



Inquiry into the report on the strategic review of the functions of the Integrity Commissioner

**Report No. 26, 57th Parliament
Economics and Governance Committee
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Economics and Governance Committee

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All web address references are current at the time of publishing.

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Abbreviations

BRU Inc	Brisbane Residents United Inc
Commissioner	Queensland Integrity Commissioner
committee	Economics and Governance Committee
CCC	Crime and Corruption Commission
DPC	Department of Premier and Cabinet
FAC	Finance and Administration Committee
ICT	information and communication technology
Integrity Act	<i>Integrity Act 2009</i>
LGAQ	Local Government Association of Queensland
OIA	Office of the Independent Assessor
PCCC	Parliamentary Crime and Corruption Committee
PSA	<i>Public Service Act 2008</i>
PSC	Public Service Commission
Report	Kevin Yearbury PSM, <i>Strategic Review of the Integrity Commissioner's Functions</i> , 30 September 2021
Reviewer	Mr Kevin Yearbury PSM
strategic review	Strategic Review of the Integrity Commissioner's Functions
UPA	unit of public administration

Chair's foreword

This report presents a summary of the Economics and Governance Committee's consideration of the recommendations of the strategic review of the Queensland Integrity Commissioner.

The committee's task was to consider the report on the strategic review of the functions of the Integrity Commissioner prepared by Mr Kevin Yearbury PSM.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the committee's inquiry. I particularly thank the Queensland Integrity Commissioner and Mr Kevin Yearbury PSM for their assistance. I also thank submitters to the inquiry and our Parliamentary Service staff.

I commend this report to the House.



Linus Power MP

Chair

1 Introduction

1.1 Role of the committee

The Economics and Governance Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility are:

- Premier and Cabinet and Olympic and Paralympic Games
- Treasury and Investment
- Tourism Industry Development, Innovation and Sport.

The committee also has a monitor and review role in relation to the performance of the functions of the Queensland Integrity Commissioner (Integrity Commissioner or Commissioner) and Auditor-General, which are set out in statute and in the Standing Rules and Orders of the Legislative Assembly (Standing Orders).²

1.2 Committee's responsibilities regarding the Integrity Commissioner

The *Integrity Act 2009* (Integrity Act) sets out various functions the committee must perform in respect of its oversight of the Commissioner. Those functions include:

- being consulted on the selection process and appointment of the Commissioner and any motion of address to remove the Commissioner
- being consulted on the Lobbyists Code of Conduct prior to the Commissioner's approval of the Code
- generally monitoring and reviewing the performance by the Commissioner of their functions, including examining each annual report and, if appropriate, commenting on any aspect of the report/s and making recommendations
- being consulted on the appointment of the strategic reviewer and of the terms of reference of the five-yearly strategic review, prior to the appointment of the strategic reviewer and considering the resulting strategic review report.³

1.3 Functions of the Integrity Commissioner

The Commissioner is a statutory office holder and an independent officer of the Queensland Parliament⁴ with the following functions:

- to give written advice to designated persons⁵ on ethics or integrity issues

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Rules and Orders of the Legislative Assembly (Standing Orders), SO 194.

² See *Integrity Act 2009*, ; *Auditor-General Act 2009*; Standing Orders, schedule 6 and s 194A. Standing Orders, Schedule 6; *Auditor-General Act 2009*, ss 9, 11, 12, 12A, 18, 21, 38A, 68, 70; *Integrity Act 2009*, ss 68, 74, 78, 80, 81, 82, 85, 86, 88, 89.

³ *Integrity Act*, ss 68, 74, 75, 86, 89.

⁴ *Integrity Act*, s 6.

⁵ A designated person includes a Member of the Legislative Assembly; a statutory office holder; a chief executive of a government department or a public service office; a senior executive or senior officer; a chief executive of, or a senior officer equivalent employed in, a government entity that is nominated by the Minister responsible for administering the entity; a ministerial staff member who gives advice to a Minister, or a person otherwise engaged to give advice to a Minister; an Assistant Minister's staff member who gives advice to an Assistant Minister, or a person otherwise engaged to give advice to an Assistant Minister; and a

- to meet with, and give advice to, members of the Legislative Assembly on interests issues
- to keep the lobbyists register and have responsibility for the registration of lobbyists, and
- to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the Commissioner's functions.⁶

1.4 Strategic review of the functions of the Integrity Commissioner

Section 86 of the Integrity Act requires that a strategic review of the functions of the Integrity Commissioner be conducted at least every 5 years.⁷ Mr Kevin Yearbury PSM (Reviewer) was appointed to undertake the most recent strategic review on 11 March 2021, prior to which the committee was consulted on his appointment and on the terms of reference.

The following outlines the scope of the strategic review:

- review of the Integrity Commissioner's performance of the functions to assess whether they are being performed economically, effectively and efficiently, and
- examine all structural and operational aspects of the Integrity Commissioner, as well as its relationship with public sector entities, relevant Ministers, Assistant Ministers, the Parliamentary Committee and the Legislative Assembly.⁸

In conducting the strategic review, the terms of reference required the Reviewer to:

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

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

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

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

person (or a person within a class of person) nominated by a Minister or Assistant Minister (including but not limited to mayors and councillors). Within two years after ceasing to be a designated person, a person may ask for the Commissioner's advice on ethics or integrity issues that arise from a post-separation obligation.

⁶ Integrity Act, s 7.

⁷ With the timing of the 5-year period commencing on the responsible Minister's tabling of a response to the parliamentary committee report on the strategic review. See *Integrity Act 2009*, s 86(3).

⁸ Kevin Yearbury, *Strategic Review of the Integrity Commissioner's Functions*, 30 September 2021, p 15.

The reviewer is to interview the Integrity Commissioner about the Review and consideration should also be given to interviewing staff of the Integrity Commissioner and the EGC. The reviewer 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, Assistant Ministers, Members of Parliament, statutory office holders, Chief Executives of government agencies, senior executive officers and senior officers, Ministerial staff)
- former designated persons
- lobbyists (from the Register of Lobbyists)
- integrity agencies, such as: the Crime and Corruption Commission, Queensland Ombudsman, Independent Assessor, Electoral Commissioner, and Queensland Audit Office.⁹

The full terms of reference for the Review can be found in Appendix A.

The Reviewer's final report on the strategic review (Report) was presented to the Premier and Minister for the Olympics (Premier) on 30 September 2021 and tabled in the Legislative Assembly by the Premier on 14 October 2021.

Under section 88(7) of the Integrity Act, the Report was automatically referred to the committee for its consideration. In this respect, section 89(d) provides that the committee has a function of examining each strategic review report tabled in the Legislative Assembly under the Integrity Act and, if appropriate, commenting on any aspect of the report and making recommendations. In addition, section 89(e) sets out a broader function for the committee 'to report to the Legislative Assembly any changes to the functions and procedures of the integrity commissioner the committee considers desirable for the more effective operation of this Act'.

The strategic review made 27 recommendations, categorised according to the following key areas:

- Integrity Commissioner's advisory function (7 recommendations)
- Integrity Commissioner's lobbying regulation function (11 recommendations)
- Integrity Commissioner's public awareness function (3 recommendations)
- performance of the Integrity Commissioner's functions (2 recommendations)
- organisational arrangements supporting the Integrity Commissioner (4 recommendations).¹⁰

The recommendations can be found in Appendix B.

1.5 Inquiry process

On 18 November 2021, the committee invited stakeholders and subscribers to make written submissions on its inquiry into the Report on the Strategic Review of the Functions of the Integrity Commissioner. A total of 8 submissions were received (see Appendix C for a list of submitters).

The committee received a private briefing about the Report from the Reviewer on 15 November 2021.

The committee held a public hearing on 14 March 2022 (see Appendix D for a list of witnesses).

The submissions and transcript of the hearing are available on the committee's webpage.

1.6 Summary of key issues raised during the inquiry

1.6.1 Advisory function

The key issues raised in relation to the Commissioner's advisory function included:

⁹ Kevin Yearbury, *Strategic Review of the Integrity Commissioner's Functions* (Report), 30 September 2021, p 15.

¹⁰ Report, pp 78-82.

- the increase in the number and breadth of persons eligible to receive advice, primarily due to the increase in the number of designated persons identified by Ministers and Assistant Ministers, and the subsequent increase in the number of requests for advice received
- the Integrity Commissioner's capacity to provide such advice
- the inclusion of local government, mayors and councillors as designated persons eligible to receive advice
- the revocation of the Ministerial Direction that the Office of the Independent Assessor provide advice, training and information to local governments, councillors and local government employees about alleged suspected inappropriate conduct, misconduct and corrupt conduct

1.6.2 Lobbying register function

The key issues raised in relation to the Commissioner maintaining the lobbying register included:

- the legislative definition of lobbying, particularly requests to widen the definition to include in-house lobbyists and commercial advisory entities, such as external consultants, who also have third party clients with a stake in government policy
- improving the transparency of lobbying activity via the information recorded in the lobbyists register and in Ministerial and Opposition leader diaries
- strengthening the Integrity Commissioner's power to monitor and enforce lobbying laws
- management of conflicts of interest where government engages commercial advisory entities, such as external consultants, who also have third party clients, or where lobbyists work in an advisory capacity to political parties
- updates to Code of Conduct to ensure transparency and education and support for lobbyists to assist them in complying with the Code of Conduct.

1.6.3 Performance of functions and organisational arrangements

Other key issues raised included:

- increasing the independence of the Integrity Commissioner by establishing a separate Office of the Integrity Commissioner
- the resourcing provided to the Integrity Commissioner to meet the increased demand for advice and increase in lobbying activity
- upgrading/replacing the lobbyists register.

2 Scope of the Integrity Commissioner's functions

2.1 Scope of functions and demand for advice

As part of the strategic review, the Reviewer looked at the role of the Integrity Commissioner within Queensland's integrity framework and the scope of the Commissioner's functions.

The strategic review found that the scope of the Commissioner's functions and responsibilities has expanded with, and since, the passing of the Integrity Act, and that the number of persons eligible to seek advice from the Integrity Commissioner has grown significantly.¹¹ This expansion and growth has resulted in a growth in the number of requests for advice, with the Report detailing that the 'significant increase in demand for advice since the ... 2015 Strategic Review' represented 'a more than 250% growth in the number of requests for advice and advice related meetings'.¹²

Commenting that 'resourcing has been insufficient to meet the increase in demand for advice', the Report noted that the Commissioner 'therefore applied "service limits" prioritising persons seeking advice with Ministers, Assistant Ministers, other Members of Parliament, Statutory Office Holders and Chief Executives/DG's taking precedence',¹³ and assigning priority 'on the basis of the public interest significance of a matter'.¹⁴ As a result, the Reviewer found that the Commissioner does not have the capacity to respond to requests for advice from mayors and councillors and has been referring them to appropriate agencies within the local government jurisdiction.¹⁵

The Reviewer noted that lobbying activity has also increased significantly, along with the Commissioner being assigned additional functions, which are 'largely administrative but nevertheless time consumptive'.¹⁶

Review recommendation 1

To address 'the inability of the Integrity Commissioner to meet the current level of demand for advice', the Report recommended (review recommendation 1) either:

- a) discontinuing, or reassigning to other more appropriate agencies, superfluous functions and amending the Act to eliminate duplication where other appropriate advice structures exist, (as outlined in Recommendations 2 to 4 and 7). This will improve the economy and efficiency of the integrity system, enhance accountability and provide greater transparency in respect of the advice function, or
- b) undertake a workforce review to identify the resources required to respond to all requests for advice including those currently the subject of service limits.¹⁷

2.1.1 Stakeholder views

The Commissioner, who expressed general agreement with review recommendation 1, noted that since the last strategic review was conducted in 2015, there has been a significant increase in requests for advice, and that the number of people who fall within the scope of the advice function has also increased 'by many thousands'.¹⁸ As a result of these increases, the Commissioner advised

¹¹ Report, p 29.

¹² Report, p 61.

¹³ Report, p 62.

¹⁴ Report, p 28.

¹⁵ Report, p 33.

¹⁶ Report, p 29.

¹⁷ Report, p 29, emphasis added.

¹⁸ Submission 8, p 8; public hearing transcript, Brisbane, 14 March 2022, p 2.

that requests have had to be triaged due to a lack of resources and therefore a subsequent inability to meet demands.¹⁹

The Commissioner also made the following observation regarding the increase in demand for advice:

Throughout the current Integrity Commissioner's tenure, the activity and profile of the office has been tremendously heightened. Over the previous four and a half years, the current Integrity Commissioner has provided advice on ethics, integrity, and interest matters (both written and oral) on 954 occasions, and advice on lobbying matters on a further 92 occasions. By comparison, over the course of seventeen years from the establishment of the role of Integrity Commissioner, the four preceding Integrity Commissioners provided advice on ethics, integrity, and interest matters on a total of 573 occasions.²⁰

The Crime and Corruption Commission Queensland (CCC) commented on the Integrity Commissioner having 'several miscellaneous functions which are the responsibility of the Integrity Commissioner without a clear rationale for why that should be the case' and stated that 'any reform of the Integrity Commissioner's functions should ensure that the Integrity Commissioner is appropriately resourced and that those resources are able to be directed fully towards the key functions and not what might be characterised as 'extraneous functions'.²¹

Brisbane Residents United Inc (BRU Inc) responded to this recommendation by submitting 'The Integrity Commissioner must be properly resourced so that they can fully perform the functions required by legislation. Not being able to provide timely advice in a frank and fearless fashion causes the office to become part of the problem not part of the solution'.²²

¹⁹ Submission 8, p 8.

