



# Appendix A Terms of Reference for the strategic review of the Integrity Commissioner's functions

## BACKGROUND

The *Integrity Act 2009* (the Act) provides for an Integrity Commissioner who is an officer of the Queensland Parliament. Section 7 of the Act provides that the Integrity Commissioner's functions are:

- a) to give written advice to a designated person or former designated person on ethics or integrity issues as provided for under Chapter 3, Part 2
- b) to meet with, and give written or oral advice to, Members of the Legislative Assembly as provided for under Chapter 3, Part 3
- c) to keep the lobbyists register and have responsibility for the registration of lobbyists under Chapter 4
- d) to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the Integrity Commissioner's functions.

The Integrity Commissioner reports to Parliament at the end of each financial year about the performance of the Integrity Commissioner's functions. The Economics and Governance Committee, a Queensland Parliamentary Committee, oversees the performance of the Queensland Integrity Commissioner.

The current Integrity Commissioner was appointed for an initial three-year term from 1 July 2017 and was reappointed for a further three-year term from 1 July 2020.

A strategic review of the Integrity Commissioner's functions must be conducted at least every five (5) years in accordance with Section 86 of the Act.

## SCOPE

The strategic review of the Integrity Commissioner's functions is to include a review of the Integrity Commissioner's performance of the functions to assess whether they are being performed economically, effectively, and efficiently.

The review is to examine all structural and operational aspects of the Integrity Commissioner, as well as its relationship with public sector entities, relevant Ministers, Assistant Ministers, the Parliamentary Committee, and the Legislative Assembly.

## POWERS OF REVIEWER

In accordance with Section 87 of the Act, the reviewer has the powers that an authorised auditor has under the *Auditor-General Act 2009* for an audit of an entity, and that Act and other Acts apply to the reviewer as if the reviewer were an authorised auditor conducting an audit of the entity.

## QUALIFICATIONS AND EXPERIENCE OF THE REVIEWER

The strategic review must be conducted by an appropriately qualified person who has a high professional standing with a sound understanding of ethics and integrity issues and public sector administration. In addition, knowledge of contemporary managerial and organisational standards and techniques would be beneficial.

The Act and the Lobbyists Code of Conduct is designed to ensure that contact between lobbyists and Queensland Government and Opposition representatives is carried out in accordance with public expectations of transparency and integrity. The reviewer will be required to develop a rapid understanding of how the regulation of lobbying activities is administered by the Integrity Commissioner.

The reviewer will also be required to demonstrate independence from the Integrity Commissioner and that they have no pecuniary interest in the outcome of the review and have no established relationship with the Integrity Commissioner.

## METHODOLOGY

In conducting the strategic review, the reviewer is to:

- a) have regard to the functions of the Integrity Commissioner and purpose of the Act in assessing the ongoing economy, efficiency, and effectiveness of the office of the Integrity Commissioner
- b) have regard to the Integrity Commissioner's annual reports, strategic plan, the organisational structure, goals, operational conduct, internal/external policies, operational management, corporate management, and service provision of the Integrity Commissioner
- c) consider comparative models, practices and procedures used by offices in other jurisdictions equivalent to the Integrity Commissioner
- d) consider the recommendations from the 2015 strategic review, the recommendations of the former FAC report on the 2015 strategic review, and the Government's response to the former FAC's report, particularly to the extent to which they have been implemented and whether they are achieving the desired objectives
- e) consider any matters raised during the performance of the Parliamentary Committee's functions under Section 89 of the Act.

The reviewer is to give consideration to the lobbying provisions of the Act, and in particular, consider:

- a) whether existing provisions are appropriate and effective in regulating contact between lobbyists and government and Opposition representatives, including by former government and Opposition representatives, having regard to public expectations of transparency and integrity
- b) whether specific investigative powers are required to effectively regulate lobbying activities.

In reviewing the effectiveness of the Integrity Commissioner's oversight of lobbying activities, the reviewer is to consider the powers and responsibilities of similar offices in other Australian jurisdictions.

The reviewer is to interview the Integrity Commissioner about the strategic review and consideration should also be given to interviewing staff of the Integrity Commissioner and the Economics and Governance Committee. The reviewer may also wish to consult with a selection of the following stakeholders:

- a) 'designated persons' who may request advice from the Integrity Commissioner on ethics or integrity matters (Ministers, Assistant Ministers, Members of Parliament, Statutory Office Holders, Chief Executives of government agencies, Senior Executive officers and Senior Officers, Ministerial staff)
- b) former designated persons
- c) lobbyists (from the Register of Lobbyists)
- d) integrity agencies, such as: the Crime and Corruption Commission, Queensland Ombudsman, Independent Assessor, Electoral Commissioner, and Queensland Audit Office.

Information sources and documents relevant to the strategic review are listed in Section 0 of this Appendix.

## DURATION

The final review report is to be given to the Premier and Integrity Commissioner within six months of the commencement of the review.

The proposed report on the review is expected to be provided to the Premier and the Integrity Commissioner at least 30 business days prior to the due date of the final report.

The Premier and Integrity Commissioner may give the reviewer written comments on anything in the proposed report within 15 business days of receipt of the proposed report.

## REPORTING

As required under Section 88(1) of the Act, the reviewer must give a copy of the proposed report on the strategic review to the Premier and the Integrity Commissioner prior to finalising the report.

Under Section 88(2) of the Act, the Premier and the Integrity Commissioner may, within 15 business days after receiving the proposed report, give the reviewer written comments on anything in the proposed report, in which case the reviewer must comply with Section 88(3) of the Act.

In accordance with Section 88(4) of the Act, the final review report is to be presented to the Premier and the Integrity Commissioner, in a suitable format for tabling in the Legislative Assembly. This should occur within 15 business days after receiving written comments from the Premier and Integrity Commissioner under Section 88(2).

The final review report must be substantially the same as the proposed report, apart from any changes made under Section 88(3).

Sections 88 and 89 of the Act provide that the Premier must table the strategic review report in the Legislative Assembly within three sitting days after receiving the report, and that the report will be referred to the Parliamentary Committee for examination. The Committee may comment on any aspect of the report and make recommendations.

