



Inquiry into the Report on the Strategic Review of the functions of the Integrity Commissioner

Report No. 19, 55th Parliament
Finance and Administration Committee
December 2015

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Finance and Administration Committee

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Abbreviations

CCC	Crime and Corruption Commission
CCIQ	Chamber of Commerce and Industry Queensland
CEO	Chief Executive Officer
DPC	Department of the Premier and Cabinet
DPC	Department of Premier and Cabinet (Qld)
FAC	Finance and Administration Committee
LGAQ	Local Government Association of Queensland
MEA	Master Electricians Australia
PCA	Property Council of Australia
PSC	Public Service Commissioner
QRC	Queensland Resources Council
QUT	Queensland University of Technology
SCCA	Shopping Centre Council of Australia
SCRC	Sunshine Coast Regional Council

Glossary

Acts	All Acts referred to in this report refer to Queensland Acts unless otherwise specified.
the Committee	Finance and Administration Committee (55 th Parliament)
the former Committee	Finance and Administration Committee (54 th Parliament)
the Integrity Act	<i>Integrity Act 2009</i>
the strategic review	<i>Strategic review of the functions of the Integrity Commissioner</i>
the Report	Final Report of the <i>Strategic review of the functions of the Integrity Commissioner</i> , 8 July 2015

Chair's Foreword

This report presents a summary of the Committee's examination of the *Report on the Strategic Review of the functions of the Integrity Commissioner*. The Report was tabled in July 2015 and referred to the Committee as required under the *Integrity Act 2009*.

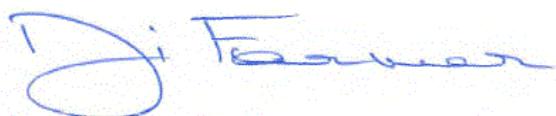
The Committee resolved to formally review the Report and to consider the recommendations made and comment on other findings where appropriate. The Committee agreed with some and disagreed with other recommendations. It has made eight recommendations in response to the issues raised in the Report. The Committee also highlighted several issues canvassed in the Report which are open to government to consider further.

On behalf of the Committee, I would like to thank those who took the time to provide submissions, who met with the Committee and provided additional information during the course of this inquiry.

The Committee is particularly thankful to the Integrity Commissioner and Professor Peter Coaldrake for their cooperation in meeting with and providing additional information to the Committee on a timely basis.

The Committee would also like to thank the Member for Brisbane Central, the Member for Sunnybank and the Member for Callide for their participation in the Committee's hearings/meetings due to the absence of Committee Members.

Finally, I would like to thank the other Members of the Committee for continuing hard work and dedication in ensuring that there is a thorough examination of all of the issues brought before the Committee.



Di Farmer MP
Chair

December 2015

Recommendations

The Committee has made the following recommendations:

Recommendation 1 **7**

The Committee recommends that the government consider amendments to the *Integrity Act 2009* to remove the requirement for managerial consent to support a request for advice.

Recommendation 2 **9**

The Committee recommends that the government consider amendments to the *Integrity Act 2009* to allow former designated persons continued access to the advice services of the Integrity Commissioner for a period of two years after leaving office.

Recommendation 3 **12**

The Committee recommends the Integrity Commissioner consider publishing additional information resources, which may also include hypothetical scenarios, to address common issues and the principles on which decisions are based in order to support greater public understanding.

Recommendation 4 **13**

The Committee recommends the Government confirm that the HP Records Manager system operated by the Department of Premier and Cabinet has appropriate security protocols in place to protect the confidentiality of the Integrity Commissioner's files stored on the system.

Recommendation 5 **15**

The Committee recommends that Recommendation 6 of the Strategic Review report, requiring full disclosure of written advice of the Integrity Commissioner, be rejected and the current confidentiality arrangements maintained.

Recommendation 6 **29**

The Committee recommends the current definition of lobbyists contained in the *Integrity Act 1999* be maintained and that there be no changes to the scope of lobbyist register.

Recommendation 7 **35**

The Committee recommends the Integrity Commissioner develop a strategic framework which identifies education priorities.

Recommendation 8 **37**

The Committee recommends that Recommendation 13 be rejected and the current arrangements maintained.

1 Introduction

1.1 Role of the Committee

The Finance and Administration Committee (the Committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 27 March 2015.¹ The Committee's primary areas of responsibility are:

- Premier, Cabinet and the Arts; and
- Treasury, Employment, Industrial Relations, Aboriginal and Torres Strait Islander Partnerships.

In relation to its areas of responsibility, the Committee:

- examines bills to consider the policy to be enacted and the application of the fundamental legislative principles set out in the Legislative Standards Act;
- examines the estimates of each department;
- considers the lawfulness of subordinate legislation;
- assesses the public accounts of each agency within the areas of responsibility in regard to the integrity, economy, efficiency and effectiveness of financial management by:
 - examining government financial documents; and
 - considering the annual and other reports of the Auditor-General;
- considers the public works of each agency within the areas of responsibility in light of matters including, but not limited to, the:
 - suitability of the works for the purpose;
 - necessity for the works;
 - value for money of the works;
 - revenue produced by, and recurrent costs of, the works, or estimates of revenue and costs;
 - present and prospective public value of the works;
 - procurement methods used for the works; and
 - the suitability of the works in meeting the needs and achieving the stated purposes of the works.

Section 92(2) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is to also deal with an issue referred to it by the Assembly or under another Act, whether or not the issue is within its portfolio area.

The Committee also has oversight functions in relation to the Auditor-General, the Integrity Commissioner, Family Responsibilities Commission and the Queensland Family and Child Commission.

¹ *Parliament of Queensland Act 2001*, s88 and Standing Order 194

1.2 Committee's particular responsibilities regarding the Integrity Commissioner

Initially established in 1999 under the Public Sector Ethics Act, the remit of the Integrity Commission was limited to providing advice to 'designated persons' with respect to conflicts of interest and to, where sought, provide the Premier with advice regarding issues of ethics and integrity, including the setting of standards. The *Integrity Act 2009* (the Integrity Act) expanded the advice which could be given to designated persons in relation to ethics, integrity issues and conflicts of interest. The responsibilities of the Integrity Commissioner was also expanded to include lobbying.

Section 86 of the Integrity Act specifies that a strategic review of both the Commissioner's functions and the performance of those functions must be conducted within four years of the commencement of the position, that is, by 1 January 2014. A strategic review must also be conducted every five years thereafter. The *Strategic review of the functions of the Integrity Commissioner* (the strategic review) constitutes the first strategic review of the Queensland Integrity Commissioner.

As noted in the *Strategic Review of the Functions of the Integrity Commissioner – Final Report* (the Report), circumstances of the day, including the then Government's Open Government initiative, led the then Premier to seek to defer the strategic review to a start date of December 2014. The Committee noted that the Act does not allow for an extension of time to be granted for commencement of the review. The former Finance and Administration Committee (54th Parliament) corresponded with the former Premier regarding this matter.

The Act specifies that the strategic review must be conducted by an appropriately qualified person acting as independent officer. Professor Peter Coaldrake, Vice-Chancellor and Chief Executive Officer (CEO) of the Queensland University of Technology (QUT), was engaged to conduct the strategic review. The Nous Group was also appointed as consultants to assist Professor Coaldrake with the strategic review. As required under the Act, the former Premier sought the former Committee's advice regarding the person to be appointed and terms of reference for the strategic review.

Whilst the strategic review was commenced in December 2014, the calling of the 2015 Queensland election meant that it was suspended during the election period. Following the election, the Premier confirmed that the strategic review should proceed.

1.3 Resolution to conduct the inquiry

The Report was presented to the Premier on 8 July 2015 and tabled in the Legislative Assembly on 16 July 2015. Under section 88 the *Integrity Act 2009* the Report is referred to the Committee. The Committee resolved to formally review the report on the Strategic Review of the Functions of the Integrity Commissioner to consider the recommendations made and comment on other findings where appropriate.

The terms of reference for the inquiry included:

- advisory functions (recommendation nos 1, 2, 3 and 6);
- lobbying functions (recommendation nos 7, 8 and 9);
- public awareness and educational functions (recommendations nos 10 and 11);
- administrative and organisational issues (recommendations 4, 5, 12, 13, 14, 15, 16, 17, 18, 19 and 20); and
- other related issues.

1.4 Conduct of the inquiry

The Committee's consideration of the Report included calling for public submissions, holding a public hearing and a public briefing. The Committee advertised its inquiry on 18 September 2015. The Committee also wrote to stakeholder groups inviting written submissions addressing the terms of reference.

The closing date for submissions was Monday 21 September 2015. The Committee received 21 written submissions. A list of those who made submissions is contained in Appendix A.

The Committee held a public hearing on 14 October 2015 and a public briefing with Professor Coaldrake on 28 October 2015. A list of witnesses who gave evidence at the public hearing is contained in Appendix B. The transcript of the hearing/briefing has been published on the Committee's website and is available from the committee secretariat. The Committee also sought additional written information from the Integrity Commissioner.

1.6 Terms of reference for the Strategic Review of the functions of Queensland Integrity Commissioner

The terms of reference required that the reviewer:

- have regard to the functions of the Integrity Commissioner and relevant objectives 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, 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;
- interview the Integrity Commissioner about the Strategic Review and consideration should also be given to interviewing staff of the Integrity Commissioner and the Finance and Administration Committee;
- consult with a selection of the following stakeholders including designated persons and lobbyists (from the Register of Lobbyists); and
- Information sources and documents relevant to the Strategic Review included: *Integrity Act 2009*; Integrity Commissioner's website; Queensland Integrity Commissioner Annual Report 2013-14; Register of Lobbyists; Finance and Administration Committee – Report No. 13, Oversight of the Queensland Integrity Commissioner 2011; Final Queensland Government Response – Report No. 13, Oversight of the Queensland Integrity Commissioner 2011; Finance and Administration Committee – Report No. 26, Oversight of the Queensland Integrity Commissioner 2012 and Review of Lobbyists Code of Conduct; and Queensland Government Response – Report No. 26, Oversight of the Queensland Integrity Commissioner 2012 and Review of Lobbyists Code of Conduct.

The complete terms of reference for the strategic review are contained in Appendix C.

1.7 Key Findings of the Strategic Review of the functions of the Queensland Integrity Commissioner

The Report contained 20 recommendations. These recommendations are listed in the table below:

Recommendations of the Strategic Review of the Integrity Commissioner²
Recommendation 1. There should be no requirement for managerial consent to support a request for advice to the Integrity Commissioner.
Recommendation 2. The advisory function of the Integrity Commissioner should not be expanded to include local government members.
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 years after leaving office.
Recommendation 4. The Commissioner should publish hypothetical case studies addressing common issues and the principles on which they are based.
Recommendation 5. The Commissioner should explore the implementation of an electronic information management system that would enable storage and searching of previous advice.
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 7. The definition of lobbyists should be expanded to include regulation of in-house lobbyists and other professionals discharging the lobbying function.
Recommendation 8. The Integrity Commissioner should maintain their current role in lobbying regulation, and continue to manage the Register of Lobbyists.
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).
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.
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.
Recommendation 12. The Integrity Commissioner should publish updated policies and procedures on the relevant website.
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.
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.

² Strategic Review Final Report 2015: 5-6

<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>Recommendation 16. If the Integrity Commissioner’s current scope is extended the Integrity Commissioner’s current employment level should be maintained for two years (pending opportunity to observe impact).</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 be maintained for two 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>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>Recommendation 20. The 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>

2 Advisory function

This section of this report discusses the findings and recommendations of the strategic review with respect to the Integrity Commissioner’s advisory functions under the Integrity Act.

Aligned directly to the purpose of the Integrity Act set out in section 4(a), the Integrity Commissioner has responsibility for providing advice on ethics and integrity issues to government officers. The strategic review considered a range of matters under this advisory function.

2.1 Scope of designated persons

Under section 12 of the *Integrity Act 2009*, the Integrity Commissioner can give written advice to ‘designated persons’ about ethics or integrity issues, including conflicts of interest.