²⁰ Submission 8, p 3.

²¹ Public hearing transcript, Brisbane, 14 March 2022, p 7.

²² Submission 7, p 3.

3 Advisory function

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

Under section 7 of the Integrity Act, the functions of the Integrity Commissioner include:

- meeting with, and giving written and oral advice on interests issue to, Members of the Legislative Assembly as provided for under Chapter 3, part 3 of the Integrity Act
- giving written advice to a designated or former designated person on ethics or integrity issues as provided for under Chapter 3, part 2 of the Integrity Act.

Section 12 of the Integrity Act defines 'designated person' as follows:

- a Member of the Legislative Assembly
- a statutory office holder
- a chief executive of a department of government or a public service office
- a senior executive or senior officer
- a chief executive of, or a senior officer equivalent in, a government entity who is nominated by the Minister responsible for administering the entity
- a ministerial staff member who gives, or a person engaged to give, advice to a Minister
- an Assistant Minister staff member who gives, or a person engaged to give, advice to an Assistant Minister
- a person, or a person within a class of person, nominated by a Minister or Assistant Minister (a non-government Member may not be nominated).

According to the Commissioner's *Annual Report 2020-21* 'more than 10,000 people fall under the advice section of the Act', falling as they do within the meaning of 'designated person'.²³ However, the *Annual Report 2020-21* states that while the number of potential eligible advisees has expanded, the actual number is not known.²⁴

The Commissioner receives requests for advice on ethics and integrity issues in writing, and must in turn provide that advice in writing.²⁵ When providing that advice, the Commissioner must have regard to relevant approved codes of conduct, approved ethical standards and other standards.²⁶

In addition, a member of the Legislative Assembly may request a meeting with the Integrity Commissioner on the member's 'interests issues'.²⁷ The Commissioner may provide the advice orally or in writing.²⁸

²³ Queensland Integrity Commissioner, *Annual Report 2020-21*, p 12.

²⁴ Queensland Integrity Commissioner, *Annual Report 2020-21*, p 12.

²⁵ Integrity Act, ss 15, 21.

²⁶ Integrity Act, s 21(3).

²⁷ Integrity Act, s 22.

²⁸ Integrity Act, s 23.

The review identified 6 issues in relation to the Commissioner's advisory function which are set out and considered below:

- the appropriateness of Ministers and Assistant Ministers being able to nominate (without limitation) individuals as designated persons (making them eligible to request Integrity Commissioner advice)
- certain classes of designated persons having appropriate alternative sources of integrity advice
- senior officers requesting Integrity Commissioner advice without the knowledge of their chief executive
- ministerial staff members being able to request Integrity Commissioner advice without the knowledge of their Minister
- designated persons not being required to disclose the nature of advice received from the Integrity Commissioner
- declaration of interests having to be provided to the Integrity Commissioner by statutory office holders and public service chief executives is duplicative and of limited utility.

3.1 Ability of Ministers and Assistant Ministers to nominate individuals as designated persons

Section 12(1)(h) of the Integrity Act provides that a Minister or Assistant Minister can nominate a person or category of person as being eligible to request the Commissioner's advice. The Reviewer considered the following issues associated with the ability to nominate an individual as a designated person:

- the incongruence of the nomination of an individual 'in their own right' with the Integrity Act, 'which is designed to provide advice in the context of the public service role an individual performs'
- there is no public disclosure as to the individual involved, the role and function they perform, and the reason for their being nominated
- the right to seek the Commissioner's advice would appear to extend to the individual 'in perpetuity', whereas, in all other cases, the designated person can seek the advice of the Commissioner for only so long as they hold the position that qualifies them.²⁹

The Reviewer also noted that where additional persons or classes of persons have been nominated:

- no specific appropriation has been made to fund the increased workload
- the ability of a Minister or Assistant Minister to expand the number of designated persons appears to be without limitation.³⁰

Given the Commissioner is an Officer of the Parliament, with oversight by the committee, the Reviewer considered it appropriate that 'any action to increase the scope or reach of the [Integrity] Act should be by way of ... either an amendment to the Act or by Regulation after consultation with the Parliamentary Committee'.³¹

Review recommendation 2

To bring transparency to the nomination of a designated person (or persons) and avoid unmonitored incremental creep in the numbers of those who can access the Commissioner's advice beyond which there is capacity to service, the Report recommended (review recommendation 2):

²⁹ Report, p 31.

³⁰ Report, p 31.

³¹ Report, p 31.

- a) provide for future nominations of Designated Persons to be by amendment to Section 12 of the Act or by Regulation,
- b) repeal Section 12 (1) (h) of the Act that allows a Minister or Assistant Minister to (without limitation) nominate a person or an individual within a class of person,
- c) sunset the right of individuals previously nominated under this provision to request advice at the time the section is repealed, and
- d) repeal Section 17 (e) and 18 (b) of the Act (as consequential amendments).³²

3.1.1 Stakeholder views

The Commissioner submitted that, with the Integrity Act enabling a Minister or Assistant Minister to nominate a person or a person within a class of person to be a 'designated person', who is then able to request advice, the Commissioner 'is unable to anticipate the number of advice requests at any given time or from whom those requests will be received'.³³

In addition, the Commissioner stated that 'such a diverse range of potential advisees...means that advice is sought in respect of a diverse range of issues, requiring the Integrity Commissioner to quickly develop detailed understanding and expertise regarding novel issues, including all relevant standards or codes'.³⁴

The Commissioner noted that while the above impacts upon the required level of staffing, the practical effect 'is to deprive the Integrity Commissioner of the capacity to have any true understanding of the scope of persons who may seek to utilise the Integrity Commissioner's advice function, and for the Integrity Commissioner to anticipate incoming volumes of work and the issues to be considered'.³⁵

The Commissioner submitted that:

... certainty as to the number of designated persons would enable the Integrity Commissioner to better anticipate work volume. In addition, a clear understanding of the scope of persons who are able to seek advice would enable the Integrity Commissioner to maintain a 'listed persons' register of designated persons able to seek advice.³⁶

The Commissioner also noted the issue of a lack of statutory time limits on nominations due to the Minister or Assistant Minister's nomination not being contingent on the person occupying a particular role. The Commissioner stated this means 'the relevance of the nomination is not contingent upon those individuals occupying any particular role, or indeed, that they even occupy a public service role or are, or were, an elected official'.³⁷

The Commissioner referred to section 40 of the Integrity Act, which provides limited protection for acting on conflict of interest advice, and questioned whether it was 'intended that this section of the Act would extend such unique protections to private citizens'.³⁸

3.2 Alternative sources of integrity advice

The Reviewer considered alternative sources of integrity advice available to persons nominated by a Minister or Assistant Minister and other categories of designated persons, including:

- mayors and councillors

³² Report, pp 31-32.

³³ Submission 8, p 9.

³⁴ Submission 8, p 9.

³⁵ Submission 8. p 9.

³⁶ Submission 8, p 10.

³⁷ Submission 8, p 10.

³⁸ Submission 8, p 10.

- Queensland Health and Queensland Ambulance senior officers
- public service senior officers
- designated persons who can access the Commissioner’s advice up to 2 years post separation.³⁹

The Reviewer referred to the ‘duplication and overlap in advice available to some groups of designated persons’ as ‘costly and inconsistent with jurisdictional responsibilities’.⁴⁰ The Report listed alternative sources of advice identified by the Reviewer for the above four categories of designated persons (see Table 2 below).

Table 1: Alternative sources of advice for specific designated persons identified by the Reviewer

Designated persons	Available source of integrity advice	Available advice
Mayors and Councillors	Office of the Independent Assessor	Education and training
	Local Government Division of the Department of State Development, Infrastructure, Local Government and Planning	General advice on integrity matters
	Local Government Association of Queensland (LGAQ)	General advice on integrity matters
	Access legal advice as required	Legal advice
Queensland Health and Queensland Ambulance Service senior officers and equivalents	Queensland Health Ethical Standards/Integrity Units	Ethics and/or integrity issues, including conflict of interest matters
	Queensland Health policy and procedure	Operationalised requirements regarding ethical conduct
Public service senior officers	Departmental Ethical Standards/Integrity Units	General advice on integrity matters Codes of conduct with guidelines for application Education and training Monitoring and compliance functions
Designated persons with access to the Commissioner’s advice up to 2 years post separation [^]	Public Service Commission	Public Service Commission policy on post separation conduct
	The department in which the person is/was employed	Departmental policy
	Access legal advice as required	Personal legal or contractual matters

Source: Created from information contained in Kevin Yearbury PSM, *Strategic Review of the Integrity Commissioner’s Functions*, 30 September 2021, pp 33, 35, 37.

Note: [^] The Reviewer recommended this category of persons access the Commissioner for advice in relation to related lobbying activity.

In addition to the issue of duplication, the Reviewer suggested that ‘to continue to include Mayors and Councillors as designated persons eligible to seek the advice of the Integrity Commissioner would seem not to be consistent with the original intent and purpose of the [Integrity] Act’.⁴¹

Further to this, the Reviewer also noted:

The administration of Local Government is governed by an Act of Parliament which prescribes the legal obligations and the standards to apply to Mayors and Councillors in the exercise of their responsibilities.

³⁹ Report, p 32.

⁴⁰ Report, p 32.

⁴¹ Report, p 32.

Since 2018, when Mayors and Councillors were nominated as designated persons, there has been a strengthening of the local government institutional integrity framework including with the establishment of the Office of the (Local Government) Independent Assessor. Mayors and Councillors have access to advice on matters of integrity (including managing conflicts of interest) from entities with specialist knowledge of that jurisdiction.

To continue to have Mayors and Councillors able to access to the Integrity Commissioner for advice is not only a duplication but inefficient given the Integrity Commissioner needs to acquire the specialist knowledge that already resides in the Local Government Division (DSDILGP), the LGAQ and the Office of the Independent Assessor.⁴²

The Reviewer found that if recommendation 2 is adopted, 'Mayors and Councillors would cease to have access to Integrity Commissioner advice. They would instead obtain such advice from appropriate agencies within the local government sector'.⁴³

Similarly, the Reviewer stated that designated persons from Queensland Health and Queensland Ambulance Service (nominated by the Minister for Health and Minister for Ambulance Services),⁴⁴ can now access advice from the Ethical Standards/Integrity Units within Queensland Health. The Reviewer noted these units are staffed with people able to provide advice to Hospital and Health Services employees on ethics and/or integrity issues, including conflict of interest matters, with the advice informed by 'the codes of conduct, approved standards and legislation relevant to their employment (material upon which advice from the Integrity Commissioner would be similarly based)'.⁴⁵

Therefore, if Recommendation 2 is adopted and district senior officers cease to have direct access to Integrity Commissioner advice, 'these persons will still have access to such advice through the Ethical Standards/Integrity Units within Queensland Health' and 'all senior executives within the Ministers nomination would continue to have access to Integrity Commissioner advice by virtue of "a senior executive" being a designated person'.⁴⁶

3.2.1 Stakeholder views

The Integrity Commissioner disagreed with the Reviewer's view that the inclusion of mayors and councillors is not consistent with the original intent and purpose of the Integrity Act, telling the committee:

My understanding of the original intent of this office—and there I am referencing material I have read from 2003 to 2009 by former commissioners— is that the advice functions should be extended to all persons who are making significant public interest decisions, particularly where there were large whether it is applications or public funds being expended. In my view, mayors and councillors are more likely to make those types of decisions on a day-to-day basis than say, for example, senior officers, senior executives and their equivalents.

In my view, mayors and councillors are elected officials. They make very substantial decisions in relation to public interest matters each day so, in that, I would disagree with Mr Yearbury.⁴⁷

⁴² Report, p 33.

⁴³ Report, p 33.

⁴⁴ District senior officers and health executives employed under the *Hospital and Health Boards Act 2011*, the Queensland Ambulance Service Commissioner and 'senior executive' equivalent under the *Ambulance Service Act 1991*.

⁴⁵ Report, p 34.

⁴⁶ Report, p 34.

⁴⁷ Public hearing transcript, Brisbane, 14 March 2022, p 4.