### Information sources and documents relevant to the strategic review:

<i>Integrity Act 2009</i>	<a href="https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2009-052">https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2009-052</a>
Queensland Integrity Commissioner's website	<a href="https://www.integrity.qld.gov.au/">https://www.integrity.qld.gov.au/</a>
Queensland Integrity Commissioner Annual Reports	<a href="https://www.integrity.qld.gov.au/publications/annual-reports.aspx">https://www.integrity.qld.gov.au/publications/annual-reports.aspx</a>

Queensland Integrity Commissioner Half-year Update July - December 2019	<a href="https://www.integrity.qld.gov.au/assets/document/tables/papers/half-year-update-2019.pdf">https://www.integrity.qld.gov.au/assets/document/tables/papers/half-year-update-2019.pdf</a>
Register of Lobbyists	<a href="http://lobbyists.integrity.qld.gov.au/who-is-on-the-register.aspx">http://lobbyists.integrity.qld.gov.au/who-is-on-the-register.aspx</a>
Lobbyists Code of Conduct	<a href="https://www.integrity.qld.gov.au/assets/document/catalogue/general/lobbyists_code_of_conduct_Sept_2013.pdf">https://www.integrity.qld.gov.au/assets/document/catalogue/general/lobbyists_code_of_conduct_Sept_2013.pdf</a>
Strategic Review of the Functions of the Integrity Commissioner – Final Report – 8 July 2015	<a href="https://www.parliament.qld.gov.au/documents/tableOffice/Tables/Papers/2015/5515T804.pdf">https://www.parliament.qld.gov.au/documents/tableOffice/Tables/Papers/2015/5515T804.pdf</a>
Finance and Administration Committee Report No. 19, 55 <sup>th</sup> Parliament – Inquiry into the Report on the Strategic Review of the functions of the Integrity Commissioner	<a href="https://www.parliament.qld.gov.au/documents/tableOffice/Tables/Papers/2015/5515T1885.pdf">https://www.parliament.qld.gov.au/documents/tableOffice/Tables/Papers/2015/5515T1885.pdf</a>
Government Response to Finance and Administration Committee Report No. 19, 55 <sup>th</sup> Parliament	<a href="https://www.parliament.qld.gov.au/documents/tableOffice/Tables/Papers/2016/5516T273.pdf">https://www.parliament.qld.gov.au/documents/tableOffice/Tables/Papers/2016/5516T273.pdf</a>

Released under RTI - DPC

## Appendix B Comparison of integrity systems nationally and internationally

The below sections surveys, selectively, how the Queensland Integrity Commissioner model compares with other integrity models in similar jurisdictions. The review looked at integrity models internationally, Ontario and Scotland and nationally, New South Wales and Tasmania.

### B.1 Office of the Integrity Commissioner of Ontario

The Office of the Integrity Commissioner of Ontario (the Office) is an independent body, established to encourage high standards of ethical conduct for Members of Provincial Parliament as well as working to encourage and support high ethical standards to strengthen trust and confidence in the government.<sup>42</sup> The Office is led by the Ontario Integrity Commissioner who is an Officer of the Legislative Assembly to maintain independence of government.

The Office has responsibility for six functions (under five pieces of legislation):

- **Members of Provincial Parliament (MPPs) advice** – The Ontario Integrity Commissioner provides conflict of interest advice to Ontario's MPPs. The Ontario Integrity Commissioner also has the power to investigate complaints received from any MPP regarding the activities of another MPP under the *Members' Integrity Act, 1994* (the Act);
- **MPP financial disclosures** – MPPs are required to submit confidential disclosures of their personal finances to the Office annually. The Ontario Integrity Commissioner meets with all MPPs to review their financial disclosures and discuss their obligations under the Act;
- **Ministers' Staff Ethical Conduct** – The Ontario Integrity Commissioner provides advice and direction to ministers' staff at all stages of their employment on Conflict of Interest Rules under the *Public Service of Ontario Act 2006*. The advice sought can be in relation to day to day work activities and personal and/or pecuniary interests while employed by a ministry as well as during post-employment period. The Office also provides training for all staff;
- **Public Sector Ethics mandate** – Following the merger with the Office of the Conflict of Interest Commissioner (OCOIC) in 2019 the Office now also provides advice or determinations to Ethics Executives (i.e. deputy ministers, chairs of public bodies and other designated individuals) on matters related to the Conflict of Interest Rules and the political activity restrictions to the *Public Service of Ontario Act, 2006*. This function also includes reviewing financial declarations of public servants, providing education to Ethics Executives, as well as providing conflict of interest advice to the Premier's Office, and approve conflict of interest rules of public bodies and ethics plans of administrative tribunals;
- **Disclosure of Wrongdoing** – the Office has authority to receive and deal with allegations of wrongdoing from public servants working in ministries and public bodies; and
- **Lobbyists Registration** – Maintenance of the lobbyist registry.

Changes in 2015 to the *Public Sector and MPP Transparency and Accountability Act 2014* broadened the information required to be provided by lobbyists. The Ontario Integrity Commissioner's investigatory and

---

<sup>42</sup> Office of the Integrity Commissioner of Ontario. (2020). Annual Report 2019-2020. Canada. Accessed from <http://www.oico.on.ca/home/annual-report-2019-2020>

punitive powers in relation to non-compliance were also broadened to better regulate lobbying activity and drive compliance.

## B.1.1 Similarities and differences to the Queensland model

The advisory and lobbying oversight function of the Ontario Integrity Commissioner is also undertaken in Queensland by the Integrity Commissioner. However, the advisory function of the Queensland Integrity Commissioner currently extends to Chief Executives and senior officials within the public service which is not a function performed by the Ontario Integrity Commissioner.

Like Queensland, the Ontario Integrity Commissioner is also responsible for the management of the lobbyist registry. However, the disclosure requirements for lobbyists encompass and go beyond the Queensland model as the definition of lobbying extends to in-house lobbyists. Ontario has an independent Ethics Commissioner responsible of the oversight of breaches of lobbying and financing laws. The Ontario Ethics Commissioners investigatory remit is analogous to those of the CCC in the Queensland system.