The definition of a designated person is as follows:

<p>12 Meaning of designated person</p> <p>(1) Each of the following persons is a designated person—</p> <ul style="list-style-type: none"> (a) a member of the Legislative Assembly; (b) a statutory office holder; (c) a chief executive of a department of government or a public service office; (d) a senior executive or senior officer; (e) 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; (f) a ministerial staff member who gives, or a person engaged to give, advice to a Minister; (g) an assistant minister staff member who gives, or a person engaged to give, advice to an Assistant Minister; (h) without limiting paragraph (f) or (g), a person, or a person within a class of person, nominated by a Minister or Assistant Minister. <p>(2) A nomination under subsection (1)(e) or (h) must be by signed notice given to the integrity commissioner.</p> <p>(3) A non-government member may not be nominated under subsection (1)(h).</p>
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The Report considered three possible limitations on the existing scope applying to designated persons as follows:

- the requirement to seek the consent of the CEO before seeking advice;
- the restriction of junior officers to seek advice; and
- the exclusion of local government officials from seeking advice.

2.1.1 Consent prior to seeking advice

The current legislation prevents senior executives and officials from seeking the advice of the Integrity Commissioner without the consent of their chief executive.

The former FAC considered this issue in 2012. That Committee stated:

A designated person (the advisee) may, by written request to the Integrity Commissioner, ask for the Integrity Commissioner's advice on an ethics or integrity issue involving the person. The advisee may also, by written request to the Commissioner, ask for advice on an ethics or integrity issue as provided for in sections 16 to 20 of the Act. If the advisee is a relevant officer, the advisee must also give the Commissioner a signed authority from the chief executive of the department, public service office or government entity in which the advisee is employed, authorising the advisee to ask for the advice.

The Integrity Commissioner informed the Committee that this situation has a number of drawbacks. Firstly, it may cause (and in some cases has caused) a significant delay in obtaining the advice even though the matter about which the advice is sought may need to be resolved quickly. Secondly, it may inhibit seeking advice because the relevant officer does not want their chief executive to know about the issue. Thirdly, the chief executive may refuse to provide the necessary authority in circumstances where the officer (and the agency) would have been better served if the advice had been obtained.

The Commissioner nominated three occasions since July 2009 where the necessary authority had not been provided. The Commissioner also informed the Committee that there may be other instances that were not drawn to his attention.

The Commissioner suggested that the subsection should give the Integrity Commissioner the option of providing advice in circumstances where the chief executive has not given the necessary authority to the officer.³

The former Committee recommended that the Act is amended to allow the Commissioner to provide advice in circumstances where the chief executive has not given the necessary authority to the officer.

The then government did not support the recommendation at that time, on the basis that a review of the *Integrity Act 2009* was being undertaken. The government response noted:

As part of this review, the Government will consider whether the objectives of the recommendation in obtaining timely approvals from chief executives for requests for advice from the Integrity Commissioner are best achieved administratively or legislatively.⁴

It should be noted that the review of the Integrity Act was never completed and as such the recommendation was not acted upon.

³ FAC, Report No 13, Oversight of the Queensland Integrity Commissioner 2011, February 2012: 5

⁴ Queensland Government, *Government response to Report No 13, Oversight of the Queensland Integrity Commissioner 2011*, August 2012:

The Report makes comment on this issue. Professor Coaldrake agreed and stated:

...the requirement for senior executives and senior officers to obtain Chief Executive consent is likely to be a practical barrier to them utilising the Integrity Commissioner.⁵

The Report recommends removal of the requirement for managerial consent to support a request for advice. **(Recommendation 1)**

2.1.2 Committee Comment

The Committee agrees that there should not be barriers to people wishing to seek advice as this is contrary to the intent and purpose of the Integrity Commissioner's role and function.

The Committee supports Recommendation 1 and considers that the requirement for senior executives and senior officers to obtain Chief Executive consent prior to seeking advice be removed from section 15(3) of the Act.

Recommendation 1

The Committee recommends that the government consider amendments to the *Integrity Act 2009* to remove the requirement for managerial consent to support a request for advice.

2.1.3 Junior officer access to advice

The Act currently restricts access, by junior officers of the public service, seeking advice services from the Integrity Commissioner. The Review concluded that there was already adequate means for junior officers to seek support and guidance in relation to integrity issues from the Public Service Commissioner (PSC), and that section 12(h) allows the Minister to nominate any class of person as a designated person for the purposes of seeking advice.

No recommendation was made in this regard. The Committee supports the conclusions of the review.

2.1.4 Local government access to advice

Presently, the Integrity Commissioner has narrow responsibilities with respect to local government. The scope of responsibility is limited to the lobbying functions and does not extend to the provision of advice. It should also be noted the Local Government Association of Queensland (LGAQ) has appointed a Local Government Ethics Advisor. The current holder of this position is a former Member of Parliament and Treasurer of Queensland, Hon Joan Sheldon AM, who was appointed in June 2011.

The Report noted the following key points:

[T]he current Commissioner suggested that it may be opportune to consider whether local government council members and senior staff should also be 'designated persons'. He commented that whilst the Local Government Association of Queensland (LGAQ) has arranged for an ethics adviser (Hon Joan Sheldon, a former Deputy Premier) to provide advice to the sector, the Commissioner does not see any obvious reason why the Integrity Commissioner's jurisdiction could not extend to council members and senior staff.

Conversely, the Former Commissioner was strongly of the view that the remit of the Integrity Commissioner's advisory function should not be expanded to encompass local government members.

⁵ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 20

This position was based on two considerations:

Expansion of scope would result in a substantial increase in workload – The Former Commissioner strongly considered that expansion of the Commissioners’ remit to encompass local government member would involve a substantive increase in workload that would require additional resources. This is particularly so for the oversight of large municipalities. This view was generally shared by other stakeholders.

Expansion of scope would result in overlap with the role of Local Government Ethics Advisor - The Local Government Association of Queensland has already appointed a local government ethics adviser to provide ethics and integrity advice to that sector. Expansion of the Commissioner’s scope without reform of this role could result in duplication and confusion. It was the strong view of the Former Commissioner that any reform of the Ethics Advisor role should occur in consultation with that position and is not a matter for this Strategic Review.⁶

The strategic review found the scope of designated persons in relation to local government officers also to be appropriate, on the basis that other channels of advice are available. The Report recommended that the advisory function should not be expanded to include local government members. **(Recommendation 2)**

The LGAQ supported this recommendation. The LGAQ submission stated:

The Report identifies issues relating to local government culture and integrity are ideally managed and best addressed at the local government level. The LGAQ supports this finding. Since 2011, Mrs Sheldon has provided confidential advice to Mayors, Councillors and CEOs in relation to ethics and integrity issues. Advice is available in several forms including over-the-phone and for detailed matters, written advice is also possible.⁷

However, the Lockyer Valley Regional Council argued that greater consideration should be given to the benefits of expanding the advisory function to include local government entities. They stated:

This is a concern on the basis of inconsistency. Firstly, there is the potential for differing approaches within government and advice from two different sources of expertise. Secondly, it is inconsistent that local government, like state entities, is bound by the Act but, unlike the State entities, does not have the same access to the Commissioner or to an advisor whose role is described and supported by statute.

Unlike the Integrity Commissioner, the role of the Local Government Ethics Advisor (as appointed by the Local Government Association of Queensland) does not appear to be described in legislation and seemingly does not have such a clearly defined and regulated role.

Recommendation 2 recommends against the expansion of this role to include local government. It would have been useful for the report to discuss potential benefits of a consistent approach as well as the views of the LGAQ, the Local Government Ethics Advisor and local government Councillors and Officers. It is not clear if any consultation with the local sector was undertaken. In Council's view this recommendation needs further consideration following consultation with the local government sector.⁸

⁶ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 21

⁷ LGAQ, Submission No. 17: 2

⁸ Lockyer Valley Regional Council, Submission No. 5: 2-3.

2.1.5 Committee Comment

The Committee agrees that local government entities do not require access to the advice of the Integrity Commissioner on the basis that the LGAQ has appointed an integrity advisor to perform this function. Recommendation 2 is therefore supported.

2.1.6 'Former' designated persons access to advice

The Report also considered the potential expansion of scope to 'former' designated persons, noting the following:

The current Commissioner has also confirmed a number of instances where a person who was previously a designated officer, but who has since left office, seeks advice about a matter arising from their public sector employment. Usually this relates to post-separation employment issues.⁹

The Report recommended the Act be amended to allow former designated persons continued access to the advice services of the Integrity Commissioner for a period of two years after leaving office. **(Recommendation 3)**

2.1.7 Committee Comment

The Committee supports Recommendation 3. The Committee agrees that there is benefit in allowing former designated persons continued access to the advice services of the Integrity Commissioner after leaving office. The Committee notes that this recommendation requires legislative amendment.

Recommendation 2

The Committee recommends that the government consider amendments to the *Integrity Act 2009* to allow former designated persons continued access to the advice services of the Integrity Commissioner for a period of two years after leaving office.

2.2 Overlapping role with the Clerk of the Parliament

The strategic review identified a potential overlap between the advisory roles of the Integrity Commissioner and the Clerk of the Parliament. The Report stated:

Part 3 of the Integrity Act 2009 provides that a member of the Legislative Assembly (Member) may request a meeting with the Integrity Commissioner to provide advice on interests issues¹². This advice may be provided orally or in writing.

Concurrently, the Clerk of the Parliament also plays a role in the provision of advice to Members. The Clerk, as the principal officer for the Assembly, provides advice to Members as to their ethical obligations under Standing Orders (including orders relating to conflicts of interest) and the Code of Ethical Standards. The Clerk also provides advice to Members about their disclosure requirements in respect of the Members and Related Persons Register of Interests.

...

⁹ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 22

The stated delineation between the advisory functions of the Clerk and the Integrity Commissioner is that the Clerk advises Members about what interests need to be declared, while the Integrity Commissioner advises Members on how they should manage any conflicts arising from their interests in a broader sense.¹⁰

The Report noted that this overlap, whilst currently well managed, has the potential to result in inconsistent advice and confusion for the individual as well as for the public more broadly. However, no recommendation was made in this regard.

The Committee sought advice from the Clerk of the Parliament on this finding. The Clerk advised the following:

I acknowledge that currently there is the potential for some overlap in the provision of advice between the Integrity Commissioner and the Clerk. Both the former Members' Ethics and Privileges Committee and the former Clerk... were concerned of this issue when the Office of the Integrity Commissioner was first established.

However, this overlap has been well managed by successive Integrity Commissioners and my office (and that of my predecessor) and to my knowledge, to date, has not resulted in an outcome of inconsistent advice being provided. Successive Integrity Commissioners and my office are cognisant of our respective roles and have mutual respect for those roles and each refer members to the other officer if it is felt the advice needed is within the other officer's role.

In my view the potential for overlap is preferable to the risks inherent in leaving a void where members are unable to receive informed advice.¹¹

2.2.1 Committee Comment

The Committee notes the advice of the Clerk of the Parliament and is confident in the management approach of the Clerk's office and the Integrity Commissioner is such that the potential for inconsistent advice or confusion over each respective role is minimised. The Committee agrees with the finding of the strategic review that no changes are necessary.

2.3 Development of advice

The strategic review also investigated issues arising in relation to the development of advice, specifically whether there should be a requirement for the Integrity Commissioner to follow precedent and whether a formal information system would support the Integrity Commissioner in the performance of the advisory function.

The Committee note that the Integrity Commissioner advised the former Committee:

I am fortunate in the fact that I have had some very learned and erstwhile predecessors in my role. One of the things I have been doing since I took up the position is going through all of the advice that has been provided previously. I do believe that consistency is important, but I also believe that each piece of advice needs to be given according to the situation in which it is sought. Consistency is very important, and I do have and I have had regard to advice provided by my predecessors where I think that is appropriate. But I think it is also important that we should be aware of what the current situation is in relation to each matter. I hope that answers the question in terms of the balance issue.¹²

¹⁰ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 23

¹¹ Correspondence from Mr N Laurie, Clerk of the Parliament to FAC dated 1 December 2015: 1

¹² Mr Bingham, Public Hearing transcript 26 November 2014: 4

The review found, while it is appropriate for the Integrity Commissioner to refer to previous advice in order to develop an informed position, there should not be a formal obligation for the Commissioner to work to a precedent system. However, the Report noted the practice which occurs in Ontario and recommended that:

Hypothetical or de-identified case studies addressing the principles the Integrity Commissioner applies to decide them would demonstrate consistency of approach and provide beneficial public education.. (Recommendation 4)

The Integrity Commissioner does not support this recommendation arguing that the overall intention of the Act requires a very high level of confidentiality and any fictional case study would breach section 24. He advised:

In Queensland, the confidentiality provision in s.24 of the Integrity Act 2009 prevents the publication of any information about another person which came to the Commissioner's knowledge through the Commissioner's involvement in the administration of Chapter 3 of the Act. There is no exemption even for non-identifying information, and thus the publication of de-identified case studies would be precluded.