However, the Integrity Commissioner advised that if the committee recommends and the government subsequently agrees that the advice functions continue to be extended to mayors and councillors, she believes 'it would take four full-time equivalent lawyers' to provide the necessary advice.⁴⁸

The Office of the Independent Assessor (OIA) advised the committee that when the report was prepared, the OIA was available to provide advice to mayors and councillors. However subsequent to the Reviewer's report, the Ministerial Direction to the OIA to provide advice, training and information to councillors, local government employees, local governments and other persons about alleged suspected inappropriate conduct, misconduct and corrupt conduct, was revoked. The OIA advised it 'has not provided any advice or information to mayors and councillors following the revocation of the Ministerial Direction'.⁴⁹

At the public hearing, the OIA referred to two areas where the Integrity Commissioner had previously been engaged. The first was working with the OIA to provide guidance to the local government sector on integrity standards and strategies to deal with complex issues such as conflicts of interest. The second area was providing one-on-one advice to mayors and councillors, predominantly in relation to conflict of interest issues.⁵⁰

In reference to providing guidance to the local government sector on integrity standards and strategies to deal with complex issues such as conflicts of interest, the OIA told the committee:

The department itself is now providing advice on recurring high-risk areas of misconduct and strategies to manage complex issues, and at present no-one is providing advice on what the guiding principles are or in what circumstances the OIA would prosecute or not prosecute misconduct in the public interest.⁵¹

Regarding the one-on-one advice previously provided by the Integrity Commissioner, which the Independent Assessor stated as being 'in the order of 425 advices provided to mayors and councillors', the OIA told the committee 'this one-on-one advice is now provided by the department, by the LGAQ and by a range of external legal firms across Queensland that are engaged to provide advice to local government officials'.⁵²

The OIA referred to the importance of the advice provided to mayors and councillors on conflict of interest due to their involvement in 'high-value, high-volume, high-frequency decisions', the complexity of legislation dealing with conflicts of interest, and the connections local government members often have with the community.⁵³ The OIA raised the following issues with the provision of advice by groups other than the Integrity Commissioner:

- there is an 'increasing tendency to source external legal advice', which comes at a 'significant cost' to councils and ratepayers through 'insurance premiums paid to the LGAQ-established Local Government Mutual Services', while advice previously provided by the Integrity Commissioner did not come at a cost to local government
- a lack of consistency in the advice given by the department, the LGAQ and 'a broad range of legal firms across Queensland'
- the advice received from other external parties does not provide mayors and councillors with any statutory protection, whereas 'If the councillor does an act to resolve a conflict of interest substantially in accordance with the Integrity Commissioner's advice on that issue then they are

⁴⁸ Public hearing transcript, Brisbane, 14 March 2022, p 4.

⁴⁹ Submission 2, pp 1-2.

⁵⁰ Public hearing transcript, Brisbane, 14 March 2022, p 14.

⁵¹ Public hearing transcript, Brisbane, 14 March 2022, p 14.

⁵² Public hearing transcript, Brisbane, 14 March 2022, p 14.

⁵³ Public hearing transcript, Brisbane, 14 March 2022, p 14.

not liable in either civil proceedings or in an administrative process, which would include disciplinary proceedings'.⁵⁴

The OIA also advised the committee that the only mandatory training on conflict of interest requirements 'is a session that is provided to all potential councillors before they nominate to become part of local government or run for local government'. According to the OIA, 'Once someone becomes a councillor there is no mandatory training. Training is made available by the department, it is made available by the LGAQ, but whether mayors and councillors attend that training is on a voluntary basis'.⁵⁵

3.2.2 Committee comment

The committee notes the Reviewer's comments about the duplication and overlap in advice structures for mayors and councillors, as well as the strengthening of the local government institutional integrity framework, and supports the review's recommendation that local government members not be included as part of the Integrity Commissioner's advisory function.

3.3 Senior officers seeking Integrity Commissioner advice without the knowledge of their Chief Executive

The strategic review noted that, under section 12(1)(d) of the Integrity Act, a senior officer 'can unilaterally seek advice from the Integrity Commissioner', and because of the confidentiality provisions in the Act, 'there is no obligation on the senior officer to inform the Chief Executive they have sought advice, the nature of that advice and whether they are acting upon it. Yet every subsequent action taken by that senior officer in relation to the matter is done as an agent of, and under the auspices of, the department'.⁵⁶

As a result, although under the *Public Service Act 2008* (PSA), 'the Chief Executive is responsible for the ethical conduct of their staff and accountable for the proper governance of their department',⁵⁷ the Reviewer stated 'because of the way Section 12 (1) (d) operates they are left without the capacity to do so'.⁵⁸

Accordingly, the Reviewer considered 'the practical effect' of s 12(1)(d) 'seems inconsistent with the accountabilities of both the Chief Executive and a public servant under the PSA'.⁵⁹

Further, the Report commented that public servants seeking the Commissioner's advice without agency oversight may also pose a risk to the Commissioner:

Since the Integrity Commissioner cannot disclose to a third-party (including to the Chief Executive of the department) that a request has been received they are left with only the advisee's version of the circumstances upon which to base the advice. The senior officer may not be fully conversant with the full corporate context of the matter, leaving the Integrity Commissioner somewhat exposed.⁶⁰

Due to the emergence and maturation of Ethical Standards/Integrity Units as part of the governance apparatus of departments and agencies, which often 'go beyond just providing advice', the Reviewer found:

⁵⁴ Public hearing transcript, Brisbane, 14 March 2022, p 15.

⁵⁵ Public hearing transcript, Brisbane, 14 March 2022, p 16 and et.

⁵⁶ Report, pp 34, 35.

⁵⁷ *Public Service Act 2008*, ss 11, 91 & 98; Report p 35.

⁵⁸ Report, p 35.

⁵⁹ Report, p 35.

⁶⁰ Report, p 35.

Any advice a senior officer wishes to seek from the Integrity Commissioner would have to do with discharging their duties as a public servant within a government agency. It is therefore reasonable and appropriate, that consultation first occurs with the Ethical Standards/Integrity Units of their department.

This would not prevent the integrity unit and employee agreeing Integrity Commissioner advice be obtained through the Chief Executive if the matter warranted it. If the employee felt staff of the integrity unit were themselves conflicted in respect of the matter, they could approach the Chief Executive directly to frame a request to the Integrity Commissioner.⁶¹

Review recommendation 3

Given senior officers have access to an alternative source of advice through their agencies' Ethical Standards/Integrity Units, the Reviewer recommended (review recommendation 3):

Section 12 (1) (d) of the Act that enable a "senior executive or senior officer" to unilaterally seek advice from the Integrity Commissioner be amended to omit "senior officer".

There is a large cohort of "senior officers" within the public sector who have access to advice through departmental structures. The effect of this recommendation would be to eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a departmental officer below the executive level in departments. This is consistent with the accountability Chief Executives have under the Public Service Act for ensuring their agency acts with integrity and the ethical conduct of its employees.⁶²

3.3.1 Stakeholder views

Further to the issue of the increase in the number of people eligible to seek advice, the Commissioner noted in her submission that the 'number of senior officers and senior officer 'equivalents' employed in the public service has greatly increased over the past two decades', and is now likely 'well into the thousands'.⁶³

The Commissioner also noted her agreement with the Reviewer's assessment regarding the maturing of the institutional integrity framework, stating that the 'public sector governance has improved over time with alternative and more appropriate mechanisms now in place to assist senior officers and senior officer equivalents'.⁶⁴

The Commissioner advised the types of advice sought by senior officers and senior officer 'equivalents' includes advice:

- to lend weight to a particular personal view or position that they hold on a matter when the matter has already been determined by the relevant responsible person (typically a supervisor)
- about matters that do not relate to an ethics or integrity issue of their own
- as to the adequacy of procedures and processes within their department, which are the responsibility of the chief executive officer to determine, or
- about their post-separation obligations in relation to private employment agreements with future, non-government, employers.⁶⁵

3.3.2 Committee comment

Given the number of senior officers within the public service, the inability of Chief Executives to meet their responsibilities if they aren't aware of advice being sought and how that subsequently impacts on decision-making, and the inherent difficulties in providing advice if the senior officer is not

⁶¹ Report, p 36.

⁶² Report, p 36.

⁶³ Submission 8, p 11.

⁶⁴ Submission 8, p 11.

⁶⁵ Submission 8, p 11.

cognisant of the context or seeks advice not able to be provided, the committee supports review recommendation 3.

3.4 Designated persons with access to the Integrity Commissioner up to 2 years post separation

The Report noted that the Commissioner received 26 requests for post separation advice in the 2020-21 reporting year (11% of all requests), the majority of which 'were rejected since they related to personal legal or contractual matters'.⁶⁶ The Report stated that 'whether an individual's action is in accordance with a departmental standard or might breach any legal contractual obligations is a matter of law and the Commissioner is not in a position to provide such advice'.⁶⁷

The strategic review found that administrative efficiencies would flow from a clearer distinction between the Commissioner's jurisdiction to provide advice in relation to related lobbying activity and the jurisdiction of the departments and the Public Service Commission (PSC) to advise on dealings between public sector employees and former designated persons that do not relate to lobbying.⁶⁸

Review recommendation 4

To address the above, the Reviewer recommended:

In relation to advice able to be sought by designated persons "post separation", consideration be given to Section 20A (2) of the Act being amended to clarify that:

- a) in respect of a designated person who is a former public servant Integrity Commissioner advice does not extend to contractual matters pertaining to post separation obligations, (in recognition the Integrity Commissioner being unable to provide legal advice), or
- b) advice in respect of a designated person who is a former public servant is limited to related lobbying activity.⁶⁹

3.4.1 Stakeholder views

The Commissioner submitted that as a general proposition, the Commissioner 'will provide detailed advice about post-separation restraints as they relate to lobbying activities, based on a specific set of facts'.⁷⁰

However, the Commissioner advised she is not able to provide advice on 'the specific application of the various standards relating to post-separation obligations arising from a private legal instrument entered into between a person and their government employer, and/or a person and their new employer' because they are 'essentially legal questions about a person's personal obligations and are to be resolved by reference to established legal principles'. The Commissioner noted that these are not substantive ethics matters.⁷¹

The Commissioner again raised the issue of private citizens being covered by such as provision, stating she 'questions whether it was the intent of the Act to extend such protections to private citizens, particularly where proceedings relate to private issues such as contractual matters between an advisee and a non-Government third-party entity'.⁷²

⁶⁶ Report, p 37.

⁶⁷ Report, p 37.

⁶⁸ Report, p 37.

⁶⁹ Report, p 37, emphasis added.

⁷⁰ Submission 8, p 12.

⁷¹ Submission 8, p 12.

⁷² Submission 8, p 13.

3.4.2 Committee comment

The 2015 strategic review recommended former designated persons continue to receive access to the advice services of the Integrity Commissioner for a period of two years after leaving office, with the recommendations supported by the then FAC.⁷³

The committee recognises the benefits in such persons receiving advice, but agrees with the Reviewer that greater clarification is needed on the role of the Commissioner in providing advice. The committee supports the intent of review recommendation 4 and recommends the government consider legislative amendments to clarify the role of the Integrity Commissioner in providing post-separation advice.

3.5 Ministerial staff seeking Integrity Commissioner advice without the knowledge of their Minister

The strategic review noted that, under section 12(1)(f) of the Integrity Act, a ministerial staff member (a designated person) who gives, or a person engaged to give, advice to a Minister can 'unilaterally' seek the Commissioner's advice on ethics and integrity issues.⁷⁴ A similar provision applies at section 12(1)(g) of the Integrity Act in relation to a staff member of an Assistant Minister.⁷⁵

The Reviewer considered that a Minister cannot fulfil their obligation under the Ministerial Handbook to ensure a staff member is complying with the code of conduct for ministerial staff members if the Minister is left uninformed of advice being sought by that staff member and the purpose of it.⁷⁶

Further, given ultimate accountability for actions taken in the name of the ministerial office rests with the Minister, the Reviewer considered the Minister may have particular matters they wish to be included in the request for advice.⁷⁷

The strategic review found that the 'current situation leaves Ministers exposed to consequences of actions taken by a staff member based on advice of which the Minister may have no knowledge'.⁷⁸

Review recommendation 5

The above finding is reflected in review recommendation 5:

To ensure Ministers and Assistant Ministers are aware of Integrity Commissioner advice being sought by a member of their staff and full contextual information is provided to the Integrity Commissioner:

- a) Section 12 (1) (f) of the Act (that allows a Ministerial staff member who gives, or person engaged to give, advice to a Minister to unilaterally seek the Integrity Commissioner's advice) be amended to read "Chief of Staff with the knowledge of the Minister", and
- b) Section 12 (1) (g) of the Act (that allows an Assistant Minister staff member who gives, or person engaged to give, advice to an Assistant Minister to unilaterally seek the Integrity Commissioner's advice) be repealed, and
- c) Section 17 (d) of the Act (that provides for a Minister to ask for the Integrity Commissioner's advice on an ethics or integrity issue) be amended to read "a Ministerial staff member who gives, or a person engaged to give, advice to a Minister", and

⁷³ Finance and Administration Committee, Inquiry into the Report on the Strategic Review of the functions of the Integrity Commissioner, December 2015, p 9.

⁷⁴ Report, p 37.

⁷⁵ Report, p 37.

⁷⁶ Report, pp 36-37.

⁷⁷ Report, p 38.

⁷⁸ Report, p 38.

- d) Section 18 (a) (that provides for an Assistant Minister to ask for the Integrity Commissioner's advice on an ethics or integrity issue) be amended to read "an Assistant Minister staff member who gives, or a person engaged to give, advice to the Assistant Minister".

3.5.1 Stakeholder views

The Commissioner supported this recommendation in full, stating:

It has been the experience of the current Integrity Commissioner that, on occasion, ministerial staff have sought advice about a matter related to a Minister without that Minister's knowledge or consent (whether intentional or not). Further, on occasion, more than one ministerial staff member has sought advice about the same matter relating to a Minister and has been unaware of the duplication of requests. Additionally, matters affecting ministerial staff have the potential to reflect adversely on their Minister if they are not disclosed and managed adequately.⁷⁹

3.5.2 Committee comment

The committee supports the review's recommendation 5 and recommends the Act be amended accordingly.