## B.2 The Commissioner of Ethical Standards for Public Life in Scotland

The Commissioner of Ethical Standards for Public Life in Scotland, also known as the Ethical Standards Commissioner (ESC), is an independent body responsible for investigating complaints about local authority officials including councillors, members of devolved public bodies and Members of the Scottish Parliament (MSPs) who are alleged to have contravened their relevant Code of Conduct.<sup>43</sup>

Under the *Ethical Standards in Public Life etc. (Scotland) Act 2000*, the *Scottish Parliamentary Standards Commissioner Act 2002*, the *Public Appointments and Public Bodies etc. (Scotland) Act 2003*, and the *Lobbying (Scotland) Act 2016* the functions of the ESC include:

- **Education and ethical advice.** Provide guidance to councils, devolved public bodies and MSPs to assist them in promoting high standards of conduct; and,
- **Complaints handling** – Investigate complaints about the conduct of MSPs, local authority councillors, board members of regulated public bodies and lobbyists and report to the Standards Commission for Scotland.

Following the conclusion of an investigation, the ESC provides a report to the Standards Commission for Scotland. The Standards Commission determines whether to hold a Hearing, direct the ESC to undertake further investigations, or take no action. The separation of functions is designed to ensure impartiality, fairness and objectivity in the decision-making process.

The ESC reports the outcome of any investigation to the Scottish Parliament.

---

<sup>43</sup> Ethical Standards Commissioner. (2020). 2019-2020 Annual report and accounts. Scotland. Accessed from <https://www.ethicalstandards.org.uk/publication/public-appointments-annual-report-2019-20>

## B.2.1 Similarities and differences to the Queensland model

The ESC is distinct from the Queensland Integrity Commission as core components of its functions include investigation and regulation. However, the ESC, like the Queensland Integrity Commission is responsible for producing Code of Conduct in relation to best practice principles and providing advice to MSPs and public officials.

Like Queensland, the ESC has responsibility for the legal regulation of Lobbying.<sup>44</sup>

## B.3 The New South Wales Independent Commission Against Corruption (ICAC)

The New South Wales (NSW) ICAC is an independent body, accountable to the people of NSW through the NSW Parliament and is also overseen by the Inspector of the ICAC.<sup>45</sup> The ICAC was established in response to community concern about the integrity of public administration in the state. It is led by the Chief Commissioner and is supported by two other part-time Commissioners whose roles include participating in determining if a matter will proceed to a public inquiry and presiding at compulsory examinations and public inquiries. The ICAC also has a CEO who leads and directs the day-to-day activities and is responsible for the implementation of the decisions of the Commissioners.

Under the *Independent Commission Against Corruption Act 1988* (NSW) the functions of the ICAC include:

- **Education** - To educate the NSW community and public sector about corruption and its effects;
- **Prevention** - To actively prevent corruption through providing advice and assistance (including through providing information, resources, and training to public sector agencies, conducting research to identify and help remedy specific areas of corruption risk); and,
- **Investigation** - To investigate and expose corrupt conduct in the public sector. However, these powers do not extend to the investigation of complaints concerning the conduct of NSW police officers.

As a requirement for appointment, Commissioner's must have served as a judge of the High Court, the Federal Court, the Supreme Court of NSW or another state or territory. Further, a Commissioner may hold office for a term not exceeding five-years, however, is eligible for reappointment.

### B.3.1 Similarities and differences to the Queensland model

The preventative and educative functions of the ICAC are comparable to the Integrity Commissioner functions in Queensland. The investigatory and prosecution functions are undertaken in Queensland by the CCC and DPP respectively.

Lobbying in NSW is overseen by the Electoral Commission, while in Queensland the regulation of lobbyists rests with the Integrity Commissioner.

---

<sup>44</sup> Ng, Yee-Fui. (2020). Regulating the influencers: The evolution of Lobbying regulation in Australia. *Adelaide Law Review*, 41(2).

<sup>45</sup> Independent Commission Against Corruption New South Wales. (2020). Annual Report 2019-20. Accessed from <https://www.icac.nsw.gov.au/about-the-nsw-icac/nsw-icac-publications/nsw-icac-corporate-publications/annual-reports>

## B.4 The Integrity Commission of Tasmania

The Integrity Commission is an independent state authority, entrusted by the Tasmanian community to support an ethical and responsible public sector.<sup>46</sup> The Integrity Commission comprises a Chief Commissioner, CEO, and three Directors. The Act also requires the establishment of a Board of three Commissioners, chaired by a Chief Commissioner, and reports to Parliament through the Joint Standing Committee on Integrity.

Under the *Integrity Commission Act 2009* (Tasmania) the functions of the Integrity Commission are:

- **Educative, preventative and advisory functions** – providing advice to public officers and the public about standards of conduct, propriety and ethics in public authorities and to deliver education and training relating to ethical conduct;
- **Complaints** – receipt and assessment of complaints; and,
- **Investigations** – own motion investigations and investigation into allegations of misconduct.

The Commission also supports the work of the Parliamentary Standards Commissioner, a statutory office established under the Act but independent of the Integrity Commission in providing confidential advice on propriety and ethical matters to Members of the Tasmanian Parliament and to the Commission.

### B.4.1 Similarities and differences to the Queensland model

The educative, preventative and advisory functions of the Integrity Commissioner, together with the advisory role of the Parliamentary Standards Commissioner, are comparable to the Integrity Commissioner function in Queensland.

However, the scope of complaint and investigatory powers within the remit of the Integrity Commission in Tasmania are much broader than in Queensland. This reflects the position of the Integrity Commission as the sole integrity body operating within the state. That is to say, there is no separate body in Tasmania such as Queensland's CCC, responsible for preventing crime, corruption and misconduct.

Lobbying in Tasmania is overseen by the DPC, while in Queensland the regulation of lobbyists rests with the Integrity Commissioner.