...

Even a fictional case study must include 'information about a person' which has come to my knowledge through the administration of the Act, even though that person is unidentifiable.¹³

And:

The one recommendation with which I disagree is recommendation No. 4, which proposes that I should publish what the strategic review calls 'hypothetical case studies'. This is based on the practice of the Ontario Integrity Commissioner. That body publishes what it calls anonymised case summaries, so they are actual descriptions of cases which the Ontario Integrity Commissioner has investigated. I know that this view was not shared by the strategic review, but it is my view that I could not publish a summary like that because of the provisions in the Integrity Act which require confidentiality. They oblige me to raise any possibility of the detail about any matter that might have been raised, and I believe an anonymised case summary would do just that. That is not to say that I do not acknowledge the importance and benefit of publicising some scenarios, if you like, and in fact there are already on my website five scenarios of the sorts of issues that people might be confronted with. So it is a semantic point but I think it is an important one, and I do not feel that I could comply with that recommendation and still comply with the act as well.¹⁴

However, the Report states that implementation of an electronic information management system, with the capacity to search previous advices, would assist the Integrity Commissioner in the performance of the advisory function (**Recommendation 5**). The Integrity Commissioner advised:

My office's operational files are maintained on the HP Records Manager system operated by the Department of Premier and Cabinet. As a modern records management system, this has features such as permitting basic searching across the titles of files, and limiting access to the content of files to appropriate officers – in this case, officers of the Integrity Commissioner.

¹³ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 69

¹⁴ Mr Bingham, Public Hearing Transcript 14 October 2015: 15

Since the inception of the office, files relating to the provision of advice to designated persons have been maintained on the Department of Premier and Cabinet's network drive, with access limited to officers employed within this office. The records are also maintained in hard copy. The electronic copy of advice provided to designated persons was not previously transferred to the HP Records Manager system. This reflects the view which my predecessors have taken about the confidentiality obligation attached to these files under s.24 of the Integrity Act 2009.

However, in light of the direction flagged by recommendation 5 of the strategic review, and since publication of its report, my office has commenced transferring the files relating to the provision of advice to designated persons to the HP Records Manager system. This has been done in conjunction with the categorisation of previous requests for advice by reference to their subject matter.

This new arrangement will permit searching according to subject matter, in accordance with the intent of recommendation 5, whilst preserving the necessary confidentiality of the content of the files.¹⁵

2.3.1 Committee Comment

The Committee agrees with the findings of the strategic review that there should not be a formal obligation for the Integrity Commissioner to work to a precedent system.

In relation to the publishing of hypothetical case studies, the Committee broadly supports the intent of the recommendation which is to support public education. However, the Committee shares the Integrity Commissioner's concern that publication of case studies may present risks to the public understanding of integrity matters and interpretation of case findings. The Committee notes the intent of the recommendation and recommends the Integrity Commissioner consider publishing additional information resources, which may also include hypothetical scenarios, to address common issues and the principles applied in determining integrity cases to support greater public understanding.

In relation to the recommendation for the implementation of an electronic information management system (Recommendation 5), the Committee notes the advice of the Integrity Commissioner that work has already begun on implementation of such system. Whilst the use of an electronic records management system to enable searching of previous advice has notable advantages for consistency and integrity of advice, the Committee had some concern regarding the confidentiality obligations associated with electronic copies of advice provided to designated persons if personnel access to the system is not sufficiently managed. Accordingly, the Committee seeks assurances from the Government and Integrity Commissioner that appropriate security protocols are in place to protect the confidentiality of advice provided by the Integrity Commissioner.

Recommendation 3

The Committee recommends the Integrity Commissioner consider publishing additional information resources, which may also include hypothetical scenarios, to address common issues and the principles on which decisions are based in order to support greater public understanding.

¹⁵ Integrity Commissioner, Submission No. 1: 5-6

Recommendation 4

The Committee recommends the Government confirm that the HP Records Manager system operated by the Department of Premier and Cabinet has appropriate security protocols in place to protect the confidentiality of the Integrity Commissioner's files stored on the system.

2.4 Disclosure of advice

The Report identified:

Confidentiality is the cornerstone of the Integrity Commissioner's advisory function. Section 24(1) of the Act provides that "a person must not record, use or disclose information in relation to an ethics or integrity issue about another person that came to the person's knowledge because of the person's involvement in the administration of this chapter". The maximum penalty for breaching the confidentiality requirements in the Act is 85 penalty units or one year's imprisonment.

Confidentiality for those contacting the Integrity Commissioner for advice is a key condition of success for the office.¹⁶

The Report stated:

The confidentiality provisions in the Act are unambiguous in preventing the Commissioner from publicly disclosing any advice provided to a designated person. There is an equally strong view that maintenance of confidentiality is critical to the successful operation of the Integrity Commissioner's advisory function.¹⁷

The strategic review considered the issue, raised by a number of stakeholders, that confidence in the office can be impacted if the Integrity Commissioner's name is invoked but the detail of the advice is not then fully disclosed.

The strategic review noted the concerns raised by both the current and former Commissioner that current confidentiality obligations within the Act do not provide any opportunity for a right of reply by the Integrity Commissioner, in instances where they feel that their advice has been misrepresented to the public. The Report stated that there needs to be transparency as to the full substance of any advice provided by the Integrity Commissioner where it has been partially disclosed or alluded to by the recipient.

In such an instance the Integrity Commissioner can only seek to resolve the matter with the individual informally and, if unsuccessful, the ultimate sanction would be for the Integrity Commissioner to decline to provide advice to that person in the future. This position was previously communicated to the former Committee at a public briefing relating to oversight responsibilities of the Integrity Commissioner on 26 November 2014.

¹⁶ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 25

¹⁷ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 25

The Integrity Commissioner advised:

The conclusion I have reached in relation to that is the same that my predecessor reached—that is, given the strictness of the confidentiality obligation on me, the bottom line is that the only thing I could do would be to take that up with the person to whom the advice was given. As David said, in the instances in which that occurred that resolved the matter satisfactorily, but if it were not to be resolved then the ultimate sanction would be for the commissioner to decline to provide advice in the future. I have reached the same conclusion under the current legislative framework and I think that is the way it would need to be handled—that is, if I were to think that somebody was misrepresenting advice that I had given, then I would take that up with that person informally in the hope of reaching some effective resolution of the matter. If that was not capable of being achieved then I would decline to provide advice in the future on the basis of the provisions in the legislation which would permit me to do that.¹⁸

The former Committee sought clarification regarding the options available to the Integrity Commissioner to correct the record where advice has been misrepresented. The Integrity Commissioner advised:

The confidentiality provision makes it an offence for me to disclose information in relation to an ethics or integrity issue about another person where that came to my knowledge because of my involvement of the administration of the act. There is no exception in relation to that for any situation in which I might consider that advice was being misrepresented. It is a very strict confidentiality provision. It is intended, and it is one of the central features of the way in which this role operates, that there be that confidentiality which attaches to the advice. It is at the wish of the recipient as to whether or not the advice is disclosed. I think there is good reason for that in terms of encouraging people to seek advice and to apply their minds to these issues before they become too difficult.¹⁹

However, the Report noted there is interest in ensuring the public has confidence in the representation of advice provided by the Integrity Commissioner. The Report states:

The Act needs to strike a balance between competing policy aims. Designated persons should not be deterred from seeking advice due to confidentiality concerns. However, where partial disclosure of advice occurs by a recipient, there needs to be transparency as to the full substance of that advice.²⁰

The Report recommended, where a designated person publically discloses that the Integrity Commissioner has provided them particular advice, that the written advice on the matter should be disclosed in full. (**Recommendation 6**).

2.4.1 Committee Comment

The Committee does not support any changes which require designated persons, when publically disclosing advice provided to them by the Integrity Commissioner, to disclose the written advice in full.

¹⁸ Mr Bingham, Public hearing transcript 26 November 2014: 5

¹⁹ Mr Bingham, Public hearing transcript 26 November 2014: 5

²⁰ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 26

Whilst the Committee notes the concerns raised in the strategic review that the Integrity Commissioner has no avenue to correct false or misleading information disclosed by a recipient, in the Committee's view any changes which compel recipients to disclose advice in full, seriously diminished the importance of confidentiality to the role of the Integrity Commissioner and may deter people from seeking advice. The Committee therefore considers that Recommendation 6 be rejected.

Recommendation 5

The Committee recommends that Recommendation 6 of the Strategic Review report, requiring full disclosure of written advice of the Integrity Commissioner, be rejected and the current confidentiality arrangements maintained.

3 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, that²¹:

...government representatives 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.

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 designed to ensure that contact between lobbyists and government and opposition representatives is carried out in accordance with public expectations of transparency and integrity.

3.1 Scope of lobbyist regulation – who is a lobbyist?

The Act restricts the function of the Integrity Commissioner to regulation of 'professional lobbyists'. Under section 41 of the Act defines the meaning of lobbyist as follows:

41 Meaning of lobbyist and third party client and related concepts

- (1) A lobbyist is 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.
- (2) A third party client is an entity that engages another entity to provide services constituting, or including, a lobbying activity for a fee or other reward that is agreed to before the other entity provides the services.
- (3) However, none of the following entities is a lobbyist—
 - (a) a non-profit entity;
 - (b) an entity constituted to represent the interests of its members;
Examples—
 - an employer group
 - a trade union
 - a professional body, for example, the Queensland Law Society
 - (c) members of trade delegations visiting Queensland;
 - (d) an entity carrying out incidental lobbying activities;
 - (e) an entity carrying out a lobbying activity only for the purpose of representing the entity's own interests.

²¹ Integrity Act 2009, s 71

- (4) Also—
- (a) an employee or contractor of, or person otherwise engaged by, an entity mentioned in subsection (3)(a) to (d) is not a lobbyist in relation to contact carried out for the entity; and (b) an employee of an entity mentioned in subsection (3)(e) is not a lobbyist in relation to contact carried out for the entity.
- (5) A non-profit entity is an entity that is not carried on for the profit or gain of its individual members.
- Examples of entities that may be non-profit entities—
- a charity, church, club or environmental protection society
- (6) An entity carries out incidental lobbying activities if the entity undertakes, or carries on a business primarily intended to allow individuals to undertake, a technical or professional occupation in which lobbying activities are occasional only and incidental to the provision of professional or technical services.

The Integrity Commissioner's webpage identifies that:

Ethical lobbying is a legitimate activity and an important part of the democratic process. Lobbyists can help individuals and organisations communicate their views on matters of public interest to the government and opposition and, in doing so, improve outcomes for the community as a whole.

Generally, lobbying is a very broad term. For the purposes of the Integrity Act, it is limited to mean any attempt to influence the decision making of a government or opposition representative in the exercise of their official functions on behalf of a third party, for a fee or other reward.²²

It further identifies that:

Respect for the institutions of government depends to a large extent on public confidence in the integrity of Ministers, Opposition members, their staff and senior government officials.

In performing this role, there is a public expectation that lobbying activities will be carried out ethically and transparently, and that Government and Opposition representatives who are approached by lobbyists can establish whose interests they represent so that informed judgments can be made about the outcome they are seeking to achieve.

While some lobbyists work directly for a single client to advance the interests of that client, others lobby on behalf of a number of different clients.

The purpose of the Register of Lobbyists is to provide information to the Government, Opposition and the public about whom lobbyists represent in their dealings with government and opposition, and to ensure that contact between lobbyists and government and opposition representatives is conducted in accordance with public expectations of transparency, integrity and honesty.²³

The Report highlighted a key concern was primarily based on the exclusion of lobbyists who work in-house for large corporations, not-for-profit organisations and peak industry associations from the definition of lobbyists and therefore registration and regulation. The suggested inadequacy of the current definition was based on a view the current definition captures only a relatively small proportion of those who “lobby” government thus, as suggested by both the former and current Integrity Commissioner, limiting them from effectively regulating all lobbying activity in Queensland.