3.6 Disclosure provisions

Strict secrecy provisions apply to the Commissioner and the Commissioner's office, with a penalty of up to 85 penalty units (currently \$11,717.25) or one year's imprisonment for unauthorised disclosure.⁸⁰ In addition, documents created and received by the Commissioner in the course of providing advice on ethics or integrity issues are exempt from the *Right to Information Act 2009*.⁸¹

The Integrity Act provides for 'authorised disclosures' of 'relevant documents' including:

- a request for advice on an ethics, integrity or interests issue
- information given to the Commissioner as part of a request for advice on an ethics, integrity or interests issue
- further information requested by the Commissioner and provided upon request of the Commissioner
- written advice given by the Commissioner on an ethics, integrity or interests issue
- written reasons of the Commissioner for refusing to give advice.⁸²

A recipient of ethics, integrity or interests advice is authorised to disclose the Commissioner's advice and other 'relevant documents' relating to themselves if they so choose.⁸³

Under certain circumstances set out in the Integrity Act, if requested, the Commissioner must provide 'relevant documents' relating to ethics and integrity requests to:

- the Premier—in relation to a designated person other than a non-government Member of Parliament, a senior executive, a senior officer or a senior officer equivalent⁸⁴
- the responsible Minister—in relation to a statutory office holder, a chief executive of a department or public service office administered by the Minister or nominated as a designated

⁷⁹ Submission 8, p 13.

⁸⁰ Integrity Act, s 24(1).

⁸¹ *Right to Information Act 2009*, schedule 1(6).

⁸² Integrity Act, ss 25, 34.

⁸³ Integrity Act, s 27, 36.

⁸⁴ Integrity Act, s 29.

person by the Minister, or a ministerial adviser, or a person or person within a class of person, nominated by the Minister as a designated person⁸⁵

- an Assistant Minister—in relation to that Assistant Minister’s ministerial adviser⁸⁶
- the Leader of the Opposition—in relation to members of their own party⁸⁷
- a chief executive of a department or public service office—in relation to a chief executive or senior officer equivalent employed in the entity the chief executive manages.⁸⁸

Similarly, the Integrity Act sets out circumstances in which the Commissioner must provide ‘relevant documents’ relating to interests issues to the Premier and the Leader of the Opposition.⁸⁹

The Reviewer considered issues with the disclosure provisions, particularly the misuse of confidentiality by designated persons representing a position as being informed by advice from the Commissioner ‘knowing full well that the advice will not be disclosed’ and not able to be verified,⁹⁰ and the inability of the Commissioner to correct false and misleading statements by an individual, ‘including in instances where no advice has been provided at all’.⁹¹

However, the Reviewer also identified potential issues should the provisions be amended:

- The breach of confidentiality that could arise if the Commissioner were to have to ‘set the record straight’ in circumstances in which an individual falsely claimed to have sought the Commissioner’s advice, and the Commissioner needing to retract their statement if the individual later sought the Commissioner’s advice.⁹²
- Should a call for a requirement for advice to be released ‘if an individual states they have “been to” the Integrity Commissioner’,⁹³ such a requirement would ‘fundamentally change the core concept of the Act’ as individuals would be deterred from seeking advice, thus ‘reducing the value and efficacy’ of the Commissioner’s role.⁹⁴
- The possibility of a person exercising the right to confidentiality provided by the Act and choosing to not disclose they are the recipient of Integrity Commissioner advice nevertheless being asked to confirm if this is the case, and if obliged to do, seeing them denied the very confidentiality to which they are entitled and sought to exercise.⁹⁵
- The difficulties associated with releasing a version of the Commissioner’s advice, redacted of sensitive information as agreed with the Commissioner, given this may result in the Commissioner being ‘sought to be drawn into a debate as to the validity of the advisee’s subsequent actions’, which could compromise the independence of the Commissioner.⁹⁶

The Reviewer noted ‘the Act is clear that individuals are responsible for conducting themselves in an ethical manner and with integrity including in managing conflicts of interest’ with the Integrity Act

⁸⁵ Integrity Act, s 30 with s 17.

⁸⁶ Integrity Act, s31 with s 18.

⁸⁷ Integrity Act, s 32.

⁸⁸ Integrity Act, s 33 with s 20(1).

⁸⁹ Integrity Act, ss 38, 39. ‘Relevant documents’ relating to interests are defined in s 34 of the Integrity Act.

⁹⁰ Report, p 39.

⁹¹ Report, p 39.

⁹² Report, p 40.

⁹³ Report, p 39.

⁹⁴ Report, p 39.

⁹⁵ Report, pp 39-40.

⁹⁶ Report, p 39.

containing ‘no provisions that portray the Integrity Commissioner as the watchdog on conflicts of interest, as if to reinforce the point that responsibility and accountability for ethical conduct rests with the individual alone’.⁹⁷

According to the Reviewer, ‘there are other mechanisms to hold people accountable for claims made regarding communications with the Integrity Commissioner’, such as PSC and agency specific codes of conduct for public servants, and the scrutiny of the political process, including on the floor of the Parliament, referrals to the CCC and the media, for Members of Parliament.⁹⁸

The Reviewer commented that the principle of confidentiality ‘is considered essential to the Integrity Commissioner being able to discharge the purpose and function of the role to its fullest extent’.⁹⁹ The Reviewer concluded:

The relevance and utility of such advice is dependent on an individual being able to fully disclose all relevant information (often of a sensitive personal nature) confident that such information and associated communication will be protected.

A change to the confidentiality [sic] provisions to require disclosure of advice in the event an individual makes reference to having received it could dissuade, if not deter, others seeking of such advice. It could also constrain the information provided to the Integrity Commissioner to the point that the Act's efficacy is significantly impaired.

The independence of the Integrity Commissioner could be compromised if the merits of such advice become the subject of debate, should there be some argument as to whether or not it had been appropriately followed.

...

To require the disclosure of advice, even if only in circumstances where an individual declares to be in possession of it, would be to cause a fundamental shift in the core concept of the Act.¹⁰⁰

Review recommendation 6

The Reviewer recommended (review recommendation 6) ‘there be no change to the disclosure provisions of the Act designed to ensure confidentiality surrounds the requesting and the provision of advice’.¹⁰¹

3.6.1 Stakeholder views

The Commissioner supported review recommendation 6, stating ‘confidentiality is the cornerstone of the Integrity Commissioner’s advice function, and is essential to encourage designated persons to seek advice from the Integrity Commissioner’.¹⁰²

The Commissioner also referred to the Integrity Act providing for the authorised disclosure of advice in certain circumstances, and the ability for advisees to exercise their discretion to disclose advice and all advice letters provided by the Integrity Commissioner.¹⁰³ The Commissioner added, it is her view:

... that if an advice is disclosed, it ought to be disclosed in full in the interests of integrity and transparency. This ensures that there can be no uncertainty as to the facts of the situation as provided to the Integrity

⁹⁷ Report, p 40.

⁹⁸ Report, p 40.

⁹⁹ Report, p 40.

¹⁰⁰ Report, pp 6, 40.

¹⁰¹ Report, p 41.

¹⁰² Submission 8, p 14.

¹⁰³ Submission 8, p 14.

Commissioner by the advisee, and the factors upon which the Integrity Commissioner formed their view.¹⁰⁴

3.6.2 Committee comment

The committee supports the Reviewer's recommendation that there be no change to the disclosure provisions of the Integrity Act designed to ensure confidentiality surrounding the request and the provision of advice.

3.7 The provision of declarations of interests by statutory office holders and public service chief executives

Pursuant to s40E of the Integrity Act, statutory office holders must provide the Integrity Commissioner with a copy of their declaration of interests statement within one month of their appointment or reappointment, and provide a revised version of the statement as soon as possible after a change to the officer's interests.¹⁰⁵ The PSA places a similar obligation on chief executives of government departments.¹⁰⁶ The Reviewer identified that receipting and filing those declarations of interest 'adds a significant workload burden' on the office of the Integrity Commissioner.¹⁰⁷

The Reviewer noted that statutory office holders 'are required to provide their Declarations of Interest to the appropriate Minister and/or Parliamentary Committee' and 'Chief Executives provide their Declarations of interest to their Minister and the Public Service Commissioner, and they are posted on the Public Service Commission (PSC) website'.¹⁰⁸ The strategic review found it was 'unclear to both the Integrity Commissioner and stakeholders' as to why the declarations of interest must be provided to the Commissioner and they 'are not imperative' to the Integrity Commissioner's advice function.¹⁰⁹ Accordingly, the strategic review found 'lodging the Declarations of Interest with the Integrity Commissioner is an unnecessary duplication as it serves no useful purpose in the performance of the Integrity Commissioner's functions'.¹¹⁰

Review recommendation 7

The Reviewer recommended (review recommendation 7):

Relieve the Integrity Commissioner of administrative processes that have no relevance to the function by:

- a) the repeal of Section 40E of the Act (that requires Statutory Office Holder Declaration of Interests be filed with the Integrity Commissioner), and
- b) amending Section 101 of the PSA to remove the requirement for Chief Executive Declarations of Interest be provided to the Integrity Commissioner.

Statutory Officers are required to provide a Declaration of Interests to the appropriate Minister and/or Parliamentary Committee to which the officer holder is accountable. The Integrity Commissioner has no statutory function to perform in relation to the declarations. The effect of the recommendation would relieve the Integrity Commissioner of an administrative responsibility that has no relevance to the function¹¹¹.

¹⁰⁴ Submission 8, p 14.

¹⁰⁵ Integrity Act, s 40(E). The change to the officer's interests is of the type prescribed by a directive of the Public Service Commission chief executive: *Public Service Act 2008*, s 101(4)(b).

¹⁰⁶ *Public Service Act 2008*, ss 101, 102.

¹⁰⁷ Report, p 41.

¹⁰⁸ Report, p 41.

¹⁰⁹ Report, p 41.

¹¹⁰ Report, p 41.

¹¹¹ Report, pp 41-42.

3.7.1 Stakeholder views

The Commissioner supported this recommendation in full, advising:

The Integrity Commissioner does not have the requisite level of familiarity [sic] with the scope of matters an individual might be involved with to be able to gauge, from the limited information contained in a declaration of interest, whether an individual might have a perceived or actual conflict of interest.

Further, the Integrity Commissioner is limited to only providing advice when requested, and ascertains the full facts from the advisee at that time.¹¹²

3.7.2 Committee comment

The committee supports the review's recommendation 7 given it eliminates an unnecessary duplication of the provision of declarations of interests by statutory office holders and public service chief executives that does not support or assist the Integrity Commissioner in the performance of the position's legislated functions.

¹¹² Submission 8, p 15.

4 Lobbying regulation function

Under the Integrity Act, one of the Commissioner's functions is to administer the regulation of lobbying activities, which includes maintaining Queensland's Lobbyists Register, approving a lobbyists code of conduct and having responsibility for the registration of lobbyists.¹¹³ At the time of the strategic review, the Lobbyists Register had 123 entities and 277 registered persons listed.¹¹⁴

Chapter 4 of the Integrity Act provides a system for the regulation of lobbyists, based on a requirement that 'a government representative or Opposition representative must not knowingly permit an entity that is not a registered lobbyist to carry out a lobbying activity for a third party client with the government representative or Opposition representative'.¹¹⁵

With respect to the Commissioner's lobbying regulation function, the terms of reference of the strategic review required the Reviewer to consider:

- whether the existing provisions of the Act are appropriate and effective in regulating contact between lobbyists and government and Opposition representatives, including by former government and Opposition representatives, having regard to public expectations of transparency and integrity
- whether specific investigative powers are required to effectively regulate lobbying activities.¹¹⁶

In considering those two matters, the Reviewer identified the following issues:

- whether the definition of a lobbyists is appropriate for the purposes of achieving the desired degree of transparency of lobbying activity,
- the adequacy of the provisions requiring the reporting of, and dealing with, unregistered lobbying,
- the powers of the Integrity Commissioner in ensuring compliance with provisions of the Act,
- the appropriateness of the Integrity Commissioner having powers to investigate matters of noncompliance,
- the effectiveness of the Lobbyists Register in providing transparency in respect of lobbying activity, and
- potential for conflicts of interest when consultancy firms with clients impacted by government policy have employees who work to government, and lobbyists who work with political parties and also represent clients seeking to influence government policy.¹¹⁷

The Reviewer explored each of these issues 'within a conceptual framework', balancing the following principles:

- lobbying (if conducted ethically) is a legitimate activity,
- transparency brings accountability that decisions taken are in accordance with public expectations of integrity and honesty and serve the public interest, and
- economy in the regulation required to achieve the desired degree of transparency. That is to say, the cost of administration and compliance does not produce a net public benefit, or one that is disproportionately small compared to the cost involved.¹¹⁸

¹¹³ Integrity Act, ss 7(1)(c), 49(1).

¹¹⁴ Report, p 46.

¹¹⁵ Integrity Act, s 71(2).

¹¹⁶ Report, Appendix A, p 87.

¹¹⁷ Report, p 44

¹¹⁸ Report, p 44.