---

<sup>46</sup> Integrity Commission Tasmania. (2020). Annual Report 2019-20. Accessed from [https://www.integrity.tas.gov.au/\\_data/assets/pdf\\_file/0011/589961/Integrity-Commission-Annual-Report-201920.PDF](https://www.integrity.tas.gov.au/_data/assets/pdf_file/0011/589961/Integrity-Commission-Annual-Report-201920.PDF)



## Appendix C Recommendations from the 2015 strategic review

Table 5 provides a summary of progress made against the recommendations set out in the 2015 strategic review.

Table 5 | Recommendations from the 2015 strategic review

Recommendation	Extent to which the recommendation has been implemented and whether it is achieving the desired objective
Recommendation 1. There should be no requirement for managerial consent to support a request for advice to the Integrity Commissioner.	<i>Guardianship and Administration and Other Legislation Amendment Act 2019</i> omitted the relevant provision. Date of Assent 11 April 2019.
Recommendation 2. The advisory function of the Integrity Commissioner should not be expanded to include local government members.	Mayors and Councillors were included as designated persons by written notice from the Minister for Local Government to the Integrity Commissioner under Sections 12 (1) (h) and 12 (2) of the <i>Integrity Act 2009</i> . No legislative amendments.
Recommendation 3. The Act should be amended to allow former designated persons to seek advice from the Integrity Commissioner in relation to post-separation employment issues for a period of two (2) years after leaving office.	<i>Guardianship and Administration and Other Legislation Amendment Act 2019</i> extended functions of the Integrity Commissioner to include 'former designated persons'. Date of Assent 11 April 2019.
Recommendation 4. The Integrity Commissioner should publish hypothetical case studies addressing common issues and the principles on which they are based.	Case studies have been published on the education resources page of the Integrity Commissioner's website.
Recommendation 5. The Integrity Commissioner should explore the implementation of an electronic information management system that would enable storage and searching of previous advice.	DPC has confirmed the security protocols for the current HP Records Manager system and have been found appropriate for protecting the confidentiality of the Integrity Commissioner's files. The Integrity Commissioner and staff have expressed satisfaction with the system.
Recommendation 6. Where a designated person publicly discloses that the Integrity Commissioner has provided them particular advice, the written advice on that matter should be disclosed in full.	Recommendation of the Strategic Review was not supported by the Parliamentary Committee. No further action taken.
Recommendation 7. The definition of lobbyists should be expanded to include regulation of in-house lobbyists and other professionals discharging the lobbying function.	Recommendation of the Strategic Review was not supported by the Parliamentary Committee. No further action taken.
Recommendation 8. The Integrity Commissioner should maintain their current role in lobbying regulation, and continue to manage the Register of Lobbyists.	The Integrity Commissioner has continued their role and responsibility in the regulation of lobbying and continued to manage the Register of Lobbyists.

Recommendation	Extent to which the recommendation has been implemented and whether it is achieving the desired objective
<p>Recommendation 9. The scope of the Register of Lobbyists should be expanded to include individuals covered by the revised definition of lobbying (see Recommendation 7 above).</p>	<p>Recommendation of the Strategic Review was not supported by the Parliamentary Committee. No further action taken.</p>
<p>Recommendation 10. The Integrity Commissioner should seek to more actively educate the relevant professional communities as to what constitutes lobbying activity and the expectations that are attached to such activity.</p>	<p>The Integrity Commissioner produced a stakeholder engagement plan 2019 available on the internal documents page of the Integrity Commissioner's website which includes an overview of activities undertaken.</p> <p>The annual reports provide details about the public awareness activities undertaken by the the Integrity Commissioner.</p>
<p>Recommendation 11. The Integrity Commissioner should target education regarding the role and functions of the Integrity Commissioner to 'designated persons'. This should not limit the Integrity Commissioner from undertaking additional public education or awareness raising as envisaged by Section 7 (1) (d) of the Integrity Act.</p>	<p>The Integrity Commissioner developed a Strategic Plan 2019-2022, Operational Objectives 2019-2022 and Stakeholder Engagement Plan 2019 to target education activities. All documents are available on the Internal documents page of the Integrity Commissioner's website.</p> <p>The annual reports provide details about the public awareness activities undertaken by the Office of the Integrity Commissioner.</p>
<p>Recommendation 12. The Integrity Commissioner should publish updated policies and procedures on the relevant website.</p>	<p>The Integrity Commissioner has developed and updated policies and procedures on their website.</p>
<p>Recommendation 13. Consideration should be given to the Integrity Commissioner establishing a means of collecting information on the lobbying activities of in-house lobbyists. The analysis and publication of these statistics may be useful to inform a more precise expansion of the definition. It would be useful for the FAC to have oversight of this activity.</p>	<p>Recommendation of the Strategic Review was rejected by the Parliamentary Committee. No further action taken.</p>
<p>Recommendation 14. The role, title and responsibilities of the Research Support Officer (Lobbying) should be clarified to reflect the position's activities in monitoring the Register of Lobbyists and providing advice on related matters.</p>	<p>The AO5 Research Support Officer (Lobbying) was reclassified and redesignated to an AO6 Policy Officer position in September 2016.</p>
<p>Recommendation 15. If the Integrity Commissioner's current scope is maintained, staffing should be reduced to 2.4 FTE (including a 0.4 FTE reduction of the Integrity Commissioner role itself).</p>	<p>As a result of extensions to scope including the addition of former designated persons and local government representatives, the Integrity Commissioner has been employed on a full-time basis since July 2018.</p>
<p>Recommendation 16. If the Integrity Commissioner's current scope is extended the Integrity Commissioner's current employment level should be maintained for two (2) years (pending opportunity to observe impact).</p>	<p>As above. The Integrity Commissioner has been employed on a full-time basis since July 2018 to manage additional workload. However, scope has continued to increase since the last strategic review.</p>
<p>Recommendation 17. If the Office's current scope is extended through expansion of definition of lobbying activity subject to regulation, the Principal Policy Officer (Lobbying)'s current employment level should</p>	<p>The former employee in this role resigned and the role was subsequently abolished on 3 August 2016 as it was determined to be no longer required. However, lobbying activity has continued to increase.</p>