A key conclusion of the review was that effective regulation requires extending the definition of lobbyists to include in-house lobbyists and other third party professionals discharging the lobbying function. **(Recommendation 7)**

²² Queensland Integrity Commissioner, *What is lobbying?*, <http://www.integrity.qld.gov.au/lobbyists.aspx>

²³ Queensland Integrity Commissioner, *Frequently asked questions about Lobbying matters*, <http://integrity.qld.gov.au/lobbyists/frequently-asked-questions.aspx>

Consequently the review also recommended that the scope of the register of lobbyists should be expanded to include individuals covered by the revised definition of lobbying. (**Recommendation 9**)

3.1.1 Arguments against an expanded definition

The proposed expansion of the lobbyist regulation and registration requirements provoked more response than any other aspect of the strategic reviews findings and recommendations. Extensive debate occurred during evidence heard by the Committee and in written submissions about the content, extent, practicality and impacts of expanded regulatory oversight and registration requirements. With the exception of third party lobbyists (those already registered under the Queensland scheme) who supported the broader definition and expanded scope of regulation, most other stakeholders had a preference for not being required to register and publically disclose their lobbying activity.

A joint submission representing 10 peak industry associations, and supplemented by individual submissions, strongly opposed any move to expand the definition and regulation of lobbyist:

The organisations identified by the logos incorporated in this letter make the following summary response to the Inquiry, as a 'common cause' position on the Lobbying functions element of the Inquiry's Terms of Reference.

...

We support and recommend maintaining the status quo on the definition and regulation of lobbyists, as the Report on the Strategic Review of the Functions of the Integrity Commissioner (the report) is not persuasive or enlightening on many points to justify the claims and recommendations made.

...

Our organisations are not comparable to 'fee-paid' lobbying bodies. We are non-profit organisations advocating on policy at the pre-competitive level. Our organisations represent our collective members, not fee paying clients. We do not seek commercial advantage of individual members. There is no secret about for whom we advocate – our membership lists are proudly displayed on our websites.²⁴

The Chamber of Commerce and Industry Queensland (CCIQ) argued against any change to existing arrangements for industry associations in Queensland with respect to the Lobbyist Register. CCIQ advised:

CCIQ wishes to state our strong opposition to any expansion of the lobbyist register to include industry associations due to the practical implications it will have on the ability for our apolitical Chamber to effectively perform its core advocacy functions. Accordingly CCIQ recommends current arrangements be retained for industry associations, unions and community groups.

As the state's peak business organisation, CCIQ provides an invaluable contribution to the political debate and policy development process in Queensland. This position has made CCIQ a trusted source of business community viewpoints. Under the proposed expansion of the register, CCIQ will have to comply with a range of procedural requirements that will significantly diminish our effectiveness and ability to react to issues impacting upon the Queensland business community. In short, a powerful source of knowledge and insights will be significantly hindered.

²⁴ Joint industry groups, Submission No 3: 1-2

Being denied the opportunity to canvass business issues and present advocacy aimed at informing government's policy and decision makers in our view would have serious implications for the quality of governance and management of our State and our economy.²⁵

Similarly, the Property Council of Australia (PCA) opposed the Report recommendations which relate to expanding the Integrity Commissioner's lobbying regulation functions. They stated:

These recommendations represent a significant increase in the regulatory burden of the Integrity Act 2009 (the Act) without any discernable public benefit.

The purpose of the Integrity Commissioner's lobbying regulation function is clearly defined in the purpose of the Act as maintaining ' ... public expectations of transparency and integrity'.

The function of this regulation must be to make transparent lobbying activity that would not otherwise be publicly evident. The Integrity Commissioner's Register of Lobbyists fulfils this objective by providing a publicly available and searchable database of entities that carry out lobbying activity for a third party client, and provides details on the clients they are paid to represent.

As the function of lobbying regulation is to increase transparency, the definition of a lobbyist in the Act deliberately excludes entities whose motives in interacting with government or opposition representatives are immediately obvious.

Entities constituted to represent the interest of their members, such as the Property Council of Australia, have clear transparency about who they represent and what outcomes they aim to achieve from their interaction with government. It does not improve the transparency or integrity of the system to have these entities subject to onerous regulation when their purpose, interests, motives and objectives can be easily discerned by the public.²⁶

The LGAQ, noting that they undertake a significant advocacy role on behalf of the Queensland's 77 councils, strongly opposed recommendations 7 and 9. They advised:

The discussion in section 6 of the Report, implies that anyone who meets with government from industry associations and peak bodies would be deemed to be a lobbyist. The reporting requirements, would increase exponentially if this was the case for both the LGAQ and the Integrity Commissioner. This would also increase costs through the implementation of new processes and procedures and possibly the requirement to have extra staff to administer this type of regime. The Report in fact identifies that a trial of the Ontario system could be administratively burdensome requiring an enormous database to track every meeting that takes place with government from the President to the most junior policy officer.

²⁵ CCIQ, Submission No. 4: 5

²⁶ PCA, Submission No. 7: 1-2

The Report identifies that Queensland's desire to create a rigorous integrity framework has compromised its effectiveness by making arrangements too complicated. As identified above, the LGAQ is subject to an intense amount of rigour and scrutiny and when the government initially advised that the Integrity Commissioner could not manage the oversight of local government, the LGAQ took it upon itself to implement a series of integrity measures through the appointment of the Honourable Joan Sheldon AM, as outlined above demonstrating the sector's commitment to accountability and integrity measures. As such, the LGAQ has also removed the financial burden from tax payers by covering the cost of this function for local government.²⁷

The PCA also advised that in making comment and recommendations about the definition of 'lobbyist', the review has not sought to understand the nature and role of peak organisations. They stated:

The Strategic Review has also not considered the nature of the role that peak industry bodies, play in government-initiated engagement. These entities do not necessarily actively seek out opportunities to influence government decision-making, but their input is often sought out by elected representatives, and government officials, to participate in consultation in order to inform policy development.

An example of this is the consultation that has taken place over the past three years to inform the Queensland Government's planning reform agenda. The Property Council, along with other industry representatives, has been actively and appropriately sought out by the Government to participate in the policy development process. It would be inaccurate to classify this type of activity, initiated by government for their benefit, as lobbying and to make it subject to lobbying regulation.²⁸

And:

It is, therefore, our view that widening the description of a lobbyist to include organisations such as the Property Council could at best be considered unnecessary red tape or at worst could actually reduce the quality of public policy discussion and policy development in the state, as it may result in government officials being less willing to engage with the non-government sector. It is our view that good government needs to freely and openly engage with employer groups, trade unions, professional associations, charities and community service providers. A failure to do this will result in a lack of understanding of issues and therefore lead to substandard policy development. We believe the recommendations set out in this review do create a risk of that occurring.²⁹

Clubs Queensland agreed and commented:

We certainly understand the need to regulate in-house lobbyists, which seems consistent with the overall framework of regulating professional lobbyists.

It is the "other professionals discharging the lobbying function" component of the above proposal that really concerns us. This is on the basis that an employee such as the CEO could be inadvertently captured by this provision.

²⁷ LGAQ, Submission No. 17: 3

²⁸ PCA, Submission No. 7: 2

²⁹ Mr Mountford, Public hearing transcript 14 October 2015: 2

We firmly believe that the reforms must clearly distinguish between professional lobbyists (whether independent or in-house) and employees whose roles entail ongoing contact with government officials as a normal part of their responsibilities. The latter group are not lobbyists in the professional sense (i.e. they are neither employed as lobbyists nor function as lobbyists), hence they must not be captured by the reforms.³⁰

Master Electricians Australia (MEA) highlighted what they believed to be significant potential impacts arising from the proposed changes. They stated:

It appears to MEA that the recommendation would result in a workload that could simply not be contemplated without making any real difference to public perception of perceived lobbying activities.

An example of what would be captured by these changes is our interaction with Government Owned Corporations (GOC's). MEA in Queensland consults/lobbies both Energex and Ergon for improvements in policy and programs for contractors and members of the public. These are operational changes that MEA lobby for to improve efficiency. Organisations like MEA must be able to freely highlight to GOC's the programming and processes that create increased cost, delays and confusion to various parties. This is part of organisational quality improvement processes, not lobbying. Under Professor Coaldrake's changes all of these discussions would need to be recorded, creating red tape and putting another barrier in front of business or consumers receiving what is an essential service. This is just one example and MEA is certain that many organisations would also be able to highlight how making this change will impact on their organisations for no real or even perceived increase in lobbying behaviour and integrity.

MEA is opposed to recommendations 7 and 9. However, if the Committee was of a view these changes were necessary we would be strongly encouraging a more extensive review of the Integrity Act, including an assessment of the Act's purpose, definitions of lobbying, advocacy, designated persons and establishment of relevant and pertinent exemptions.³¹

The Shopping Centre Council of Australia (SCCA) argued:

Our understanding of the report's recommendations is that staff of industry associations, like the SCCA, would be captured under an expanded definition of 'lobbyist', as would some staff from our member organisations. Although we do not oppose the premise of transparency in our engagement with Government officials, we do have concerns about the potential administrative and compliance burden that this change may impose, particularly on our members.

In our view, the report does not present a compelling case to justify changing the current framework for defining and regulating lobbyists.

³⁰ Clubs Queensland, Submission No. 9: 1.

³¹ MEA, Submission No. 19: 5-6

The report has not presented evidence to suggest that, for example, industry associations or so-called 'in house lobbyists' are, if you like, 'abusing' their engagement with Government officials or failing to disclose their interests when they meet with officials. Indeed, as noted above, the SCCA provides a significant degree of Information on our website as to our objectives and advocacy priorities. Our members also provide considerable information on their websites as to their corporate objectives and active and planned projects. Our publically listed members (ie. REITs listed on the Australian Stock Exchange) are also required to disclose considerable information about their activities in their half year and full year reports to the market.³²

These organisations argued there is a need to distinguish between 'lobbying' and 'advocacy' activities. They dispute that the regulation of advocacy, simply advocating a collective outcome rather than individual matters, was the intent of the regulation when first introduced:

I think the committee really needs to differentiate between the terms 'lobbying' and 'advocacy', because to our mind there is a clear difference between the two. When a firm seeks to lobby, they are representing an individual business, presumably with a commercial outcome in mind, whereas the organisations that are appearing today really are in the space of advocacy. What I mean by that is that we are advocating on behalf of our membership. In CCIQ's case—and we have provided our constitution for full transparency—we do so on behalf of the state's 406,000 small businesses. When we have championed reforms such as lifting the payroll tax exemption threshold, we have done so for all businesses that pay payroll tax. When we have championed the implementation of the common law threshold for accessing common law and for workers comp, we have done so on behalf of all businesses that pay a premium to WorkCover Queensland. When we have championed the implementation of a 20 per cent target for reducing red tape, we have done so for all small business that has to fill out red tape. We are always championing an outcome on behalf of small businesses.³³

A number of 'advocacy' groups raised the need to consider any future changes to the Integrity Act and the regulation of lobbying in the context of what they see as changing public expectations and engagement in policy development.

The PCA advised:

As Greg was saying, the community is becoming more and more involved in the public policy debate, so that is requiring our organisations to engage more publicly in that discourse as well. That is something that, as organisations, we are acutely aware of, I believe, and looking to move further into, which really is about us playing an even more transparent role within the community.³⁴

³² SCCA, Submission No. 14: 2

³³ Mr Behrens, Public hearing transcript 14 October: 3

³⁴ Mr Mountford, Public hearing transcript 14 October: 5

CCIQ advised:

I think Chris has homed in on a really good point in that there is a strong correlation between transparency and demonstrating a member value proposition. We rely on membership subscriptions. The only way we can really do that is demonstrate on a daily basis that we are out there championing outcomes on behalf of small business. We do that through the submissions, we do that through the media coverage and we do that through social media such as Twitter and Facebook. The transparency and insight into our organisation have never been as great as they are now, because we are in a changing environment where, as Chris identified, media understanding and interest in public reform is at a height at this point and it is probably only going to increase further. So our organisations have to be almost open-door in terms of what we are out there doing because, ultimately, it is a symbiotic relationship between membership and the ability to advocate on them.³⁵

CCIQ, in opposing the recommendations to expand the scope of lobbyist regulation, noted that any such move would be contrary to the commitments and intent of previous state governments to distinguish advocacy activities from lobbying activities. CCIQ advised:

CCIQ's previous representations to the 2009 State Government's Integrity and Accountability Green paper were that CCIQ understood the Government's intention when seeking to establish the Queensland Contact with Lobbyist Code was for membership based organisations and their peak councils (such as the QCU, trade unions, CCIQ, Chambers and other industry and business organisations) to not be drawn into the regulatory structure of the Code.