4.1 Definition of ‘lobbyist’ for the purposes of achieving transparency

4.1.1 Balancing achieving lobbying transparency with economic efficiency and value

The Integrity Act defines ‘lobbyist’ as ‘an entity that carries out a lobbying activity for a third party client or whose employees or contractors carry out a lobbying activity for a third party client’.¹¹⁹

Submissions to the strategic review argued that in its current form the Integrity Act regulates only one type of lobbying, that undertaken by an entity on behalf of a third party.¹²⁰ The Reviewer commented that two groups are not captured by the definition of ‘lobbyist’:

- professional or technical experts who provide specialist professional advice to clients to assist in their representations to government (eg. accountants, lawyers, architects, engineers), and
- in-house lobbyists, that is, employees of an organisation or business who represent that entity’s interest to government and in the political process more generally.¹²¹

In considering whether to expand the definition of ‘lobbyist’ to include those two groups, the Reviewer noted the number of registered businesses in Queensland (approximately 280,000), including the number of larger firms that would ‘likely have employees engaging with government and Opposition representatives on matters affecting their own business interests’ (approximately 9,000). The Reviewer also commented that the Commissioner’s office is ‘already under resourced’ in respect of administering the number of lobbyists on the Lobbyists Register.¹²²

In relation to professional or technical experts, the strategic review found they are ‘sometimes retained by a company in the course of representing their own interests to provide specialist advice within the field of their discipline’ and ‘this distinguishes them from those engaged specifically as a lobbyist’.¹²³

In relation to in-house lobbyists, the review found ‘the interests sought to be advanced is self-evident when a meeting is held with, or contact made by, employees representing a company or organisation’.

The Reviewer argued ‘the identity of those for whom third-party lobbyists act is not self-evident. The register is the mechanism that brings a similar level of transparency by identifying the beneficiaries third-party lobbying. That is the core concept on which the regulation is based.’¹²⁴

Endeavouring to balance ‘lobbying transparency with economic efficiency and value’,¹²⁵ the Reviewer found that ‘expanding the definition of lobbyist to include in-house lobbyists and professional or technical occupations with specialist expertise will incur a disproportionately high cost compared to the net overall result in terms of the transparency objective’.¹²⁶

However, in terms of transparency, the Reviewer found that while ‘transparency is achieved through the monthly release of Ministerial diaries’, ‘transparency would be enhanced if the purpose of the meeting or contact were to be specifically stated’.¹²⁷

Review recommendation 8

The above is reflected in review recommendation 8:

¹¹⁹ Integrity Act, 41(1).

¹²⁰ Report, p 45.

¹²¹ Report, p 45.

¹²² Report, p 46.

¹²³ Report, p 47.

¹²⁴ Report, p 47.

¹²⁵ Report, pp 46-67.

¹²⁶ Report, p 48.

¹²⁷ Report, p 47.

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

- a) the government provide more specific criteria as to the information that must be included in Ministerial diaries as to the purpose of the meeting, including the possibility of a pre-set menu of options, and
- b) the Leader of the Opposition's diary contain similar detail in respect of meetings with those employed within organisations and associations who represent that entity's own interests.¹²⁸

4.1.1.1 Stakeholder views – definition of lobbyist

Concerns were raised by a number of stakeholders that the current definition of lobbyist does not capture a large portion of the lobbying that takes place in Queensland.

Hawker Britton, a government relations firm, argued the current mechanisms of registration of third-party consultants, a public register of clients attributed to each consultant, and a public contact log of all interaction of third-party consultants and government allow 'for failures of transparency and accountability in the existing system' as it does not cover 'a large system of engagement of in-house government relations specialists, unregistered consultants and a murkier category of government contracted consultants retaining external clients'.¹²⁹ On the last category of potential lobbyists, Hawker Britton stated 'Entities that are working for government should not be lobbying into government on the same issues at the same time'.¹³⁰

Similarly, Crisis&Comms Co, another government relations firm, submitted that 'Queensland's measures around lobbying regulation do not capture the vast majority of lobbying activity for commercial and other purposes' because '...organisations, particularly those exposed to highly regulated industries (eg utilities and operators of large and critical infrastructure), may directly employ an in-house government relations or lobbying capability'. Crisis&Comms Co stated that, as a result, these organisations aren't captured by the requirements of the Integrity Act with respect to lobbying activities, such as declaring or publishing meetings, which reduces the potential for scrutiny by the media and the Parliament.¹³¹

Crisis& Comms Co told the committee 'Effectively, larger companies are let off the hook while firms, more likely to be small and medium in size, that do not have the resources to employ an in-house lobbyist must disclose more information. This is inequitable and unfair and has no basis in policy'.¹³²

Crisis&Comms Co also raised concerns about a person engaging with a government official, who may present themselves as a consultant (such as an accountant or lawyer), then being 'able to skirt Queensland's lobbying regulation' because they don't have to be registered 'even if their conduct is actually within the definition of "lobbying activity"'.¹³³

Hawker Britton called for an expansion of the definition of lobbyist to 'include all individuals with commercial contact with Government on behalf of a third party, their company or organisation or their commercial clients' so that such individuals would have a positive reporting requirement to disclose their contact with government.¹³⁴

Hawker Britton also recommended consideration be given to 'what conflict avoidance mechanisms are required to mitigate risk where government engages commercial advisory entities, such as

¹²⁸ Report, p 48.

¹²⁹ Submission 3, p 11.

¹³⁰ Public hearing transcript, Brisbane, 14 March 2022, p 11.

¹³¹ Submission 4, p 2.

¹³² Public hearing transcript, Brisbane, 14 March 2022, p 10.

¹³³ Submission 4, p 4.

¹³⁴ Public hearing transcript, Brisbane, 14 March 2022, p 11; submission 3, pp 11-12.

external consultants, who also have third party clients and what regulatory requirements should be placed on them'.¹³⁵

Crisis&Comms Co suggested the definition of lobbyist be simplified by 'removing the incidental lobbying activity exemption which relates to third parties representing the interests of private clients' because 'this exemption allows unregulated lobbying activity to be undertaken by any professional, and therefore incentivises structures to evade the intent of Queensland's lobbying regulation framework'.¹³⁶ At the public hearing, Crisis&Comms Co further proposed 'either the system in its current form should be extended to in-house lobbyists or alternatively there should be a return to the scheme initially in place requiring third-party lobbyists to disclose nonobvious information about whom they are representing'.¹³⁷

The Crime and Corruption Commission advised it 'appreciates the rationale for excluding in-house lobbyists from the legislative definition of "lobbyist", although notes the absence of any sort of cost-benefit analysis'.¹³⁸ However, the CCC argued that the rationale for excluding professional and technical services from the definition of 'lobbyist' is 'less compelling'.¹³⁹ The CCC advised that it 'in principle, supports the inclusion of in-house lobbyists and those providing professional and technical services, but accepts that more analysis needs to be undertaken to justify the added regulatory cost'.¹⁴⁰

At the public hearing, the CCC added:

While there may be regulatory costs associated with this, we believe it addresses an important corruption risk. In our view there is an obvious corruption risk posed by the in-house lobbyist arrangement. An entity which wishes to avoid lobbying restrictions may simply engage a lobbyist in what may be categorised as a sham employment arrangement in order to circumvent lobbying laws.¹⁴¹

Crisis&Comms Co argued that contrary to the view of the report that the resources required to regulate direct or in-house lobbying activity by organisations are greater than can be justified:

...it is possible to set simple thresholds on the companies whose lobbying is being regulated. A very simple method of doing so is the small and medium, versus large company thresholds used by the Australian Taxation Office in income tax assessments. This is known information and extremely simple for companies to apply. Equally charitable organisations and not-for-profits can also be excluded. For consistency, the same methodology might indeed also be applied to the clients of third party lobbyists.¹⁴²

Barton Deakin similarly supported a widening of disclosures where 'industry associations, major players, accounting, legal and other specialist entities' who 'frequently lobby on behalf of their clients and those interests are being advanced' are regarded as lobbying activities.¹⁴³ Barton Deakin told the committee that regulating direct or in-house lobbying activity by organisations is 'very low cost, no different to the cost we incur in registering our clients on a regular basis which is realistically only a minute or two of time online' and stated 'We do not believe it is an onerous expectation to do that and would bring much greater transparency on activities that are currently not visible to the public'.¹⁴⁴

¹³⁵ Submission 3, p 14.

¹³⁶ Submission 4, p 4.

¹³⁷ Public hearing transcript, Brisbane, 14 March 2022, p 10.

¹³⁸ Submission 6, p 2.

¹³⁹ Submission 6, p 2.

¹⁴⁰ Submission 6, p 2.

¹⁴¹ Public hearing transcript, Brisbane, 14 March 2022, p 7.

¹⁴² Submission 4, p 3.

¹⁴³ Public hearing transcript, Brisbane, 14 March 2022, p 11.

¹⁴⁴ Public hearing transcript, Brisbane, 14 March 2022, p 11.

4.1.1.2 Committee comment

While the committee acknowledges the concerns raised by submitters as to the definition of lobbyist, it is the committee's view that the current system is adequately designed for its purpose, that is, to identify those for whom third-party lobbyists act, thereby ensuring a level of transparency that would not otherwise be achieved.

The committee notes the Reviewer's statement that in relation to professional or technical experts, there is a distinction between those who are sometimes retained by a company in the course of representing their own interests to provide specialist advice within the field of their discipline and people or entities who are engaged specifically as a lobbyist.

In relation to in-house lobbyists, the committee also notes the Reviewer's statement that the interests of in-house lobbyists are self-evident when a meeting is held with government or opposition representatives.

4.1.1.3 Stakeholder views - Review Recommendation 8

In response to the recommendation that more specific information be included in Ministerial diaries about the purpose of the meeting, the Integrity Commissioner expressed her view that the recommendation 'relates to activity which is expressly excluded by section 41(3)(d) of the [Integrity] Act as being within the definition of the term 'lobbyist' under the Act', and added 'the Strategic Reviewer has not recommended that incidental lobbying be regulated by the Act'.¹⁴⁵

The Commissioner added that incidental lobbying activities occur '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 therefore, 'entities providing professional services which would otherwise meet the definition of lobbying activity are currently not required to be registered as lobbyists or to record contact with government representatives in the lobbyists register'.¹⁴⁶ The Integrity Commissioner provided the following example:

...if an employee of a multinational professional services firm met with a government representative on behalf of a third-party client, neither the firm nor the employee are required to be registered as lobbyists and the activity is considered to be 'incidental lobbying'.¹⁴⁷

Regarding the content of Ministerial diaries, the Commissioner advised 'The Queensland State Archives Ministerial Records Policy details the policy requirements for ministerial recordkeeping, including ministerial diaries', and therefore, the Integrity Commissioner submitted that 'Implementation of this recommendation would require an amendment to the current Queensland State Archives Ministerial Records Policy, with consideration given to how compliance would be monitored, noting that such activity does not fall within the meaning of 'lobbying' under the Act'.¹⁴⁸

The CCC advised that it supports the recommendation regarding ministerial diaries in principle, but took issue with the recommendation's narrow focus on Ministers and the Leader of the Opposition, stating:

Analysis of lobbying contacts shows that a large proportion of contact occurs with ministerial staff, where there is no corresponding publicly available diary. It also fails to address transparency of lobbying at the local government level.

¹⁴⁵ Submission 8, p 16.

¹⁴⁶ Submission 8, p 15.

¹⁴⁷ Submission 8, p 16.

¹⁴⁸ Submission 8, p 16.

Moreover, data shows that lobbying activity increases leading up to an election – the lead-up to an election is a “risk window” – and there is merit in considering whether lobbying of candidates, both at state and local level, should be brought within the scope of lobbying legislation.¹⁴⁹

The CCC submitted that, should a pre-set menu of options for the purpose of a meeting be included in Ministerial diaries, that menu should avoid including categories of ‘other’ or ‘commercial-in-confidence’, or alternatively require a short explanation of the subject matter. The CCC also suggested publishing the names of the persons who attended the meeting to ‘increase transparency and assist in promoting the proper management of conflicts of interest’.¹⁵⁰

To improve transparency, the CCC put forward the idea of an electronic disclosure system, such as that used for political donations in Queensland, and also suggested ‘a requirement for the publication of contact with lobbyists and all government and opposition representatives, such as is done with departmental gifts and benefits registers’.¹⁵¹

Hawker Britton supported the recommendation, advising ‘the current operation of the contact log is not fit for purpose’.¹⁵²

BRU Inc supported the proposal that more information be included in ministerial diaries, submitting:

One of the few information sources that the general public have available to them to be able to understand the power of the lobbying industry are ministerial diaries. These diaries should be available for all politicians no matter their level. The more information that is available to the general public the better. There has been disturbing trend to a decrease in accountability and transparency in government at all levels.¹⁵³

In contrast, Crisis&Comms Co stated that recommendation 8 would provide ‘limited additional transparency with respect to lobbying activities’ because ‘... the fact that Ministers spend a limited amount of time meeting with private companies is perhaps instructive that publication of greater detail of their meetings would not provide much additional insight or transparency with respect to direct lobbying by government’.¹⁵⁴

4.1.1.4 Committee comment

The committee notes recommendation 8 of the review.

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

The Reviewer considered the word ‘entity’ in the definition of a third-party lobbyist, and noted the Integrity Act does not specifically define ‘entity’.¹⁵⁵ The Reviewer found that the inclusion of the word ‘entity’ ‘presents some difficulties applying the provisions of section 71(1) of the Act relating to unregistered entities being prohibited from lobbying’.¹⁵⁶

Review recommendation 9

To provide greater clarity to the definition of a third-party lobbyist, the Report recommended (review recommendation 9) ‘while not broadening the definition of ‘lobbyist’ in Section 41 of the Act, provide

¹⁴⁹ Submission 6, p 2.