Recommendation	Extent to which the recommendation has been implemented and whether it is achieving the desired objective
<p>be maintained for two (2) years (pending opportunity to observe impact).</p>	
<p>Recommendation 18. Having particular regard to any changes in function recommended by this Review, the Integrity Commissioner and the Public Service Commissioner (PSC) should undertake a formal budgeting process for the 2015-16 period as a means of benchmarking the required budget going forward.</p>	<p>Budgeting processes have been undertaken annually on the back of PSC budget bids.</p>
<p>Recommendation 19. The Department of Premier and Cabinet (DPC) should assist the Integrity Commissioner to redevelop the Office's website as a matter of priority.</p>	<p>The Integrity Commissioner's webpage has been updated with the support of DPC IT team and is being maintained.</p>
<p>Recommendation 20. The Integrity Commissioner should seek the assistance of DPC in scoping the potential development and implementation of a customer relationship management (CRM)-type system to support the advisory function.</p>	<p>The Integrity Commissioner currently uses TRIM to maintain documentation and information relating to all functions of the office. Work is being conducted with the support of the DPC IT team to look at improvements and supports for the Lobbyist Register.</p>

Released under RTIP DPC

## Appendix D Lobbying submission key themes

Table 6 provides an overview of the key themes identified from the submissions received from Lobbyists.

Table 6 | Key themes from submissions

Key theme	Summary of comments from Lobbyists
The scope of lobbying as defined in the Act is too narrow	<ul style="list-style-type: none"> <li>• Definition in the Act is too narrow.</li> <li>• Scope of lobbying is limited to 'third-party'.</li> <li>• Expand the definition of Lobbyist to include all individuals with regular commercial contact with Government on behalf of a third-party, their organisation or their commercial clients.</li> <li>• Needs to capture the activity of lobbying of public officials.</li> <li>• The current framework targets professional government relations firms that undertake lobbying, rather than behaviour which may constitute lobbying. This means that a significant body of lobbying work becomes unregulated.</li> <li>• Many third-party and 'in-house' professionals also undertake to influence the government decision-making process. The definition of lobbying should be broadened to include those of us who are registered lobbyists and also those who are undertaking the activity of lobbying government for specific outcomes.</li> <li>• In-house lobbyists and 'incidental lobbying' by accountants, lawyers and others continue to escape regulation and should be included in the definition of lobbying.</li> <li>• Need to broaden the definition of lobbying to include the unregistered lobbying conducted by accounting, law, and other corporate advisory firms which makes up the majority of professional lobbying in QLD</li> <li>• The actual activity of lobbying is not the test of being brought within the ambit of the Act, but rather whether you qualify as a registered lobbyist.</li> <li>• Definition should be more closely aligned with the Canadian and USA Lobbying model.</li> <li>• Definition should be more closely aligned with NSW ICAC definition, "someone who engages in lobbying activity in return for payment as part of his or her employment, whether or not employed primarily in lobbying".</li> <li>• The current definition of what constitutes lobbying is very subjective. It should be clearer to place the onus on a lobbyist to ensure that, when the purpose of the interaction is to influence a decision, all parties are aware of their obligations.</li> <li>• Clearer definition of what constitutes a lobbying activity vs information sharing.</li> <li>• Simplification of the definition of lobbyist in the Act is required by removing the 'incidental lobbying' activity exemption.</li> </ul>
Scope of Lobbying being appropriate	<ul style="list-style-type: none"> <li>• Do not support changes/expansion of the scope of lobbying and request there is public consultation on this if it is under consideration.</li> <li>• Particularly supports the current arrangements set out in s41(6) which recognise that certain professions may undertake "incidental lobbying activities" which are "occasional only and incidental to the provision of professional or technical services".</li> </ul>
Lobbying activity could be more regulated and transparent	<ul style="list-style-type: none"> <li>• Relies on lobbyists self-nominating and registering.</li> <li>• Increased regulation to promote transparency in the system and ensure public trust.</li> <li>• Many accounts of lobbying go undisclosed under the 'incidental lobbying' exemption – need narrower exclusions.</li> </ul>

Key theme	Summary of comments from Lobbyists
	<ul style="list-style-type: none"> <li>• Introduce a compulsory training module for all registered government affairs consultants, successful completion of which is required for registration. The Commission should explore the establishment of a registration fee.</li> <li>• Conduct a refresh of the regulatory system to ensure the Code and its mechanisms reflect current laws and processes.</li> <li>• The regulated system works well – need to focus on improvements to the unregulated system.</li> <li>• Ongoing failure to address yawning gaps in the application of the Act and the Code means that, concerning, a substantial amount of lobbying activity goes unreported in Queensland and a significant number of lobbyists continue to operate beyond the reach of regulation.</li> <li>• Regulation should focus on lobbying activity – the act of lobbying rather than who is undertaking the lobbying activity. Exemptions need to be removed.</li> <li>• A greater level of regulation enforcement in relation to the prohibition against lobbying by unregistered entities is required.</li> <li>• Issues with the transparency of the Big 4 ‘partnership’ model.</li> <li>• Supportive of the cooling off period post-employment separation.</li> <li>• A national level of regulation for consistency.</li> </ul>
Suggested changes to current structure / governance of Lobbying regulation	<ul style="list-style-type: none"> <li>• Increase capacity of the Integrity Commissioner to respond to enquiries and provide proactive service to educate industry on how to operate within the scope and intent of the Code.</li> <li>• Establish an independent Lobbying Commissioner to regulate Lobbying with appropriate powers.</li> <li>• Establish a Queensland Pro Bono Clearance House to sit within the Lobbyist Register system.</li> <li>• Need a national system for transparency and consistency.</li> <li>• Increased resources and budget to allow the Integrity Commissioner to be directly engaged and available.</li> </ul>
Conflicts of interest	<ul style="list-style-type: none"> <li>• Consider what conflict avoidance mechanisms are required to mitigate risk where government engages commercial advisory entities, such as external consultants, who also have third-party clients and what regulatory requirements should be placed on them.</li> <li>• Develop a more modern system of restricting the use of information obtained through government service if an employee moves into the private sector – including reviewing the ‘two-year rule’.</li> <li>• Segregation should be urgently imposed to prevent consultants (particularly from the Big 4) to Government from time lobbying Government representatives at the same.</li> </ul>
Interpretation of the Act	<ul style="list-style-type: none"> <li>• Inconsistent interpretation of the Act between Integrity Commissioners. Current Integrity Commissioner has interpreted one way, published documents with this interpretation without consulting and hence created significant confusion for the industry.</li> </ul>