The Chamber supported this intention. The core advocacy of our organisations is well established and is for the general benefit of our constituents and is a generic member service which goes to the very raison d'être for joining employer associations or trade unions. Accordingly any code should not apply to peak industry organisations as it should be abundantly clear to Ministers and others whose interests we are representing.³⁶

CCIQ also highlighted that many advocacy organisations are already covered by legislation aimed at ensuring the transparency and integrity of the way they operate in Queensland and questioned the need for additional oversight. They advised:

As indicated CCIQ and other unions are defined as 'industrial organisations' under the Queensland Industrial Relations Act 1999. Chapter 12 of the IR Act deals with 'Industrial Organisations and Associated Entities'. Chapter 12 covers the registration of industrial organisations, rules of industrial organisations (including required and restricted content, election rules, validity and compliance with rules, amendment of rules by QIRC or Registrar, and by organisation), conduct of elections, election inquiries, officers (including disqualifications, officers' duties subsection 526-530), register of material personal interest disclosures (section 530A), statement of interests of officers holding management offices (subsection 530B-530G) and membership and registers. Chapter 12 also provides for a miscellaneous provision that includes requirements for publishing particular documents (section 655A), falsely obtaining organisation's property (section 656) and wrongfully applying for organisation's property (section 657).

³⁵ Mr Behrens, Public hearing transcript 14 October: 5

³⁶ CCIQ, Submission No. 4:, 2

The Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Act 2013 sought to strengthen the transparency and accountability of the way industrial organisations operated in Queensland by implementing:

- *Register of the remuneration of the organisation's highly paid officers;*
- *Register of material personal interests declarations of elected officers and their relatives;*
- *Register of gifts and benefits (received and given by officers and employees);*
- *Amending the existing annual reporting and filing obligations of industrial organisations to include financial disclosure statements;*
- *Requiring that all information provided in an organisation's annual financial disclosure statement and maintained in the registers be subject to scrutiny by a registered company auditor and be made publicly available on the organisation's website. Material personal interest declarations by relatives of elected officers will be maintained and filed with the QIRC but not published. The register of officer's remuneration will be required to be updated twice yearly;*
- *Requiring that all industrial organisations have financial management policies (including in relation to credit card issuance and use, contracting activities and gifts and donations) and that officers of industrial organisations undertake governance and financial accountability training;*
- *Introducing new and increased penalties.³⁷*

On this point the MEA argued:

The powers of the QIRC are extensive in the Queensland IR Act and include a selection of approximately 180 offences that attract various penalties. The largest of which is found in section 527 of the Queensland IR Act referring to a duty of honesty and good faith and proper purpose (emphasis added). A breach of this section can result in five years imprisonment and/or 3091 penalty units or a fine of \$364,119.80. Under the Integrity Act the largest penalty prohibiting success fees results is 200 units (\$23,560) which represents 6.4% by comparison to the QLD IR Act. A penalty unit is worth \$117.80 as of 1 July 2015. In terms of deterrent and public confidence we would argue that the Queensland IR Act demonstrates and achieves a far better result than the Integrity Act.³⁸

As a final point, these organisations raised concern about the lack of consultation which occurred with stakeholders who stand to be reasonably affected by the recommendations. The PCA noted:

In particular, we think the report's shortcomings are the result of a lack of in-depth consultation and investigation during the review. Pages 10 to 12 of the final report highlight the parties that were consulted during the review. From our perspective, it is important to note that the review did not seek to engage with the Property Council or other member based representative bodies that perform a similar role in the policy process to the Property Council, nor did it seek the views of those who are described in the report as in-house lobbyists.

³⁷ CCIQ, Submission No 4.: 4

³⁸ MEA, Submission No 19: 4

Therefore, it is our view that the review does not fully or properly appreciate the role organisations such as ours perform in the policy development process. In particular is the fact that governments seek out our views on important issues to assist them to develop good policy.³⁹

QRC highlighted similar concerns advising:

It is noted that no organisation, including QRC, most directly at risk of being affected by any expansion of the definition of lobbyist, was consulted in undertaking the review. This is a fundamental flaw in researching and constructing the report, casting doubt on the recommendations. The Palaszczuk Government is on the record as being a Government that consults and a Government that listens – an approach diametrically opposite to the methodologies of this review and report. No amount of consideration by the Committee after the fact can justify the report’s failure to consult widely with the groups potentially affected during the research and preparation phases of the report. The trigger document is flawed by this omission.⁴⁰

LGAQ commented:

While the LGAQ did provide some commentary to the Nous Group as referenced in the report, it is assumed that the LGAQ, like other industry associations and peak bodies may not have been consulted formally like lobbyists and public service stakeholders. As such, the views of lobbyists may be disproportionately represented in the Report highlighting their frustrations of the integrity requirements imposed on them and subsequently their recommendation that in-house lobbying functions be disclosed. In the case of LGAQ staff who meet with government in relation to various matters, this would assume that they are doing so for some bonus or profit gain, which again is not the case.⁴¹

3.1.2 Arguments in favour of an expanded definition

There was broad general support for an expanded definition from within the professional lobbyist community, including current registered lobbyists. The findings of the strategic review are a direct reflection of the submissions made to the review process by these stakeholders.

In their submission to the Committee, Next Level Strategic Services highlight a number of concerns with the operation of the current scheme as follows:

To recap though, our concern to date has been:

- *Competitive neutrality. By only requiring third party contractors to register incurs a consequential impact particularly on SME clients whose financial position and size means they are more likely to seek contracted support as required as opposed to often well-resourced in house capabilities who activities go unscrutinised.*

³⁹ Mr Mountford, Public hearing transcript 14 October: 2

⁴⁰ QRC, Submission No 10: 4

⁴¹ LGAQ, Submission No. 17: 4

- *The potential for well-resourced lobbying to occur behind the veneer of ‘incidental’ lobbying provisions that were meant to allow high street accountants and lawyers make occasional and incidental contact on matters that were primarily the bailiwick of accounting and legal provisions rather than prima facie lobbying. Not only are very large multidisciplinary consultancies – who by any measure are third party lobbyists often representing very influential interests – hiding behind those provisions, we are aware of people using “PR”, “Community Relations “ and any number of other descriptors to escape registration and to use that lack of scrutiny as a competitive selling point. In the case of multi--disciplinary consultancies, we are not suggesting that the conduct is of itself inappropriate, but simply is increasingly of the same nature as what is defined as third party lobbying. Attached is a recent article which demonstrates that such consultancies themselves argue they are less accounting practices and more broader consulting companies.*
- *We would note that as a range of NGO and non – profit groups are increasingly engaged in political advocacy, the charitable exemptions are less justifiable than they once were and there is no particular reason why the lobbying activities of NGOs should be less subject to scrutiny than other lobbyists.*
 - *We are more relaxed with the role of industry associations – where they undertake broader and obvious lobbying (for example business lobbies on broader economic and membership related interests – noting that lobbying on behalf of individual member interest is no different in that case than those using properly registered third party lobbyists.*
 - *We are particularly concerned that it is increasingly obvious that the exemptions mean that a considerable portion (some estimates of up to 80%) of lobbying effort goes unscrutinised. During previous reviews we pointed to the risk of people being incentivised to come off or decline to register (whether illegitimately or to exploit exemptions). Regrettably that has resulted in a misunderstanding that being a registered lobbyist is a problem when the actual risk and problem was lobbying by those who are unregistered. Perversely the ‘political’ crime is to be registered when proper registration and adherence to the Code should be preferred over unregistered lobbying. We are aware, for example of a number of people undertaking activity that a lay person would consider as lobbying, selling the benefit that they do NOT have to register.⁴²*

The submission from Damien McGreevy Consulting Pty Ltd urged the Committee to accept, in full, the recommendations of the Report, particularly the sections relating to broadening of the scope of lobbyists regulation. They advised:

For far too long only third-party lobbyists have had this requirement imposed on them while other in-house lobbyists have been exempt. This is both grossly unfair and administratively inept and has been practised by both sides of Government.

...other firms (e.g. legal, accountancy, town planning, associations) that regularly approach government on behalf of their clients or members should also be captured by this new definition of a lobbyist.⁴³

⁴² Next Level Strategic Services, Submission No 13: 2-3

⁴³ Damian McGreevy Consulting Pty Ltd, Submission No 12: 1

At the public hearing Mr Paul Bini, partner at lobbying firm GRACosway, offered a somewhat different perspective. Whilst he favoured a consistent approach to lobbying regulation, the alternative to expanded regulation in his opinion was a return to the original Queensland scheme or the Commonwealth scheme. He advised:

Given this, there is no special reason that consultant third-party lobbyists should be treated differently to in-house lobbyists or indeed any member of an organisation that seeks to influence government decisions. The present regulation does not provide for competitive neutrality at the enterprise level where a large company has an opportunity to have unregulated interaction with government by virtue of in-house resources while potentially a smaller or medium sized enterprise with a preference to contract in short-term services is subject to extensive regulation. The ability of larger organisations to go unregulated in their engagement with government is a perverse outcome.

GRACosway sees two potential ways forward. The first is the extension of the present regime to all lobbying contact by all individuals who wish to seek to influence a decision of government. Such regimes would extend to the substance of the activity rather than form. It would not matter whether a person is called a government relations adviser or not. Where the substance of their interaction was to influence a government decision, they should be equally regulated under the regime whether they be a CEO or any other member of a commercial enterprise. Alternatively, there could be a return to the initial system of regulation of lobbying activity in Queensland—the same system that continues to operate successfully and effectively at a federal level. This is a system that only applies to third-party consultant lobbyists and requires a statement of who you work for and the client that you are representing. It is a system that operates effectively at a federal level and we would certainly be happy with going back to that form of regulation in Queensland.⁴⁴

And:

I think that is correct. We have always had a view that it is okay not to have in-house lobbyists included in the regulation provided it is a fairly light-touch approach. It is a very small amount of economic activity. The likely detriment to the community if a lobbyist does something wrong is very small. No-one is going to die. The issue for us was always about when you started having meeting by meeting, name by name at every opportunity for a third-party lobbyist to speak to government. That was a defining moment for us where we thought you either have to go forward with regulation of in-house or you can go back to the system as it was originally introduced four or five years ago.⁴⁵

Professional lobbyists are clearly concerned about the real or perceived commercial imbalance between their activities and those of other organisations who they believe conduct the same or similar business activities. In their view, the current regulatory approach has resulted in the legitimate activities of lobbyists not being viewed equally or favourably by government leading to a competitive disadvantage and loss of business opportunity. However, what has not been adequately canvassed by the Report is the extent to which the current regulatory approach has manifested into the identified public perception and disadvantage issues, and whether the registration and reporting requirements actually achieve any public benefit. Professional lobbyists consider the only solution to their concerns is a full expansion of the lobbyist definition to cover all other professionals discharging a lobbying function.

⁴⁴ Mr Bini, Public hearing transcript 14 October: 8

⁴⁵ Mr Bini, Public hearing transcript 14 October: 10-11

3.1.3 Alternative models for the regulation of lobbying

During the course of the Committee's inquiry some doubt was raised about whether the current registration and disclosure requirements, on balance, delivered the public benefit anticipated when introduced or were the most effective approach to meet the objectives of the Act.

The Committee heard evidence that other jurisdictions have adopted integrity systems which may offer alternative approaches suitable for Queensland, particularly with respect to the lobbying function.

However, the Committee agreed not to consider alternative models as part of this review. It is open to the government to consider this issue further.

3.1.4 Other issues raised – current interpretation of definition

A further matter raised by a submitter was concern over interpretation of the definition of lobbyist in the Act by successive commissioners. Specifically the Committee received a submission from a stakeholder who provides liquor licencing consultancy services to licenced liquor operators. The submitter raised with the Committee the view that they consider they have been inaccurately classified as a "lobbyist" as a result of a flawed decision of the former Integrity Commissioner based on a fundamental misunderstanding of the statutory liquor licencing process and the activities of liquor licencing consultants. The submitter advised:

We are a specialist Liquor Licensing Consultancy firm who in simple terms prepare and lodge applications for licenses under a statutory scheme, namely the Liquor Act 1992 which has strict, complex requirements, processes and timeframes. We do not consider our firm to be a lobbying firm in any sense of the term. We help clients navigate a complex process but the decision is that of a statutory officer under a well-established statutory scheme.