¹⁵⁰ Submission 6, p 2.

¹⁵¹ Submission 6, p 2.

¹⁵² Submission 3, p 4.

¹⁵³ Submission 7, p 4.

¹⁵⁴ Submission 4, p 3.

¹⁵⁵ Report, p 48.

¹⁵⁶ Report, p 48.

clarification as to the meaning of entity to include an individual, organisation or related party (as defined in the ASA 550 Auditing Standard).¹⁵⁷

4.1.2.1 Stakeholder views

The Commissioner expressed support for review recommendation 9 that the term ‘entity’ be defined in the same or similar terms to the ASA 550 Auditing Standard, ‘given the inherent commercial nature of lobbying activities and to remove any potential doubt regarding the application of the term ‘entity’ in the context of the Act’.¹⁵⁸

Hawker Britton supported the recommendation, in conjunction with an expansion to the definition of lobbyist, as noted in section 4.1.1.¹⁵⁹

The CCC suggested that the legislation should also include a definition of ‘employee’ because:

... at least currently, an “employee” of an entity carrying out a lobbying activity only for the purpose of representing the entity’s own interests is not a “lobbyist”, as defined (see section 41(4)(b) of the *Integrity Act 2009*). The CCC notes that there is a risk that a person who is, for all intents and purposes, a lobbyist may, to avoid the regulatory regime, represent themselves as an employee of an entity for whom they are engaging in lobbying activity (for example, by production of a letter from that entity), notwithstanding the absence of the usual hallmarks of an employee/ employer relationship.¹⁶⁰

The CCC also raised concerns with definition of ‘contact’ in section 42(3) of the Integrity Act, which includes a reference to ‘face-to-face meetings’, stating ‘Whilst the definition of contact appears to clearly intend for the meaning of it to be broad, the CCC is concerned that the words ‘face-to-face’ may be interpreted to limit the definition to only face-to-face meetings’.¹⁶¹

4.1.2.2 Committee comment

The committee supports the review’s recommendation 9 as a means of providing clarity to the definition of third-party lobbyist.

4.2 Clarification of reporting provisions

Under s 71 of the Integrity Act, a government representative or Opposition representative who is aware of unregistered lobbying activity occurring must provide details of the unregistered organisation and lobbyist to the Integrity Commissioner.

The Reviewer found that there is ‘some uncertainty as to whether Statutory Officers are captured within the definition of a government representative at Section 44’ of the Integrity Act. The Reviewer expressed a belief that ‘to all intents and purposes Statutory Officers are agents of the government. They should therefore be under the same reporting obligation as other government representatives’.¹⁶²

Review recommendation 10

For the avoidance of doubt, the Reviewer recommended (review recommendation 10) that ‘section 44 of the Act should be amended to include reference to Statutory Officers as responsible persons for reporting unregistered lobbying activity’.¹⁶³

¹⁵⁷ Report, p 48.

¹⁵⁸ Submission 8, p 16.

¹⁵⁹ Submission 3, p 3.

¹⁶⁰ Submission 6, p 3.

¹⁶¹ Submission 6, p 3.

¹⁶² Report, p 48.

¹⁶³ Report, p 49.

4.2.1.1 Stakeholder views

The Commissioner expressed support for this recommendation for the reasons given in the Report.¹⁶⁴

4.2.1.2 Committee comment

The committee notes recommendation 10 of the review.

4.3 Adequacy of provisions dealing with unregistered lobbying activity

The Integrity Act provides that an entity that is not a registered lobbyist must not carry out a lobbying activity for a third-party client. Furthermore, if a government or Opposition representative is aware that an entity seeking to carry out a lobbying activity for a third-party client is not a registered lobbyist, that person must give the entity's details to the integrity commissioner.¹⁶⁵

However, section 71 of the Integrity Act is silent on how the Integrity Commissioner should deal with unregistered lobbying activity when details are provided. The Reviewer considered that 'if there is no sanction for the conduct of unregistered lobbying the purpose of the Act is undermined'.¹⁶⁶

The Reviewer found that the Integrity Commissioner has no powers under the Integrity Act to deal with unregistered lobbying activity, or cases where lobbying activity continues to be conducted by an entity or individual whose registration has been cancelled under section 66 of the Integrity Act. The Reviewer found the absence of penalties or sanctions for unregistered lobbying impacts the effectiveness of the Integrity Act.¹⁶⁷

Review recommendation 11

To improve the effectiveness of the Integrity Act, the Reviewer recommended (review recommendation 11) that 'the Act should be amended to make unregistered lobbying activity an offence, together with penalties commensurate with those in other legislation for acts of deception intended to subvert the integrity of public administration'.¹⁶⁸

4.3.1.1 Stakeholder views

The Integrity Commissioner acknowledged the Reviewer's finding regarding the Integrity Act's silence on how to deal with unregistered lobbying and expressed support for this recommendation for the reasons given in the Report.¹⁶⁹

At the public hearing, the Senior Legal Officer for the Integrity Commissioner told the committee 'there is no head of power in the Integrity Act to actually investigate and prosecute unlawful lobbying' and added:

The only two avenues to investigate and prosecute unlawful lobbying, as matters stand, is either a referral to the Queensland Police Service for an investigation under section 204 of the Criminal Code or a referral to the Crime and Corruption Commission for an investigation under section 15 of the Crime and Corruption Act. Neither of those avenues are purpose-built for investigation and prosecution of unlawful lobbying.¹⁷⁰

The Commissioner noted that while section 204 of the *Criminal Code Act 1899* (Criminal Code) 'makes it a misdemeanour for a person without lawful excuse to do or omit to do any act in disobedience to the provisions of a public statute, in the absence of an express provision for an exclusive mode of proceeding', it 'is an archaic and rarely used section of the Criminal Code'. The Commissioner referred

¹⁶⁴ Submission 8, p 16.

¹⁶⁵ Integrity Act, s 71.

¹⁶⁶ Report, p 49.

¹⁶⁷ Report, p 49.

¹⁶⁸ Report, p 49.

¹⁶⁹ Submission 8, p 17.

¹⁷⁰ Public hearing transcript, Brisbane, 14 March 2022, p 4.

to the 'dearth of appellate consideration of s 204', and stated 'it is by no means clear that a breach of s 71 of the Act could be successfully prosecuted under s 204 of the Criminal Code'.¹⁷¹

Hawker Britton, BRU Inc and Crisis&Comms Co also supported recommendation 11.¹⁷²

The CCC advised it saw 'merit in also making contravention of the Lobbyists Code of Conduct and/or any directives issued by the Integrity Commissioner an offence, in order to provide another regulatory option (to be used in more serious cases of non-compliance) for registered lobbyists'.¹⁷³

At the public hearing, the CCC expanded on their support for making unregistered lobbying an offence, suggesting consideration be given to 'introducing an offence for persons to engage with unregistered lobbyists...there needs to be an appropriate disincentive to regulate both sides of the lobbying fence to dissuade not just the unregistered lobbyists but also the entities that are being lobbied by them'.¹⁷⁴

Hawker Britton told the committee 'it would be logical to have a dedicated head of power offence in terms of breaches of the lobbyist code of conduct', but in terms of where the offence should sit 'it would make the most sense to have an offence that sits with the third-party lobbyist for breaches of the lobbyist code of conduct and appropriate penalties therein'.¹⁷⁵

Crisis&Comms Co agreed, stating 'I think that where you are outside of the scheme there is no other way to sanction an individual for doing the wrong thing apart from not meeting with them, so an offence does make sense' but similarly did not agree with the CCC's proposal, stating 'I do not see value in government officials having an equal and opposite offence. I just think that is a little bit over the top. I think it is unnecessary'.¹⁷⁶

4.3.1.2 *Committee comment*

The committee notes review recommendation 11 is designed to deter unregulated lobbying.

4.4 The Integrity Commissioner's monitoring and compliance powers are limited

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

- the inability to compel departments, agencies or government representatives to provide meeting records
- the Act providing no mechanism to apply proportionate corrective action in the course of monitoring compliance
- there being no powers to investigate allegations of serious misconduct or noncompliance.¹⁷⁷

The following sections expand on these issues.

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

Under section 72A(2) of the Integrity Act, it provides that a government or Opposition representative may give the Integrity Commissioner information about a lobbyist or lobbying activity if the information may be relevant to the functions or powers of the Integrity Commissioner. According to

¹⁷¹ Submission 8, p 17.

¹⁷² Submission 3, p 4; submission 7, p 5; public hearing transcript, Brisbane, 14 March 2022, p 12.

¹⁷³ Submission 6, p 4.

¹⁷⁴ Public hearing transcript, Brisbane, 14 March 2022, p 7.

¹⁷⁵ Public hearing transcript, Brisbane, 14 March 2022, p 12.

¹⁷⁶ Public hearing transcript, Brisbane, 14 March 2022, p 12.

¹⁷⁷ Report, pp 49-50.

the Reviewer, the 'Integrity Commissioner relies on the provision of such information to be able to audit lobbyists contacts and to check compliance with the requirements of the Act'.¹⁷⁸

While the Integrity Commissioner has noted 'there has been a good level of cooperation when requests are made', the Reviewer found the 'Integrity Commissioner does not have powers under the Act to compel government representatives or Opposition representatives to provide meeting records or other information required to monitor compliance'.¹⁷⁹

The Reviewer considered that 'the discretionary nature of the provision would leave the Integrity Commissioner unable to fulfil compliance monitoring in circumstances where a responsible person declines to provide relevant information when asked' and referred to this as an 'impediment to the Integrity Commissioner undertaking compliance audits and monitoring lobbying activity'.¹⁸⁰

Review recommendation 12

To enable auditing of lobbyists records and monitor compliance, the Reviewer recommended (review recommendation 12), 'the Act be amended to require government representatives or Opposition representatives to provide meeting records and other relevant information when requested by the Integrity Commissioner'.¹⁸¹

4.4.1.1 Stakeholder views

The Integrity Commissioner advised an audit involves writing to each department of government and local government to request that a reconciliation be undertaken between locally held records of contact with lobbyists, the data entered on the lobbyists register for the preceding 12-month period, and for any discrepancy between the two to be reported to the Integrity Commissioner for assessment.

The Integrity Commissioner also requests that each chief executive of a department forward the Integrity Commissioner's request to each entity within the relevant ministerial portfolio to also undertake this exercise. However, the Integrity Commissioner advised the 'audit is limited to discrepancies reported to the Integrity Commissioner by those public authorities who were aware of the audit and chose to assist the Integrity Commissioner in this initiative'.¹⁸²

According to the Integrity Commissioner, the audit is designed to:

negate the need for public authorities to provide the Integrity Commissioner with the authority's locally held records.... by encouraging public authorities to meet their obligations under section 7 of the PRA [Public Records Act 2002] whilst also minimising the administrative impediments which would arise under section 8 of the PRA if the Integrity Commissioner was required to reconcile the records.¹⁸³

The Integrity Commissioner agreed with recommendation 12, and requested the recommendation be expanded to 'also require government representatives or Opposition representatives to assess the accuracy of their meeting records when requested to do so by the Integrity Commissioner, and to report any discrepancies to the Integrity Commissioner'.¹⁸⁴

The CCC also expressed its support for this recommendation, while BRU Inc advised it 'welcomes any legislation that increases the level of accountability and transparency in government'.¹⁸⁵

¹⁷⁸ Report, p 50.

¹⁷⁹ Report, p 50.

¹⁸⁰ Report, p 50.

¹⁸¹ Report, p 50.

¹⁸² Submission 8, p 18.

¹⁸³ Submission 8, p 17.

¹⁸⁴ Submission 8, p 18.

¹⁸⁵ Submission 6, p 4; submission 7, p 5.

4.4.1.2 *Committee comment*

The committee notes review recommendation 12 but has concerns with the practical implementation of the recommendation.

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

Where the Integrity Commissioner suspects non-compliance in relation to the lobbyists register or considers the activity of a lobbyist to be inconsistent with the Code of Conduct, the Integrity Commissioner must, before acting, give a show cause notice as to why the lobbyists registration should not be cancelled.¹⁸⁶

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

- where the registered lobbyist is unable to provide evidence of compliance, the Integrity Commissioner has the power to suspend or cancel the lobbyists registration. Alternatively, under sections 62(2) and 66(a), the Integrity Commissioner can issue the lobbyist with a warning, and
- where the registered lobbyist provides evidence of compliance, but the Integrity Commissioner believes there was still a breach of the Code of Conduct, the Integrity Commissioner is able to issue a warning.¹⁸⁷

The Reviewer found the Integrity Commissioner has limited options in dealing with suspected non-compliance of registered lobbyists, and described the legislative requirement that a show cause notice be issued before any remedial action as 'inflexible and severe' and 'inefficient'.¹⁸⁸

The Reviewer considered that 'in instances where the matter is minor in nature or one of administrative oversight and readily remedied, the necessity to have to issue a 'show cause' notice imposes a disproportionate cost on the Integrity Commissioner and the lobbyist'.¹⁸⁹

Review recommendation 13

To improve the efficiency of the regulatory regime, the Reviewer recommended (review recommendation 13):

- a) the Act be amended to enable the Integrity Commissioner, to seek an explanation and/or issue a direction to take remedial action about a compliance matter, without first having to issue a show cause notice, and
- b) retain the 'show cause' provisions to deal with more serious instances of non-compliance.¹⁹⁰

4.4.2.1 *Stakeholder views*

The Integrity Commissioner expressed her agreement with the proposed amendment to the Integrity Act, 'particularly as the necessity to issue a show cause notice imposes a disproportionate cost on both the Integrity Commissioner and the lobbyist'.¹⁹¹

The Integrity Commissioner's support for the retention of the show cause provisions was dependent on the adoption of Recommendation 14 (see below), along with a consideration of the adequacy of staffing arrangements in the event that an investigation could not be referred to the CCC. The Integrity Commissioner noted that the issuing of a show cause notice by a regulatory body usually occurs after an investigation has been conducted, and that under the current legislation, the Integrity

¹⁸⁶ Integrity Act, s 62.