# Appendix E Lobbyist survey

## E.1 Lobbyist survey questions

### What's this about?

The Integrity Act provides that a Strategic Review of the Office of the Integrity Commissioner (OIC) be undertaken every 5 years. The purpose of the Strategic Review is to consider the OIC functions, including the extent to which functions are being performed economically, effectively and efficiently.

This review is being independently led by Kevin Yearbury and supported by Nous Group.

As you are aware, the Office of the Integrity Commissioner has two primary functions:

1. To provide advice to designated persons about ethics or integrity issues.
2. To administer the lobbyists register and monitor the interaction of lobbyists with government representatives and key representatives for the Opposition.

We are conducting this survey to ascertain if there are any issues with the current legislation and if you are experiencing any difficulties complying with or otherwise meeting the requirements of the Act.

### Completing the survey

The survey takes between 10 to 15 minutes to complete. It involves a combination of short responses and Likert scale rating questions. You can opt out of the survey at any point by simply exiting the survey. The survey will close on 2 July 2021.

Your information will remain confidential. We will not ask you to provide the name of the lobbying organisation you are currently employed by, however we are interested in understanding the size of the organisation. This will allow us to understand the key issues for lobbyists and if these vary depending on the size of the organisation.

### Any questions

If you have any questions or concerns, please do not hesitate to contact Sally Cutts, [sally.cutts@nousgroup.com.au](mailto:sally.cutts@nousgroup.com.au).

Question	Response format
<b>Demographic</b>	
a) How many listed persons are there in your organisation?	Open text
	Drop down
	Less than 1 year
b) How long have you worked as a lobbyist?	1-3 years
	3-5 years
	5+ years

Question	Response format
<p><b>The role played by Lobbyists</b></p> <p>The principles of a democratic representative government are based on (inter alia) political decision makers being informed as to the views and ambitions of individuals, interest groups and business. Within this broad concept of representative democracy:</p>	
c) Does your organisation provide services other than lobbying?	Yes No
d) If yes, what services does your organisation provide? <i>(Question will apply to those who answer the above question with 'Yes')</i>	Open text
e) What do clients tell you are the advantages of engaging a Lobbyist?	Open text
f) Do you think there has been growth in lobbying activity in the last five (5) years?	5 – To a great extent 4 – To some extent 3 – Somewhat 2 – Very little 1 – Not at all 0 – Unsure
g) If so, to what do you attribute this? <i>(Question will apply to those who answer the above question with answers 3-5)</i>	Open text
h) With which decision makers do you seek engagement?	The Premier or another Minister An Assistant Minister A councillor A public sector officer A ministerial staff member An assistant minister staff member Leader of the Opposition Deputy Leader of the Opposition Office of the Leader of the Opposition staff member Other
i) If other, please describe who you are engaging with <i>(Question will apply to those who answer the above question with 'Other')</i>	Open text
j) To what extent do you experience difficulties in accessing these decision makers?	5 – To a great extent 4 – To some extent 3 – Somewhat 2 – Very little 1 – Not at all 0 – Unsure
k) In your opinion, what is the reason for this? <i>(Question will apply to those who answer the above question with answers 3-5)</i>	Open text
l) If, as a lobbyist, you or your company acts for a political party (during an election campaign or otherwise), how do you manage actual or	Open text

Question	Response format
perceived conflicts of interest while acting for a client seeking to make representations to the Government or the Opposition as the alternative Government?	
<b>The operation of the Act</b>	
m) To what extent do you find compliance with requirements of the Integrity Act difficult?	5 – To a great extent 4 – To some extent 3 – Somewhat 2 – Very little 1 – Not at all 0 – Unsure
n) In your opinion, what is the reason for this? <i>(Question will apply to those who answer the above question with answers 3-5)</i>	Open text
o) Apart from the definition of lobbyists regulated under the Act (a subject upon which the review has already received submissions), do you have any other comments or observations on; <ol style="list-style-type: none"> <li>a. the Act itself or</li> <li>b. the administration of the Act?</li> </ol>	Open text
p) What steps do you take to ensure that individuals within your organisation who are subject to the two (2) year moratorium do not carry out a lobbying activity relating to official dealings they had in the two (2) years before leaving office or the public service?	Open text
<b>The Register</b>	
q) To what extent is the register easy to access and use?	5 – To a great extent 4 – To some extent 3 – Somewhat 2 – Very little 1 – Not at all 0 – Unsure
r) Are there any specific improvements you would like made to: <ol style="list-style-type: none"> <li>a. the information it provides,</li> <li>b. its format,</li> <li>c. its functionality</li> <li>d. anything else?</li> </ol>	Open text
s) In line with the Act, the register provides seven (7) categories for describing the meetings held with government officials and MP's. <ul style="list-style-type: none"> <li>• The making or amendment of legislation</li> <li>• The development or amendment of a government policy or program</li> <li>• The awarding of a government contract or grant</li> <li>• The allocation of funding</li> <li>• The making of a decision about planning</li> </ul>	Open text