Despite this we have been captured by the regulatory scheme due to an interpretation, one we believe to be flawed, of the former Integrity Commissioner Dr Solomon. Dr Solomon advised the Office of Liquor & Gaming Regulation of his belief that consultants in this field should be registered lobbyists and OLGR then refused to permit contact about applications from any consultant not registered as a lobbyist. A number of law firms have hospitality practices that are exempt from similar registration and accordingly a level playing field does not exist.⁴⁶

The submitter argued this was inconsistent with the intent of previous exemptions introduced in 2010 to exclude contacts with government covered statutory applications, and argued there are other consultancy organisations such as building and construction consultants, architects and town planners, environmental consultants, law firms and industry peak bodies providing the same or similar services who continue to be exempt.

⁴⁶ RSA Liquor Professionals, Submission No 2: 1

The Committee sought the advice of the Integrity Commission in regard to this issue. The Integrity Commissioner provided the following response⁴⁷:

Whether Mr Steele should be registered as a lobbyist

Mr Steele's business activities on behalf of his clients involve contact with Office of Liquor and Gaming Regulation (OLGR) officers in an effort to influence the decisions which they make. The activities are not 'incidental lobbying activities' as defined by s.41 (3){d} and (6) of the Integrity Act 2009, since they are Mr Steele's core business

The activities go beyond the simple making of a statutory application, and hence the exclusion from lobbying activity provided by s.42 (2){j} of the Integrity Act 2009 does not apply. Mr Steele seeks, on behalf of his clients, to influence decisions by government representatives, not just to lodge statutory applications.

However, not all contact which Mr Steele has with OLGR officers will amount to lobbying. My predecessor, Dr David Solomon AM, took the view that under the Integrity Act 2009 it was matter for the officers of OLGR to determine if they were being lobbied. This is what he advised Mr Steele in his letter of 28 October 2013.

It is true that Mr Steele may not be aware if a government officer considers that he or she has been lobbied, and hence he may well have difficulty determining if he needs to register a contact. In my view, this is a consequence of the legislative scheme which the Parliament has enacted. The advice which my office provides is that lobbyists should err on the side of caution in registering contacts which may be considered by a government officer to be lobbying.

Whether the requirement for Mr Steele to be registered is inconsistent with the obligations of others carrying on the same business

As your committee is aware, registered lobbyists have consistently drawn attention to the perceived inequity arising from the fact that the activities of in-house and industry lobbyists, and incidental lobbying which is undertaken by those who are conducting another business, are not regulated in the same way as lobbying undertaken by registered lobbyists .

It seems to me that Mr Steele's situation is simply another manifestation of this phenomenon, and I agree with him that an undesirable inconsistency exists.

As you are also aware, some providers have altered their business models so that they no longer provide direct lobbying services, but instead provide advice to permit their clients to handle their own representations to government. I suggest that liquor licensing consultants would be reluctant to do this because it would defeat the raison d'etre of their businesses.

The Sunshine Coast Regional Council (SCRC) raised similar issues with regard to the current definitions. SCRC advised that they consider the current definitions and the intent of some exemptions is not clear, particularly with respect to professional consultants who assist applicants under statutory licencing and approval schemes. In their view expanding the scope of the act to include in-house lobbyists may alleviate some of the current ambiguity. SCRC advised:

The inclusion of in-house lobbyists in the definition would more closely align actual lobbying practices with the intent of the legislation, ie, to encourage confidence in public institutions and to ensure lobbying is conducted in accordance with public expectations of transparency and integrity.

In the planning and development arena, many "developers" self-represent in their contacts with elected representatives and staff. It could be strongly argued that such contact is made in an effort to influence decision making and therefore should be treated equally to contacts made by registered lobbyists on behalf of third-party clients.

⁴⁷ Correspondence from the Queensland Integrity Commissioner to FAC dated 2 November 2015: 1-3

However, a clear definition of "in-house lobbyists" is required to provide clarity about who is and is not an "in-house lobbyist". Likely, practical questions to be asked include:

- Would an "in-house lobbyist" be limited to someone who is engaged internally for the purpose of lobbying or, say (as is often the case), the contact is made by senior representatives such as general managers, directors or senior planners?
- Would the representatives of an organisation who are representing their own personal interests (as opposed to employees) but are seeking to influence decision making be excluded from the definition?

Furthermore, SCC would appreciate greater clarity around the definition of 'incidental lobbying'. For local government, ambiguity exists around whether or not the work of planning consultants falls into the category of incidental lobbying (similar to the specific provisions for architects and engineers). Opinion is divided on this issue with some planning consultants registered as lobbyists and others arguing categorically that their work is not lobbying, likening their practice to that of engineers.⁴⁸

3.1.5 Committee Comment

The Committee supports the need to maintain integrity in government decision making and considers that the regulation of lobbying activity is important to Queensland's integrity framework. The Committee does not agree with the findings of the strategic review that current lobbyist regulation arrangements are ineffective in achieving the intent of the Act nor that the current regime increases the risk of inappropriate lobbyist behaviour.

The intent of the current lobbyist regulation regime is to ensure transparency in the representations made to government officials. To that effect the current regime, regulating the activities of third-party lobbyists, achieves its purpose.

The Committee does not support the expansion of the definition of lobbyists to include in-house and other entities discharging the lobbying function and does not support an expanded scope of the lobbyist register to include entities other than third-party lobbyists.

The Committee notes the issues raised by submitters regarding the market imbalance and regulatory burden associated with the current regulatory regime and the strong support for models adopted in other jurisdictions. It is open to the Government to consider other mechanisms and models for the regulation of lobbyists.

Recommendation 6

The Committee recommends the current definition of lobbyists contained in the *Integrity Act 1999* be maintained and that there be no changes to the scope of lobbyist register.

3.2 Management of the lobbyist register

The review considered three separate administrative issues in regards to the management of the register as follows:

- the positioning of the register;
- the disclosure and compliance; and
- public understanding.

⁴⁸ SCRC, Submission No. 20: 3

3.2.1 Positioning of the register

The positioning and the administration of the register within the Office of the Integrity Commissioner, is independent of the government and its agencies. The Report noted that whilst other jurisdictions often position this as an accountability of the public service located for example within DPC or the PSC, continuing to house the Register of Lobbyists within an independent office with experience in regulatory activity is beneficial to support the administrative function of the register. The Report recommended the Integrity Commissioner should continue to manage the Register of Lobbyists. (**Recommendation 8**).

3.2.2 Committee Comment

The Committee supports recommendation 8.

3.2.3 Disclosure and compliance

The Report identified that registered lobbyists experience significant disclosure and compliance burdens associated with the requirements introduced in 2013 for lobbyists to document their contacts with government and opposition representatives. This represented a significant expansion of reporting obligations beyond the original requirements that lobbyists simply be registered. The Report stated:

Meanwhile, registered lobbyists are very strong in their view that the current disclosure requirements are high, and beyond the level required to achieve the policy objectives of transparency in government relations and promotion of ethical behaviour.⁴⁹

The Report notes that similar concerns were raised by the former FAC at the time the changes to the Lobbyist Code were made and draws a somewhat tenuous link between the increased disclosure obligations and the possibility that some in the industry have sought alternative ways to conduct business to avoid the regulatory and compliance burden:

Certainty there are signs that the additional compliance and disclosure obligations may serve as a deterrent to engaging registered lobbyists, while larger companies and those in highly sensitive sectors may be more inclined to use in-house arrangements.⁵⁰

Despite the level of concern expressed about this issue, the Report did not include any recommendations, except to reinforce the view that a very large amount of lobbying activity continues not to be captured which disadvantages registered lobbyists compared to other professionals performing lobbying activities.

As already noted above in section 3.1 above, stakeholders expressed concern for the cost and burden associated with registration and monthly reporting of lobbying activities.

3.2.4 Committee Comment

The Committee notes the findings of the strategic review, supported by evidence submitted to the Committee during the inquiry, that the cost and burden associated with registration and monthly reporting of lobbying activities is excessive. Whilst other models and approaches are favoured by a number of stakeholders, as already noted elsewhere in this report, consideration of the lobbyist regulation regime and associated regulatory burden is a matter for the government.

⁴⁹ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 30

⁵⁰ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 30

3.2.5 Ambiguity and public understanding

The review identified ambiguity and differing levels of understanding in terms of what activities constitute lobbying and what “contacts” must be reported. The Report highlighted that this has manifested in the following ways which arguably compromise the effectiveness of the Act. The Report stated:

- *Designated persons disclosing all contact with registered lobbyists, even where the nature of the discussions was not lobbying;*
- *Designated persons not being sure of how to categorise or distinguish lobbying activity from in-house government relations professionals and/or other non-lobbyist professionals; and*
- *Designated persons being reluctant to meet with registered lobbyists on the basis that they are unsure of, or potentially wish to avoid the work generated by, the process for disclosure.⁵¹*

The Report highlighted anecdotal reports that professionals may have opted for full disclosure to deal with this ambiguity. The Committee received evidence which attested this point and highlighted the impact on professionals when they are required to respond to multiple requests for clarification from the Integrity Commissioner.

The joint submission from professional lobbyists expressed concern that poor understanding of the objective and intent of lobbying regulation is undermining the legitimacy of the role of professional lobbyists. They submitted:

It is our observation that the clear patterns we see in Government, of a lack of knowledge of what registered lobbyists do, a lack of understanding of Government policy, and a consequent lack of understanding of how to deal with registered lobbyists, are leading to inconsistency in how registered lobbyists are dealt with across Government.

We believe the issue is principally one of inadequate training, but that is combined with the number of new Members of Parliament, new Ministers and new senior public servants, and the absence – so far - for the Government to clearly articulate a policy position in relation to registered lobbyists and lobbying.⁵²

On this matter, the Report recommended the Integrity Commissioner provide greater level of education to the relevant professional communities. (**Recommendation 10**).

3.2.6 Committee Comment

The Committee supports Recommendation 10.

3.3 Ministerial diaries

The review noted that monthly disclosure of ministerial diaries detailing portfolio related meetings was introduced in November 2012. This practice was not in place when the lobbyist register was initially introduced. The strategic review considered the relationship and any possible overlap between the two obligations and the Integrity Commissioner’s lobbyist regulatory functions.

However, the strategic review only considered ministerial diaries from the perspective of the Integrity Commissioner exercising its role. In this regard it noted that ‘ministerial diaries provide a source of reconciliation to inform a view on compliance with the Integrity Act and Lobbyist Code’.

⁵¹ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 30

⁵² Joint Lobbyist Submission, Submission No 11: 17

The Report noted the following concerns arising with respect to this function:

This review encountered very differing views on the requirement and effectiveness of open diaries as a means of monitoring lobbyist and government compliance with lobbying regulation.

While laudable in its intention to increase transparency, there is concern that ministerial diaries may be subject to 'gaming', such as collusion to exclude particular contact from a diary and the Register of Lobbyists. In addition, the publishing of diaries does not include Ministerial Officer diaries.⁵³

And:

A further concern is that the dual requirement for lobbyists to declare contact and for ministers to publish contact in diaries leads to 'two sources of truth' and inevitable inconsistencies even with the best of intentions. Such inconsistencies are then exaggerated by the media and lead to poor public perceptions.⁵⁴

The Report concluded the effectiveness of open diaries as a mechanism of transparency and accountability is contested, though the motive is laudable. The initiative is nevertheless only a recent one, and its effectiveness should continue to be monitored. No specific recommendations were made.

The strategic review did not consider the extent to which the publication of ministerial diaries is an alternative mechanism for achieving the intent of the Integrity Act and/or the extent to which ministerial diaries meet 'public expectations of transparency and integrity'. The findings in regard to ministerial diaries seem only to reflect a notion of how useful they are to the Integrity Commissioner's execution of the functions under the Integrity Act. The Integrity Commissioner advised the Committee:

Yes, I think your point is well made in that there are different obligations; for example, the obligation to include a matter in the contact register from the lobbyists' point of view is conducted around the obligations under the integrity act and the Lobbyists Code of Conduct. Those are different obligations to those which apply in relation to, for example, ministerial diaries. It is certainly not unusual or unexpected for there to be differences in the way in which those obligations are met and hence for there to be inconsistencies in the way in which the matters are reported.