¹⁸⁷ Report, p 51.

¹⁸⁸ Report, p 51.

¹⁸⁹ Report, p 51.

¹⁹⁰ Report, p 50.

¹⁹¹ Submission 8, p 19.

Commissioner does not have the power or the resources to investigate breaches of the Integrity Act which might then lead to issuing a show cause notice.¹⁹²

The Commissioner submitted her view ‘that the regulatory regime as it applies to the lobbying function is not currently fit for purpose’.¹⁹³ The Integrity Commissioner also submitted that ‘undertaking investigations requires specific skills and considerable expertise, and should the ability of the Integrity Commissioner to issue show cause notices be retained, these considerations will require further review’.¹⁹⁴

Crisis&Comms Co described the ability of the Integrity Commissioner to issue correspondence seeking explanation from a registered lobbyist as a ‘reasonable and proportionate proposition’, but added ‘issuance of a show-cause notice in relation to noncompliance should remain a requirement prior to any direction or enforcement action’.¹⁹⁵

Crisis&Comms Co also submitted the Integrity Commissioner ‘should be in a position to impose a framework of escalating sanctions’, ranging from ‘an initial reminder of compliance obligations, through to a lifetime ban from registered lobbying’, with the sanctions published and applied to in-house lobbyists, who could potentially have been a third-party lobbyist banned in Queensland, but then returns to lobby government in an in-house capacity.¹⁹⁶

4.4.2.2 Committee comment

The committee agrees with the review’s recommendation 13 to amend the Integrity Act to enable the Integrity Commissioner to seek an explanation and/or issue a direction to take remedial action about a compliance matter, without first having to issue a show cause notice, to allow for a more flexible approach when the matter is more minor in nature.

4.4.3 Investigatory body for lobbying

The Reviewer advised that under current legislation, the Integrity Commissioner ‘does not have the power to investigate or prosecute those who wilfully ignore the statutory prohibition against unregistered lobbying’. This is because the Integrity Act ‘contains no provisions for the Integrity Commissioner to undertake investigations into allegations of misconduct on the part of registered lobbyists, or lobbying activity undertaken by unregistered lobbyists’ and is also ‘largely silent in respect of matters the Integrity Commissioner can refer to other investigatory bodies’.¹⁹⁷

Describing the current provisions as ‘not fit-for-purpose’ because the ‘effectiveness of the Act is in part dependent upon there being a capacity to investigate issues of noncompliance and alleged activity involving unethical or dishonest conduct’, the Reviewer considered assigning powers of investigation to the Integrity Commissioner.¹⁹⁸ However, the Reviewer found ‘it is not appropriate that the Integrity Commissioner be assigned investigatory powers as this could conflict with the advisory function and would be an uneconomic use of public resources’.¹⁹⁹

Review recommendation 14

Instead, to improve the effectiveness of the regulation of lobbying, the Reviewer recommended (review recommendation 14):

¹⁹² Submission 8, p 18.

¹⁹³ Submission 8, p 18.

¹⁹⁴ Submission 8, p 18.

¹⁹⁵ Submission 4, p 4.

¹⁹⁶ Submission 4, p 5.

¹⁹⁷ Report, p 51.

¹⁹⁸ Report, p 52.

¹⁹⁹ Report, p 53.

- a) the Act be amended to provide for the Integrity Commissioner to refer matters to the CCC:
 - i. when there is information available that the activities of a registered lobbyist may offend the provisions of section 15 of the *Crime and Corruption Act 2001*, or
 - ii. an individual or entity is allegedly undertaking lobbying activities (as defined by the Act) but who are not registered (i.e. unlawful lobbying)
- b) the Integrity Commissioner be given powers to warn lobbyists upon becoming aware of alleged misconduct without reference to the CCC, and
- c) an assessment be made as to whether consequential amendments to the *Crime and Corruption Act 2001* are necessary to enable the investigation of alleged corrupt activity on the part of a lobbyist (as distinct from a public official), and any other matter referred by the Integrity Commissioner as constituting serious misconduct that warrants investigation.²⁰⁰

4.4.3.1 Stakeholder views

The Integrity Commissioner supported the recommendation, but submitted that it would require significant amendment to both the Integrity Act and the *Crime and Corruption Act 2001*, and that 'taking into account the complexities and potential impacts of such amendments...further consultation with key stakeholders such as the CCC and PCCC, as well as the lobbyists who would be the subject of any new regulatory regime' should be considered.²⁰¹

The CCC supported recommendation 14 subject to 'appropriate budget matters being resolved' and an understanding that:

- activities that fall into the categories of misconduct by registered lobbyists, unregistered lobbying and corrupt conduct involving lobbying cover a wide spectrum of conduct, from relatively minor to serious
- whilst the CCC's corruption jurisdiction is broad, the CCC is legislatively obligated, in performing its corruption function, to focus on more serious cases of corrupt conduct and cases of systemic corrupt conduct within a unit of public administration (UPA)
- anyone can make a complaint about an allegation of corrupt conduct to the CCC, and therefore it is unnecessary for there to be an explicit head of power for the Integrity Commissioner to refer to the CCC for investigation information concerning the activities of a registered lobbyist that may be considered corrupt conduct.²⁰²

The CCC advised the committee it has recorded five referrals from the current Integrity Commissioner (either directly or through the Department of Premier and Cabinet), with only one related to lobbying (an allegation of failure by a UPA to maintain a register of lobbying contact). However, the CCC was not able to advise whether or how often people who'd been advised by the Integrity Commissioner to contact the CCC if the matter about which she was providing advice appeared to give rise to a suspicion of corrupt conduct, had done so.²⁰³

The CCC told the committee that to 'ensure that the CCC can properly investigate such matters, amendments should be considered to the definition of 'corrupt conduct' to make it explicit and abundantly clear that such matters fall within the CCC's jurisdiction' and suggested an 'amendment to section 15(2) of the act may be the appropriate mechanism to achieve this'.²⁰⁴

The CCC also recommended amending legislation to make the Integrity Commissioner a public official and the Office of the Integrity Commissioner a UPA, which would mean the Integrity Commissioner

²⁰⁰ Report, p 53.

²⁰¹ Submission 8, p 20.

²⁰² Submission 6, pp 2-3.

²⁰³ CCC, correspondence dated 16 March 2022, p 1.

²⁰⁴ Public hearing transcript, Brisbane, 14 March 2022, p 8.

‘would have a duty to notify the CCC if she reasonably suspected corrupt conduct’ under section 38 of the *Crime and Corruption Act 2001*.²⁰⁵ This would ‘create an obligation which currently does not exist to do that, and it would bring the office into line with other agencies of units of public administration’.²⁰⁶ See section 7.1 for further discussion of this matter.

In making this recommendation, the CCC clarified:

The proposal to make the QIC a public official would require notification of suspected corrupt conduct within the QIC’s own office. (As is presently the case, the QIC is free to notify of suspected corrupt conduct identified elsewhere, but this is not mandatory). The proposed amendment would not require the QIC to notify the CCC of suspected corrupt conduct of which she becomes aware through a person seeking advice.

While the prospect that a person seeking the QIC’s advice may disclose potential corrupt conduct, and that conduct may go unreported by the person, the CCC’s view is that, on balance, this is preferable to persons not seeking advice for fear that it may trigger a reporting obligation. In this regard the analogy may be drawn with the rationale which underpins Legal Professional Privilege.²⁰⁷

At the public hearing, the Integrity Commissioner advised of her support for the CCC’s recommendation that amendments be made to the Integrity Act ‘to ensure the office of the Integrity Commissioner is a unit of public administration’ and ‘the Integrity Commissioner be designated as a public official under the Crime and Corruption Act’.²⁰⁸ The Integrity Commissioner stated such amendments would ‘ensure that the Crime and Corruption Commission has jurisdiction over the office of the Integrity Commissioner in the same way that it has jurisdiction over other units of public administration’ and would ‘also ensure the Integrity Commissioner has a dedicated legal pathway to notify the Crime and Corruption Commission of suspected corrupt conduct’.²⁰⁹

In regard to the CCC’s focus on more serious cases of corrupt conduct, the Integrity Commissioner told the committee:

When I have had advisees come forward to seek advice about any particular matter, I do not see it as my position to assess the level of evidence they may have and for me to determine whether it is something that should go to the Crime and Corruption Commission. It is a matter for the Crime and Corruption Commission to assess thresholds. Ordinarily, my advice to any particular individual would be that they should contact the Crime and Corruption Commission and discuss the merits of making a complaint.

Where matters are very obviously below the threshold of the Crime and Corruption Commission, I encourage those individuals to take that matter up with their department, for example, their director-general or their ethics and integrity unit.²¹⁰

Hawker Britton expressed its support for the recommendation if the relevant bodies are also adequately resourced to conduct these tasks.²¹¹

BRU Inc similarly supported the recommendations as means of increasing ‘the level of accountability and transparency in government’, stating ‘this is particularly important with the amount of influence both formal and informal wielded by the lobbying industry’.²¹²

²⁰⁵ Submission 6, p 3.

²⁰⁶ Public hearing transcript, Brisbane, 14 March 2022, p 8.

²⁰⁷ CCC, correspondence dated 16 March 2022, p 1.

²⁰⁸ Public hearing transcript, Brisbane, 14 March 2022, p 2.

²⁰⁹ Public hearing transcript, Brisbane, 14 March 2022, p 2.

²¹⁰ Public hearing transcript, Brisbane, 14 March 2022, p 5.

²¹¹ Submission 3, pp 3-4.

²¹² Submission 7, p 5.

4.4.3.2 *Committee comment*

The committee notes the Reviewer found that it is not appropriate for the Integrity Commissioner to be assigned investigatory powers as this could conflict with the Integrity Commissioner's advisory function.

The committee notes that there is a benefit in identifying an appropriate investigatory body to undertake investigations into allegations of misconduct or corrupt conduct on the part of registered lobbyists, or lobbying activity undertaken by unregistered lobbyists. The committee also notes it is not appropriate for the Integrity Commissioner to be assigned powers to investigate these issues, for the reasons given in the strategic review.

To determine the best way forward with the Reviewer's recommendation, the committee recommends that consultation on the proposed amendments be undertaken with a view to identifying the appropriate body and any additional/amendments to that body's powers to investigate such matters.

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

The Reviewer raised concerns that, despite there being 'ample categories to select the purpose of an interaction lobbying activity disclosed on the public register' it was found that the 'categories "other" and "commercial-in-confidence" are commonly selected'. The Reviewer noted that in the period from January to June 2021, lobbyists categorised 58% of their contacts as either 'other' (19%) or 'commercial-in-confidence' (39%).²¹³ The Reviewer described these two categories as 'problematic' because 'the transparency of interactions between lobbyist and government representatives and Opposition representatives is significantly reduced detracting from effectiveness of the register in achieving its purpose'.²¹⁴

The Reviewer also noted that during the review, lobbyists argued the genuine need for the category 'commercial-in-confidence'.²¹⁵

Review recommendation 15

To improve transparency in relation to the nature of contacts with government and Opposition representatives, the Reviewer recommended (review recommendation 15) 'lobbyists be required, when entering details on the Lobbyist Register, to provide a short explanation of the subject matter when selecting the 'other' category'.²¹⁶

4.4.4.1 *Stakeholder views*

The Integrity Commissioner expressed her support for the recommendation for the reasons given by the Reviewer above.²¹⁷ Hawker Britton and BRU Inc also expressed support for the change.²¹⁸

The CCC raised concerns about 'the significant use of the "commercial-in-confidence" category, the seeming lack of any scrutiny around its use, and the reduction in transparency associated with the use of that category (similar to the reduction in transparency associated with the use of the "other" category)'. The CCC expressed its support for recommendation 15, but submitted it 'has concerns about it not extending to the use of the "commercial-in-confidence" category'.²¹⁹

²¹³ Report, p 54.

²¹⁴ Report, p 54.

²¹⁵ Report, p 54.

²¹⁶ Report, p 55.

²¹⁷ Submission 8, p 20.

²¹⁸ Submission 3, p 5; submission 7, p 6.

²¹⁹ Submission 6, p 4.