Question	Response format
<ul style="list-style-type: none"> <li>Giving of a development approval under the Sustainable Planning Act 2009</li> <li>Commercial-in-confidence</li> <li>Other</li> </ul> <p>When you use the term 'Other', what is the subject of such meetings that it cannot be classified as one of the descriptive categories?</p>	
t) While there may be commercial information shared as part of a meeting, there is no requirement to disclose such detail on the register. As a result, is 'commercial-in-confidence' a required option in the register?	Yes No
u) In your opinion, why is 'commercial-in-confidence' a required option?	Open text
<b>Operation of the Office of the Integrity Commissioner</b>	
v) Would you like to see any changes to the Integrity Commissioner's responsibilities?	Yes No
w) What changes would you like to see? <i>(Question will apply to those who answer 'Yes' to the above question).</i>	Open text
x) Are there any improvements you would like to see in the operation of the Office of the Integrity Commissioner regarding the administration of the lobbying provisions?	Yes No
y) What improvements would you like to see? <i>(Question will apply to those who answer 'Yes' to the above question).</i>	Open text

## E.2 Summary of lobbyist survey themes

There were eight (8) responses to the lobbyist survey. Key insights and themes from the survey are summarised below:

- All respondents noted their organisation provided services in other than lobbying. The most common other service was communications and stakeholder relations.
- Lobbyists reported that clients seek their help to navigate the complexities of working with Government. They seek their expert advice regarding understanding Government policy and communicating key messages to the 'right' people within Government.
- 57% of respondents perceived that there has been a growth in lobbying activity in the last five (5) years to some extent or to a great extent. This growth was attributed to:
  - The growth in economic activity in Queensland and the reduction in consultation with less regulatory impact statements and fewer Community Cabinet meetings
  - Changing political and social landscape, new laws and regulations
  - More acceptance of the role played by lobbyists by clients
  - Client confusion as to whom they should make representations.

- Lobbyists most commonly seek engagement from the following decision makers:
  - A public sector officer (100%)
  - The Premier or another Minister (71%)
  - A ministerial staff member (71%)
  - An Assistant Minister (57%)
  - An Assistant Minister staff member (57%)
- 57% of respondents perceived they experience 'very little' difficulty in accessing key decision makers.
- Those who are aligned with a political party effectively monitor and mitigate actual or perceived conflicts of interest while acting for a client seeking to make representations to the Government or the Opposition as the alternative Government. They do so through clear internal practices and procedures.
- 43% of respondents find compliance with requirements of the Integrity Act difficult to some extent. Reasons cited for this difficulty focused on the difficulty using of the Lobbyist Register. Suggestions made for improvement included updating the functionality of the register.
- Respondents reported using the term 'Other' to record the lobbying activity for the following reasons:
  - Follow-up on previous meeting or correspondence
  - To denote arranging media activities and opportunities between clients and Ministers.
- 57% of respondents perceive the 'Commercial in confidence' is a required option in the register. Reasons cited focused on ensuring commercial information is not made available to competitors through disclosure.
- 66% of respondents reported they would like to see improvements in relation to the operation of the Office of the Integrity Commissioner regarding the administration of the lobbying provisions. Reasons cited were:
  - The Integrity Commissioner should have greater enforcement capacity and resources.
  - There should be more resources to enhance website functionality.
  - There should be greater scrutiny of lobbyists who work for political parties or who hold official positions in political parties.

## Appendix F LGAQ submission



14 May 2021

Mr Kevin Yearbury  
Lead Reviewer  
Strategic Review of the Queensland Integrity Commission

Email: [reviewer@strategicreviewic.qld.gov.au](mailto:reviewer@strategicreviewic.qld.gov.au)

Dear Mr Yearbury

### Strategic Review of the Queensland Integrity Commission

Thank you for meeting with us recently as part of your review and assessing the role and functions of the Integrity Commission on Queensland's local government sector.

As you know, the Local Government Association of Queensland (LGAQ) is the peak body representing Queensland's 77 local Councils and one town authority. We take integrity issues very seriously and have been involved in ongoing discussions with the Government about integrity policy settings involving our sector.

By way of background, the LGAQ made a submission to Queensland Parliament's Inquiry into the Report on the Strategic Review of the Functions of the Integrity Commissioner in September 2015 "the 2015 review".

When the Integrity Commission was established in 2010, the LGAQ requested to then Premier Anna Bligh that local government councillors be able to seek access to the Integrity Commissioner for ethical advice.

Unfortunately, that was not possible due to resourcing issues. As such the LGAQ appointed former Deputy Premier Joan Sheldon to the role of Local Government Ethics Advisor. While that role was paid for by the LGAQ, it was conducted independently of LGAQ operations.

The Advisor role was proactive in educating mayors, councillors and CEOs about their obligations and available to provide individual advice on relevant matters.

Advice provided related to:

- Use of information
- Register of interests
- Conflicts of Interest and Material Personal Interest
- Councillor relationship issues
- Councillor behaviour issues
- Declarations
- Ethics
- Integrity

There has been a significant number of policy and legislative changes in relation to integrity matters in local government since the 2015 review, and specifically the Office of Independent Assessor (OIA) was established in December 2018.

**P** 07 3000 2222  
**F** 07 3252 4473  
**W** [www.lgaq.asn.au](http://www.lgaq.asn.au)

Local Government House  
25 Evelyn Street  
Newstead Qld 4006

PO Box 2230  
Fortitude Valley BC  
Qld 4006

Local Government Association Of Queensland Ltd.  
**ABN** 11 010 883 293 **ACN** 142 783 917

# Appendix G Profile of Queensland Integrity Agencies

Table 7 provides an overview of the profile of various Queensland Integrity Agencies.