That is a matter that my office keeps an eye on. My office has particular responsibility for the lobbyist side of the equation, if you like. One of the ways that we can check to see whether the information which we are being given in the fulfilment of that responsibility is coherent and as fulsome as it should be is by looking at the other side of the equation, if you like, whether it is ministers' diaries, directors-general, ministerial staff or whoever it is. It is one of the things that the office has done in the past. It is one of the things that we intend to do in the future and to continue that audit of what is going on under the lobbyists register compared to what is going on under the other recordkeeping obligations that people have, be those obligations the publication of ministerial diaries or the simple obligation to keep good records under the public records legislation in this state.⁵⁵

⁵³ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 31

⁵⁴ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 32

⁵⁵ Mr Bingham, Public Hearing Transcript 26 November 2014: 2

On the matter of ministerial diaries, the PCA commented:

The monthly disclosure of ministerial diaries, introduced in 2012, has provided the public with complete clarity about who is in contact with the Government and when. Although this is not within the scope of the Integrity Commissioner's functions, it is important to consider this initiative in the overall transparency of lobbyist activity.

If the public can access who is engaging with the Government, and who they represent, then regulation has effectively provided transparency to the public and therefore meets the purpose of the Act.

The Property Council contends that the current regulatory arrangements meet public expectations of transparency and integrity and represent a reasonable and proportional approach to regulation.⁵⁶

At the public hearing stakeholders reiterated their concerns that the review findings speculated about the failure of the current government disclosure and transparency obligations – and frustration that rather than targeting the problem with solutions internal to government the solution has instead sought to impose additional burden on the private sector thereby deferring responsibility.

For example, the Queensland Resources Council (QRC) commented:

It seems to be an enormous imposition on those bodies going through the normal course of their business when I think that the Coaldrake report actually puts its finger on the issue, which is that there is a problem that has been identified with ministerial diaries and the detail that is being reported there. We would suggest that that is not an issue around lobbying; that is a compliance and accountability issue in the public sector and for ministerial office staff.

We would simply say that it is the wrong solution for the wrong problem. If there is a problem with ministerial diaries, which are being published now in the Courier-Mail even, then what you need is an enforcement regime that encourages people to comply with the requirements of the day rather than to impose an unspecified lobbying regime on a whole host of organisations which, as my colleagues have pointed out, really opens the door to unintended consequences of a whole host of organisations who are blithely going about their business out there in the community, engaging with their parliamentarians, not aware that in the future they may be deemed to be lobbyists and therefore have to fulfil the requirements of the unspecified lobbying regime.⁵⁷

CCIQ advised:

Quite clearly, if you were to apply a cost-benefit analysis or a net public interest test to trying to regulate all those individuals and organisations that seek to interact and influence politicians, it would never get over the line. However, if you were to apply a net public interest test or a cost-benefit analysis to seeking to apply transparency to the politicians—that is, the ones who are being influenced—I think quite clearly there is a public interest in that. It is a case of getting that system right, which is what Greg Lane was trying to highlight. Get the transparency and accountability right with the ministers, the ministerial staff, their officers and senior public servants and let all those others that seek to influence those not be regulated.⁵⁸

⁵⁶ PCA, Submission No. 7: 2

⁵⁷ Mr Lane, Public hearing transcript 14 October 2015: 5

⁵⁸ Mr Behrens, Public hearing transcript 14 October 2015: 11

The PCA agreed stating:

I would agree with that point of view. As Greg alluded to earlier, the onus is on the government to ensure it is operating in a transparent nature. If that is occurring, I do not particularly see the value of registering people outside of it in a framework in addition to that. That would be my personal view.⁵⁹

Similarly in its submission, the QRC argued for greater accountability measures be imposed on the Government and bureaucracy before any additional regulatory impost is imposed on the private sector:

If the Government perceives the need for some action, and to avoid unintended consequences from poorly evidenced policy responses, then all reasonable accountability measures need to be first implemented on the Government and bureaucracy side. Only once the accountability, compliance and enforcement regime on public officials is at world-class levels, with full transparency for public confidence, should solutions that impose regulatory impost on private individuals and bodies be investigated. It is somewhat noteworthy that there is a concern of “gaming” of Ministerial diaries (p.31). Clearly the penalties for such gaming are insufficient. No case is made for the comment that “..there is no evidence to suggest that extending the requirement to publish open diaries to Ministerial Office staff would be reasonable for the burden involved or the additional accountability secured” (p.32) Yet the report proposes with equally little justification that the burden of registration as lobbyists should be imposed on a multitude of others. The principle must be that Government must clean up its own act first if the public is to have any confidence in the measures recommended.⁶⁰

3.3.1 Committee Comment

The Committee agrees that responsibility for maintaining integrity should be shared equally by government and the private sector. The Committee supports the transparency achieved through the commitment to publish ministerial diaries on a monthly basis as a measure which complements the current lobbyist regulation regime.

The Committee considers that the issue of Ministerial diaries is open for government to consider further including other mechanisms and models for Ministerial diary disclosures.

4 Public awareness function

This section discusses the findings and recommendations of the strategic review with respect to the Integrity Commissioner’s public awareness functions under the Integrity Act.

The functions of the Integrity Commissioner include raising “*public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the Integrity Commissioner’s functions*”. The strategic review focused on public awareness-building relating to integrity issues, awareness of designated persons and the impact of recent changes to the Crime and Corruption Commission’s (CCC’s) education mandate.

⁵⁹ Mr Mountford, Public hearing transcript 14 October 2015: 11

⁶⁰ QRC, Submission No 10: 4-5

4.1 Public awareness of ethics and integrity issues

The Report considers the Integrity Commissioner's role in raising public awareness in relation to Queensland integrity issues and the enabling section of the Act, should not be interpreted so narrowly as to preclude contributing to public discussion of these issues. However, the Report notes that the Integrity Commissioner does not agree with this broader interpretation of the Act, and is of the view the public awareness function should be limited to ethics or integrity issues more directly relevant to the advisory and lobbyist functions. Therefore the Report suggests that the efforts and focus within the scope of the mandate should be settled by the FAC and Integrity Commissioner of the time.

4.1.1 Committee Comment

The Committee agrees with the position of the current Integrity Commissioner that the public awareness function should be limited to ethics or integrity issues more directly relevant to the advisory and lobbyist functions. The Committee is of the view that entering into general public discussion and commentary on integrity issues may diminish the role of the Integrity Commissioner and compromise the independency of the position from government and political spheres.

4.2 Awareness of designated persons

Designated persons must be aware of the role and functions of the Integrity Commissioner to appropriately seek advice. The Report found there to be anecdotal references to enquiries that would be better directed to other integrity agencies suggesting further education on the role and function of the Integrity Commissioner is required for this audience.

The review recommended the Integrity Commissioner should target education regarding the role and functions of the Integrity Commissioner to 'designated persons'. (**Recommendation 11**)

4.2.1 Committee Comment

Public perceptions of integrity, and indeed appreciation for the systems in place to support integrity directly influence the legitimacy of the government and the parliament. Therefore awareness of the role and functions of the Integrity Commissioner is important not only to designated persons internal to the government and parliament but broadly to all members of the community. The Committee is of the view the education priorities are best settled by the Integrity Commissioner and recommends the Integrity Commissioner develop an annual education strategy which identifies education priorities.

Recommendation 7

The Committee recommends the Integrity Commissioner develop a strategic framework which identifies education priorities.

4.3 Impact of the Crime and Corruption Commission (CCC) changes

As of 2014, the CCC's role in public education on integrity and transparency issues has been reduced. Some aspects of the CCC's advice and information resources have migrated to the Integrity Commissioner's website, however, no directions were given to the Integrity Commissioner regarding his role in education about the former CCC functions.

The former Integrity Commissioner's view is that the broad public education function previously undertaken by the CCC is not really within the scope of the Integrity Act. His perspective is that it would be preferable that the CCC regain some of its former responsibilities in public education. No recommendations were included in the Report in relation to this issue.

5 Performance of the functions of the Integrity Commissioner

This section discusses the findings and recommendations of the strategic review in regards to the performance of the Integrity Commissioner in executing its functions under the Act.

The strategic review considered the performance of the Integrity Commissioner's functions. The strategic review focused on efficiency and effectiveness of service provision by the Integrity Commissioner, operational conduct and annual reports.

5.1 Advisory function

The Report identified that, while the advisory function of the Integrity Commissioner does not lend itself readily to formal performance effectiveness measures, advice is provided promptly, and providing concise and definitive advice should remain the Commissioner's imperative. The Report recommended that publishing updated policies and procedures would aid in increasing transparency of activities and better support awareness and understanding of the role and functions of the Integrity Commissioner. (**Recommendation 12**)

5.1.1 Committee Comment

The Committee supports Recommendation 12.

5.2 Lobbying function

The Report noted that current monitoring of the lobbying function is limited to throughput. The Integrity Commissioner's annual report includes data on the number of registered lobbyists as compared to previous years. In addition, the updated register is publicly available on the Integrity Commissioner website. Reporting is limited to registered lobbyists.

The Report makes some suggestion that statistical information on the numbers of registered entities, which has plateaued and dropped in recent years, may suggest an issue of non-compliance or lobbyists finding alternative structures to avoid compliance.

The review suggests that publishing additional statistics in relation to lobbyist type and areas of activity would increase the transparency of the lobbying function. The Report also recommends the Integrity Commissioner should consider establishing a means of collecting and reporting information on the lobbying activities of in-house lobbyists. The recommendation also suggested it would '*be useful for the FAC to have oversight of this activity*'⁶¹ (**Recommendation 13**).

The LGAQ highlighted that any attempt made by the Integrity Commissioner to capture data on the activities of in-house lobbyists may unnecessarily increase the burden for organisations performing in-house advocacy and lobbying:

In relation to section 8 of the Report, the LGAQ reiterates the arguments outlined above with regard to the over-burdensome requirements of collecting information about every meeting that every employee of the Association has with government. Both the Integrity Commissioner and the LGAQ would spend more time completing administrative reporting requirements tracking meetings arguably for little gain. Again, the rigour around the reporting requirements of the LGAQ and the oversight of independent bodies that already exists, would suggest the LGAQ's advocacy activities are highly regulated and exist through a structured model of engagement with government based on a partnership model as a partner in government.⁶²

⁶¹ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015: 40*

⁶² LGAQ, Submission No 17: 4

5.2.1 Committee Comment

The Committee does not support Recommendation 13. The Committee has determined that the current lobbyist regulatory regime, targeting third-party lobbyists, is consistent with the intent of the Act and achieves desired transparency and integrity objectives. Consistent with the Committee's previous recommendations in relation to the lobbying function the Committee does not agree there is a need for additional statistics on third-party lobbyists and their activity.

Recommendation 8

The Committee recommends that Recommendation 13 be rejected and the current arrangements maintained.

6 Organisational arrangements supporting the Integrity Commissioner

This section discusses the findings and recommendations contained in the Report with respect to the organisational arrangements supporting the Integrity Commissioner.

The structural and operational aspects of the Integrity Commissioner's Office were also investigated. This strategic review focused on organisational structure, staffing and workload, finance and budgeting, and information technology.

The Report found that the allocation of the Commissioner's several functions is clear and logical across the structure; however, in practice, there is some overlap between roles. The current staffing of the Integrity Commissioner and Office is above that required for the current scope and workload, specifically with regard to the lobbying function. There is no case to establish a Deputy Commissioner role within the Integrity Commissioner's Office.

However the Report noted that if other recommendations were accepted and the scope of the Integrity Act expanded in regard to its lobbying function, then current resources may need to be retained and/or expanded (**Recommendations 15, 16 and 17**). The Report also noted that in the event of an expanded role/scope that budget may need to be reviewed (**Recommendation 18**). Additionally the Report found the current website needs to be redeveloped to support better public awareness and a customer relationship management -type system would add further rigour to information management within the Office (**Recommendations 19 and 20**).

6.1 Committee Comment

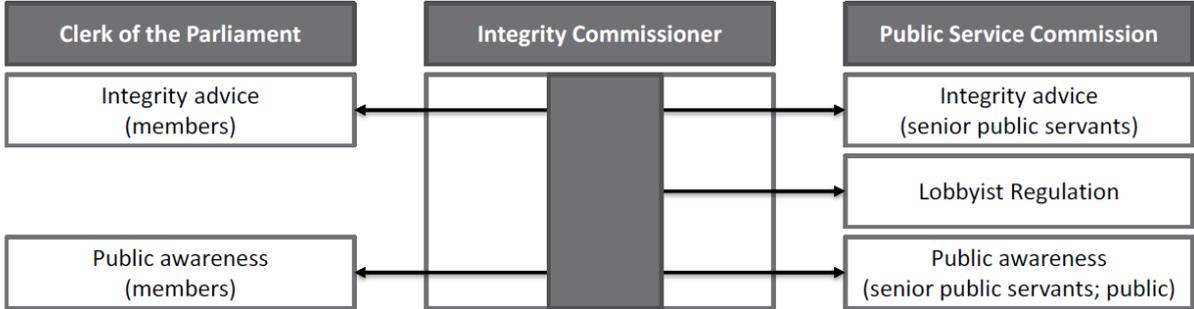
The Committee supports these recommendations (**Recommendations 16-20**).