Table 7 | Profile of Queensland's Integrity Agencies

	Public Service Commission	Audit Office	Crime & Corruption Commission	Integrity Commission	Electoral Commission	Ombudsman	Information Commission	Office of the Independent Assessor	Racing Integrity Commissioner	Clerk of Parliament
Significant dates:	<p>Descendant of Public Service Act 1922. The PSC was established as an independent central agency in 2008 to inter alia "enhance and promote an ethical culture and decision making across the Queensland public sector"</p>	<p>Established in 1860</p>	<p>Established initially as the Criminal Justice Commission (CJC) in 1989</p> <p>Established as the Crime and Misconduct Commission in 2001 when the CJC and Queensland Crime Commission merged</p> <p>Established as the Crime and Corruption Commission in 2014<sup>47</sup></p> <p>Corruption prevention function was restored in 2016</p>	<p>Established in 1999</p> <p>Regulation of Lobbyists introduced in 2010</p>	<p>Established in 1992</p> <p>Operates under Electoral Act 1992 and the Local Government Electoral Act 2011</p>	<p>Introduction of Public Disclosure Act in 2010 to promote public interest by facilitating disclosure of wrongdoing in the public sector</p>	<p>Established under repealed Freedom of Information Act 1992 and continued under the Right to Information Act 2009, with additional functions under the Information Privacy Act 2009</p>	<p>Established in 2018</p>	<p>Established in 2016</p>	<p>Established in 1860.</p> <p>Current incumbent since Feb 2002</p>

<sup>47</sup> The corruption prevention function was removed from the Act in 2014.

	Public Service Commission	Audit Office	Crime & Corruption Commission	Integrity Commission	Electoral Commission	Ombudsman	Information Commission	Office of the Independent Assessor	Racing Integrity Commissioner	Clerk of Parliament
Appointment made by:	Governor in Council	Appointed by the Governor in Council under the <i>Auditor-General Act 2009</i>	Governor in Council	Governor in Council	Governor in Council	Governor in Council	Governor in Council	Governor in Council	Governor in Council	Appointed by the Governor by commission on the recommendation of the Minister after consultation with the Speaker.
Term of appointment:	Up to 5 years	The Auditor-General is appointed for a fixed, non-renewable term of 7 years	5 years	5 years	Up to 7 years	5 years (maximum first appointment; may be reappointed but not more than 10 years in total)	Not more than 5 years, or reappointment up to a total of 10 years continuous service	5 years	3 years	By Commission – holds office during good behaviour. Removal by the Governor upon an address from the Legislative Assembly for disability, bankruptcy or misconduct.
Direct delegations:	1 x Deputy Commissioner	5 x Assistant Auditors-General (AAG). One of the 5 AAGs is QAO's deputy Auditor-General when required.	To an appropriately qualified commission officer	Nil	To a deputy or appropriately qualified commission staff member	1 x Deputy Ombudsman	2 x Deputy Commissioners 2 x Directors	1 x Deputy Commissioner	2 x Deputy Commissioners	To a Parliamentary Services Officer
Officer of Parliament:	No	No <sup>48</sup>	No	Yes	No	Yes	Yes	No	No	Yes

<sup>48</sup> The 2017 strategic review of QAO recommended that the Auditor-General become an independent Officer of Parliament

	Public Service Commission	Audit Office	Crime & Corruption Commission	Integrity Commission	Electoral Commission	Ombudsman	Information Commission	Office of the Independent Assessor	Racing Integrity Commissioner	Clerk of Parliament
Parliamentary Oversight:	Economics and Governance Committee	Economics and Governance Committee	Parliamentary Crime or Corruption Committee	Economics and Governance Committee	Legal Affairs and Safety Committee	Legal Affairs and Safety Committee	Legal Affairs and Safety Committee	State Development and Regional Industries Committee	The Minister for Racing, the Education, Employment and Training Committee is the relevant portfolio Committee.	Speaker and Committee of the Legislative Assembly
Consolidated fund appropriation provided through:	Department of Premier and Cabinet	Department of the Premier and Cabinet	Department of Justice and Attorney General	Public Service Commission	Department of Justice and Attorney General	Department of Justice and Attorney General	Department of Justice and Attorney General	Department of State Development, Infrastructure, Local Government and Planning	Department of Agriculture and Fisheries	Legislative Assembly and Parliamentary Service
No. FTE:	64 FTE <sup>49</sup>	191 FTE	338 FTE	5 FTE	76 FTE	63 FTE	37.1 FTE	19 FTE <sup>50</sup>	166 FTE	460 FTE
FTE appointment:	Direct appointment by agency	Direct appointment by agency <sup>51</sup>	Direct appointment by agency	Seconded from PSC	Direct appointment by agency	Direct appointment by agency	Direct appointment by agency	Direct appointment by agency	Direct appointment by agency	By Legislative Assembly and Parliamentary Service

<sup>49</sup> Total FTE includes 5 FTE assigned to the Office of the Integrity Commissioner.

<sup>50</sup> 11 permanent FTE and 8 temporary FTE (for 2 years).

<sup>51</sup> Staff employed under the Public Service Act 2008.

## Appendix H Department Ethical Standards/Integrity Units

Table 8 provides a summary of the current Integrity/Ethical Standards Units operating in Queensland to support agencies.

Table 8 | Departmental Ethical Standards/Integrity Units

Department name	In-house ethical standards area	Name of ethical standards area
Agriculture and Fisheries	Yes	Governance and Ethics
Children, Youth Justice and Multicultural Affairs	Yes	Professional Standards
Communities, Housing and Digital Economy	Yes	Integrity Services Unit
Corrective Services	Yes	Ethical Standards Group
Education	Yes	Integrity and Employee Relations (IER)
Employment, Small Business and Training	Yes	Ethics and Integrity
Energy and Public Works	Yes	Integrity Services Unit
Environment and Science	Yes	Workforce Relations and Integrity
Fire and Emergency Services	Yes	Relations and Standards Branch
Health	Yes	Ethical Standards Unit
Justice and Attorney-General	Yes	Ethical Standards Unit
Police	Yes	Ethical Standards Command
Regional Development, Manufacturing and Water	No	SLA in place
Resources	No	The Workforce Relations team respond to Ethics and Integrity related matters
Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships	Yes	Ethical Standards Unit
State Development, Infrastructure, Local Government and Planning	Yes	Corporate Governance and Ethics
Tourism, Innovation and Sport	No	SLA in place with DSDILGP
Transport and Main Roads	Yes	Ethical Standards Unit

# Appendix I Summary of differences of professional opinion

*To be updated following feedback on draft report.*

Released under RTI - DPC



# Appendix J Summary of comments on proposed report

*To be updated following feedback on draft report.*

Released under RTI - DPC