7 Strategic issues for the future

The strategic review considered the future opportunities and challenges likely to be faced by the Integrity Commissioner over the next five years. This section discusses some of these strategic issues.

However, the Report considered the future role and requirement for an Integrity Commissioner in Queensland noting that elements of the Integrity Commissioner’s functions are already exercised by others including the Clerk of the Parliament (advice to members surrounding declarations of interest) and PSC (integrity education and support to public servants). The report proposed an alternative future model for the allocation of the Integrity Commissioner’s functions, illustrated in the Figure below⁶³.

Figure 6: Alternative allocation of Integrity Commissioner functions



However, the Report did not make any specific recommendations instead commenting that the retention of the current model is preferred in the short term. The Report states:

From a structural perspective, this model would require the creation of an additional position under the Clerk of the Parliament to manage disclosures of interest, for example, a Parliamentary Standards Officer. It would also mean the transfer of the Office staff monitoring the Register of Lobbyists to a central agency (DPC or PSC). However, such a reallocation would lose the benefit associated with locating the function within an independent office with regulatory experience (as discussed in section 6.2). An alternative placement would be in another regulatory office. For example, in NSW this function sits with the electoral commission.

Having outlined this alternative, this Review recognises the need to balance any potential gains in greater simplicity with the potential for negative outcomes or a poor public response. Any changes impacting the Integrity Commissioner (or the wider integrity framework) carry with them the risk of dilution of the commitment to integrity in Queensland. This would be an unsatisfactory outcome.

In summary, the Review supports the ongoing retention of the Integrity Commissioner role given that the role is effective in discharging its functions within the scope defined by the Act. It is also acknowledged that the existence of the role serves as an important message to the public about Queensland’s commitment to integrity in government. However, the Review also reinforces the government’s obligation to continue to examine regularly the effectiveness of current arrangements and ensure that the merits of reasonable alternatives are considered.⁶⁴

⁶³ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 50

⁶⁴ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report, July 2015*: 50

The Committee sought advice from the Clerk of the Parliament on this finding. The Clerk advised the following:

I note the suggestion of an additional position under the Clerk of the Parliament to manage disclosures of interest, for example a Parliamentary Standards Officer. In my view, there is a strength in the current structure whereby the Clerk provides advice to members in relation to the Register of Interests as well as all other aspects of parliamentary practice and procedure (including declarations of interest in the Legislative Assembly). I do not envisage any value being added or savings being realised by the creation of an additional position of Parliamentary Standards Officer to effectively replace another position being abolished (the Integrity Commissioner). The saying "if it is not broken, don't fix it" is applicable in this instance.⁶⁵

Additionally the Report found the nature of lobbying in Queensland had changed following the introduction of the Register of Lobbyists and the increase in related disclosure requirements, driving a significant amount of lobbying activity 'underground'. The Report states:

It is clear that the number of clients appearing on the Lobbyists Register in Queensland has significantly declined over time. The Integrity Commissioner's annual report has tracked the number of current and previous clients of registered lobbyists and lobbying entities since January 2010. The number of clients reached a peak in 2013, as demonstrated in Figure 7 below. Since this time, the number of clients on the register has declined by approximately 42 percent. The timing of this drop aligns with the introduction of the new Lobbying Code of Conduct and increased disclosure requirements for lobbying activity.

Consistent with this movement, the average number of lobbying disclosures made to the Integrity Commissioner has also decreased over time. The Integrity Commissioner's website provides records of lobbying disclosures from April 2013 to the current time. While there is a degree of month-by-month variation, the number of disclosures has indeed declined overall, as illustrated by the rolling quarterly averages in Figure 8 below. The figure demonstrates a steady decline from the third quarter of 2014 to the present, and a drop of approximately 65 percent over this period.

If one accepts the assumption that the level of actual lobbying activity in Queensland is not likely to have reduced overall, this data supports the proposition that an increasing proportion of lobbying is happening through unregulated channels. This means that current arrangements are becoming progressively less effective in regulating lobbying activity in Queensland. This is of relevance given that these arrangements were already judged to be ineffective by two-thirds of respondents to a survey on Queensland integrity functions in 2013, when the number of disclosures was markedly higher.⁶⁶

These changes were considered to have likely impacts on the effectiveness of current regulation and functions of the Integrity Commissioner, with the report concluding that the current lobbying regulation arrangements no longer support the intention of the Act and adversely impact the transparency of the system. This evidence in part supported previous recommendations for the increased registration and reporting obligations for lobbyists in Queensland.

⁶⁵ Correspondence from Mr N Laurie, Clerk of the Parliament to FAC dated 1 December 2015: 2

⁶⁶ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 51-52

The Review also considered the possible extension to the Integrity Commissioner's functions to include examination of declarations of interest to identify possible conflicts of interest, noting:

Under the Ministerial Code, the Integrity Commissioner can undertake random checks for compliance of Members with requirement to disclose their individual interests and those of their related persons. However, this obligation does not extend to investigation of declarations of interests.

The former Commissioner has previously suggested that this obligation should be extended such that the Integrity Commissioner should examine declarations of interest to identify possible conflicts of interest arising from them. No such change to the legislation has occurred.

The view of the current Commissioner is that such an extension of scope may have limited value. A conflict of interest by its nature involves more than one competing interest. An office-holder's declaration only provides part of the picture. It also may not be helpful (or may even be misleading) to consider an interest without the surrounding context of the competing interest.⁶⁷

The Review shares this view, noting that the addition of an investigatory function has the potential to fundamentally change the perception of the role of the Integrity Commissioner, and reform in this area may discourage designated persons from proactively seeking advice. The Review did not support the Integrity Commissioner having an investigatory mandate, noting that other bodies within the Queensland integrity framework possess investigative powers making them better placed to discharge this function.

7.1 Committee Comment

The Committee notes the strategic issues for the future considered by the strategic review. The Committee agrees that the current integrity framework and the role of the Integrity Commissioner is effective. As previously noted in this report, it is open to the government to examine the current arrangements or consider alternative approaches.

⁶⁷ Professor P Coaldrake, *Strategic Review of the Functions of the Integrity Commissioner - Final Report*, July 2015: 53

Appendices

Appendix A – List of Submissions

Sub #	Submitters
1	Queensland Integrity Commissioner
2	RSA liquor Professionals
3	Queensland Resources Council (on behalf of a number of peak industry bodies)
4	Chamber of Commerce and Industry Queensland
5	Lockyer Valley Regional Council
6	Association of Mining and Exploration Companies
7	Property Council of Australia
8	Independent Education Union of Australia – Qld & NT Branch
9	Clubs Queensland
10	Queensland Resources Council
11	Ethical Consulting Services
12	Damian McGreevy Consulting Pty Ltd
13	Next Level Strategic Services
14	Shopping Centre Council of Australia
15	GRACosway Pty Ltd
16	Australian Professional Government Relations Association
17	Local Government Association of Queensland
18	Newgate Communications Pty Ltd
19	Master Electricians Australia
20	Sunshine Coast Council
21	Housing Industry Association Ltd

Appendix B – Witnesses appearing at the public hearing on Wednesday 14 October 2015

Witnesses
Mr Nick Behrens, Director, Advocacy & Workplace Relations, Chamber of Commerce & Industry Queensland
Mr Paul Bini, Partner, Gracosway
Mr Greg Lane, Deputy Chief Executive, Queensland Resources Council
Mr Chris Mountford, Queensland Executive, Property Council of Australia
Mr Mike Smith, Principal Consultant, Ethical Consulting Services,
Mr Joshua O’Keefe, Team Leader, Intergovernmental Relations, Local Government Association of Queensland
Mr Richard Bingham, Queensland Integrity Commissioner
Mr Greg Hoffman, General Manager, Advocacy, Local Government Association of Queensland

Appendix C – Terms of Reference for the Strategic Review of the functions of the Queensland Integrity Commissioner

Appendix A Terms of Reference

Strategic Review of the Queensland Integrity Commissioner Draft Terms of Reference

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

A new Integrity Commissioner, employed on a part-time 0.8 FTE basis, was appointed for a term of three years from 1 July 2014.

SCOPE OF STRATEGIC REVIEW

The first strategic review of the Integrity Commissioner's functions must be conducted in accordance with Section 86 of the Act.

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

In conducting a strategic review, the reviewer has the powers 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.

DURATION

The Review is expected to commence on or about 22 December 2014.

The proposed report on the Review is expected to be provided to the Premier and the Integrity Commissioner by 1 May 2015. The Premier and Integrity Commissioner may give the Reviewer written comments on anything in the proposed report by 21 May 2015.

The final Review report is to be given to the Premier and Integrity Commissioner by 15 June 2015.

QUALIFICATIONS OF APPOINTEE

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 appointee will be required to develop a rapid understanding of how the regulation of lobbying activities is administered by the Integrity Commissioner.

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

METHODOLOGY

In conducting the Strategic Review, the appointee is to have regard to the functions of the Integrity Commissioner and relevant objectives of the Act in assessing the ongoing economy, efficiency and effectiveness of the Office of the Integrity Commissioner. The appointee is to also have regard to the Integrity Commissioner’s annual reports, the organisational structure, goals, operational conduct, internal/external policies, operational management, corporate management and service provision of the Integrity Commissioner. The Review should also consider comparative models, practices and procedures used by offices in other jurisdictions equivalent to the Integrity Commissioner.

The appointee 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 Finance and Administration Committee. The appointee may also wish to consult with a selection of the following stakeholders:

- “designated persons” who may request advice from the Integrity Commissioner on ethics or integrity matters (Ministers, Members of Parliament, statutory office holders, Chief Executives of government agencies, senior executive officers and senior officers, staffers of Ministers and Assistant Ministers), and
- lobbyists (from the Register of Lobbyists).

Information sources and documents relevant to the Strategic Review:

<i>Integrity Act 2009</i>	https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/I/IntegrityA09.pdf
Integrity Commissioner’s website	http://integrity.qld.gov.au
Queensland Integrity Commissioner Annual Report 2013-14	http://integrity.qld.gov.au/library/document/catalogue/annual-reports/annual_report_2013_14.pdf
Register of Lobbyists	http://lobbyists.integrity.qld.gov.au/who-is-on-the-register.aspx
Lobbyists Code of Conduct	http://www.integrity.qld.gov.au/library/document/catalogue/lobbyists-code-of-conduct.pdf

	gue/general/lobbyists_code_of_conduct_Sept_2013.pdf
Finance and Administration Committee – Integrity Commissioner	https://www.parliament.qld.gov.au/work-of-committees/committees/FAC/inquiries/current-inquiries/IntegrityCommissioner
Finance and Administration Committee – Report No. 13, Oversight of the Queensland Integrity Commissioner 2011	http://www.parliament.qld.gov.au/documents/TableOffice/TabledPapers/2012/5312T6521.pdf
Final Queensland Government Response – Report No. 13, Oversight of the Queensland Integrity Commissioner 2011	http://www.parliament.qld.gov.au/documents/TableOffice/TabledPapers/2012/5412T693.pdf
Finance and Administration Committee – Report No. 26, Oversight of the Queensland Integrity Commissioner 2012 and Review of Lobbyists Code of Conduct	https://www.parliament.qld.gov.au/documents/committees/FAC/2013/IntegrityCommissioner/rpt-026-27Mar2013.pdf
Queensland Government Response – Report No. 26, Oversight of the Queensland Integrity Commissioner 2012 and Review of Lobbyists Code of Conduct	https://www.parliament.qld.gov.au/documents/committees/FAC/2013/IntegrityCommissioner/gr-026-28Jun2013.pdf

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 no later than five business days after complying with Sections 88 (1) and 88 (3). 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 the receiving the report, and that the report will be referred to the Finance and Administration Committee for examination. The Committee may comment on any aspect of the report and make recommendations.