In contrast, Crisis&Comms Co submitted the recommendation is for ‘a systemic change and greater complexity without a proper understanding of the cause(s) of potential overuse of these terms’ and stated their preferred course of action ‘is for the Integrity Commissioner to provide explanations and education to lobbyists to ensure these categories are being properly used’.²²⁰

4.4.4.2 *Committee comment*

The committee supports review recommendation 15 for a short explanation of the subject matter to be provided when selecting the ‘other’ category.

4.5 Managing conflicts of interest when consultancy firms undertake government work

The Reviewer advised of an issue raised in submissions from registered lobbyists relating ‘to the potential for conflicts of interest to arise when consultancy firms with clients impacted by government policy have employees who work to government’.²²¹

The Reviewer noted that the Government Procurement Policy requires suppliers to comply with a Supplier Code of Conduct which includes (at Item 3.2) ‘the disclosure of conflicts of interest (actual, reasonably perceived or that could arise in the future)’ and that ‘the template for the evaluation of proposals requires a due diligence check be undertaken in respect of a number of matters’.²²²

Review recommendation 16

The Reviewer recommended (review recommendation 16) the Queensland Government Supplier Code of Conduct be amended to provide that:

- when submitting a proposal to undertake work for the government, a firm be required to make a specific statement addressing Item 3.2 (Managing conflicts of interest) and attach a copy of the company Conflict of Interest policy where they have one, and
- Conflict of Interest be added as one of the due diligence checks to be made as part of the evaluation process.²²³

4.5.1 Stakeholder views

The Integrity Commissioner submitted that, because the Queensland Government Supplier Code of Conduct is administered by government agencies external to the Integrity Commissioner, ‘the agencies involved would be in a better position to comment on the Report’s findings and recommendation regarding this proposal’.²²⁴

The CCC advised it saw merit in a firm attaching its conflict of interest policy, but noted that under the current wording of the recommendation, a firm could avoid that requirement if they did not have such a policy. The CCC proposed ‘that firms submitting a proposal to undertake work for the government should have a conflict of interest policy, noting the importance the proper management of conflicts of interest has in corruption prevention’.²²⁵

Hawker Britton supported this recommendation and suggested it be captured under their proposed expanded definition of lobbyist (see section 4.1).²²⁶

4.5.2 Committee comment

The committee agrees with the intent of the review’s recommendation 16.

²²⁰ Submission 5, p 5.

²²¹ Report, p 54.

²²² Report, p 55.

²²³ Report, p 55.

²²⁴ Submission 8, p20.

²²⁵ Submission 6, p 4.

²²⁶ Submission 3, p 5.

4.6 Managing conflicts of interest when lobbyists work with political parties

Similar to the issue above, concerns were raised with the Reviewer regarding registered lobbyists working for political parties in the period leading up to an election where policies are being developed that might impact one or more of their clients.²²⁷

The Reviewer noted that while the 'lobbying provisions in the Integrity Act do not stipulate any constraints around lobbyists working for a political party within the office of a Minister', the Ministerial Code of Conduct requires a 'A clear delineation between the activities of the Executive Government under their portfolio and that of their political party'.²²⁸ While this is the responsibility of the Minister to oversee, the Reviewer noted the Integrity Commissioner is able to provide advice to a Minister on ethical and integrity issues as required.²²⁹

The Reviewer found that 'lobbying activity that occurs simultaneously with the assignment and subsequently must be declared in the register of contacts' as a means of providing 'a degree of transparency in respect of how any conflicts of interest are being managed'.²³⁰

Review recommendation 17

The Reviewer recommended (review recommendation 17) 'the Integrity Commissioner update the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration'.²³¹

Review recommendation 18

The Reviewer also recommended (review recommendation 18) that the Integrity Act 'provide for the Integrity Commissioner to issue directives from time to time concerning the application of policies as circumstances require'.²³²

4.6.1 Stakeholder views

In response to recommendation 17, the Integrity Commissioner advised that under section 68 of the Integrity Act the Integrity Commissioner may, after consultation with the committee, approve a lobbyists code of conduct, and that she had no objection to commencing a consultation process to inform the development of a draft revised Lobbyists Code of Conduct.²³³

However, in response to recommendation 18, the Integrity Commissioner advised the Integrity Act would need to be amended 'if it is intended that such directives be binding on lobbyists and government representatives'.²³⁴ The Integrity Commissioner also raised that 'legally binding directives can substantially impact on the rights and responsibilities of an entity' and suggested the 'ability of the Integrity Commissioner to issue such directives should not be unfettered' because 'the power to issue legally binding directives on private entities is a considerable one'.²³⁵

Hawker Britton, Crisis&Comms Co and the CCC also supported the recommendation.²³⁶

²²⁷ Report, p 55.

²²⁸ Report, p 55.

²²⁹ Report, p 55.

²³⁰ Report, p 56.

²³¹ Report, p 56.

²³² Report, p 56.

²³³ Submission 8, p 21.

²³⁴ Submission 8, p 21.

²³⁵ Submission 8, p 21.

²³⁶ Submission 3, p 5; submission 4, p 5; submission 6, p 4.

Crisis&Comms Co suggested that their preferred course of action for the Integrity Commissioner to provide explanations and education to lobbyists to ensure the appropriate categories are being properly used as referred to in recommendation 15, could be in the form of a directive 'concerning the application of policies' as set out in Recommendation 18.²³⁷

4.6.2 Committee comment

The committee notes the review's recommendations 17 and 18.

²³⁷ Submission 4, p 5.

5 Public awareness function

One of the functions of the Integrity Commissioner is to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the Commissioner's functions.²³⁸ In doing so, the Integrity Commissioner must not disclose information likely to identify a specific request for advice on an ethics or integrity issue.²³⁹

In relation to the Integrity Commissioner's public awareness function under the Integrity Act, the Reviewer identified the following three matters of note:

- online resources have proven useful for designated persons
- building capacity across the public sector will reduce the burden on the Integrity Commissioner over the long term
- ongoing education and training for lobbyists and public sector officials will support ethical practice.²⁴⁰

The Reviewer explored each of these issues, as outlined in the following.

5.1 Online resources have proven useful for designated persons

In line with recommendations made in the last strategic review, the Reviewer found that the Integrity Commissioner has created a library of online resources to contribute to the public discussion on issues relevant to the Integrity Commissioner's functions.²⁴¹

The resources include hypothetical case studies addressing common issues and the principles on which they are based, and educational resources on conflicts of interest, decision-making frameworks and post-separation employment from the public service. These are designed to build the knowledge of designated persons listed in the Integrity Act, as well as the general public.²⁴²

Review recommendation 19

The Reviewer noted the educational material published by the Integrity Commissioner is well regarded by stakeholders, and recommended (review recommendation 19) that the Integrity Commissioner 'continue to develop education material, as this can reduce the demand on the office to respond to requests for basic information, freeing time and resources to conduct the advisory and lobbyist regulation functions'.²⁴³

5.1.1 Stakeholder views

The Integrity Commissioner supported the recommendation, and shared the view of the Reviewer that 'education and training build capacity and heighten ethics literacy and standards', enhances 'general understanding and confidence about ethics and integrity standards' and is 'likely to reduce demand for the services of the Integrity Commissioner'.²⁴⁴

The Integrity Commissioner advised the educational materials already developed include 'practical one-page decision-making aids, case studies, and guidelines to assist individuals to identify and manage conflicts of interest, and to manage post-separation obligations' as well as 'an education

²³⁸ Integrity Act, s 7(1)(d).

²³⁹ Integrity Act, s 7(2).

²⁴⁰ Report, p 57.

²⁴¹ Report, p 57.

²⁴² Report, p 57.

²⁴³ Report, p 57.

²⁴⁴ Submission 8, p 22.

program specifically tailored for particular sectors and settings'.²⁴⁵ The Integrity Commissioner has also been 'actively involved in education programs and training developed by others'.²⁴⁶

5.1.2 Committee comment

The committee notes that the development of educational material to answer basic and repeated requests for advice may be useful to address demand, but also notes the primary function of the Integrity Commissioner's time is to provide advice.

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

In response to the previous Strategic Review's recommendation that the Integrity Commissioner actively provide education to relevant communities, the Reviewer found the Integrity Commissioner has led or contributed to the training and education of various groups, covering 'such matters as the appropriate handling of integrity issues, when designated persons may seek advice, and conflicts of interest'.²⁴⁷

The Reviewer stated 'there is now a high level of awareness amongst designated persons of the purpose of the Act and the mechanisms it provides to assist public officials meet community expectations regarding matters of integrity and ethics'.²⁴⁸

The Reviewer also found that the training and education provided by the Integrity Commissioner, as well as the Integrity Commissioner's participation in relevant forums, has 'served to improve the understanding of designated persons on how to deal with integrity and ethics issues and enhance the capacity of those in the public service involved in advising on integrity issues'.²⁴⁹

In so doing, the Reviewer found the Integrity Commissioner can (in combination with other integrity agencies) play an influential role in building capability across the public sector to:

- promote a culture of ethical conduct across the public sector, and
- help continue the development of expertise within departments to advise on integrity issues relevant to the administration of the agency and their employees.²⁵⁰

The Reviewer suggested this should be the focus for the next five years.²⁵¹

Review recommendation 20

The Reviewer recommended (review recommendation 20) the expertise and knowledge of the Integrity Commissioner be used to build capacity and competency across the public sector by:

- a) continuing to make presentations to Statutory Boards and agency Chief Executives regarding best practice in meeting community expectations in respect of integrity in public administration, and
- b) continuing the education, training and professional development of those in public sector agencies who provide advice to employees regarding integrity and ethics matters.²⁵²

²⁴⁵ Submission 8, p 22.

²⁴⁶ Submission 8, p 22.

²⁴⁷ Report, p 58.

²⁴⁸ Report, p 58.

²⁴⁹ Report, p 58.

²⁵⁰ Report, p 59.

²⁵¹ Report, p 59.

²⁵² Report, p 59.

5.2.1 Stakeholder views

The Integrity Commissioner expressed support for recommendation 20, agreeing that ‘such endeavours will build capacity and competency across the public sector’.²⁵³ The Integrity Commissioner advised she had introduced ‘a program of workshops and training for statutory boards and agency chief executives, as well as presentations and roundtable sessions with senior public service decision-makers, which were provided on request’. According to the Integrity Commissioner, the content of the sessions and presentations ‘have varied greatly, from very specific education tailored for particular sectors and settings, such as the Board of a Government owned Corporation, to facilitating generalist ‘roundtable’ sessions’.²⁵⁴

5.2.2 Committee comment

The committee notes recommendation 20, but also emphasises the primary role of the Integrity Commissioner is to provide timely advice.

5.3 Ongoing education and training for lobbyists and public sector officials will support ethical practice

Through the strategic review’s consultation process, the Reviewer found registered lobbyists were seeking increased support from the Integrity Commissioner to help them comply with the Code of Conduct and the legislation more generally. An increased capacity to respond to enquiries and to educate the industry on how to operate within the scope of the Code was seen as important. The Reviewer also found there is ‘a demand more generally, for enhanced education and training in relation to Chapter 4 of the Act (Regulation of Lobbying Activities), its intent and the obligations it places on various parties’.²⁵⁵

Review recommendation 21

To improve understanding of the requirements of Chapter 4 of the Act (Regulation of Lobbying Activities), its intent and obligations, the review recommended (review recommendation 21) the Integrity Commissioner:

- a) develop educational materials tailored to needs of registered lobbyists and relevant public officials and undertake training sessions,
- b) create a compulsory training module that promotes best practice within the lobbying industry active in Queensland, and
- c) require successful completion of the module by all currently registered lobbyists and those who intend to register, as a condition for registration.²⁵⁶

5.3.1 Stakeholder views

The Integrity Commissioner supported Recommendation 21, and agreed that ‘the provision of educational materials and further training by the Integrity Commissioner will serve to improve lobbyists’ understanding of their obligations’.²⁵⁷ At the public hearing, the Integrity Commissioner acknowledged she had not been able to devote sufficient time to education and training in the lobbying sphere in regard to the Code of Conduct, and noted that prior to leaving the role, she would like to revise the Code of Conduct for lobbyists and put a revised draft to the committee.²⁵⁸

²⁵³ Submission 8, p 22.

²⁵⁴ Submission 8, p 22.

²⁵⁵ Report, p 59.

²⁵⁶ Report, p 60.

²⁵⁷ Submission 8, p 23.

²⁵⁸ Public hearing transcript, Brisbane, 14 March 2022, pp 2, 3.

On the recommendation that the Integrity Commissioner create a compulsory training module, the Commissioner advised that if mandatory training becomes a requirement of registration for lobbyists, the Integrity Act and Lobbyists Code of Conduct will need to be amended and the conditions of the training (i.e. before registration, annually, etc.) will need to be specified.²⁵⁹ In addition, the Integrity Commissioner advised a reporting and recording system to ensure compliance would need to be introduced.²⁶⁰

Hawker Britton supported the recommendation and made their own recommendation that ‘The Integrity Commission should create a compulsory training module for all registered government affairs consultants, successful completion of which is required for registration. The Commission should explore the establishment of a registration fee’.²⁶¹

5.3.2 Committee comment

The committee notes the importance of registered lobbyists being appropriately informed and supported to aid them in complying with the lobbying Code of Conduct and supports the development of educational materials to assist in this regard.

²⁵⁹ Submission 8, p 23.

²⁶⁰ Submission 8, p 23.

²⁶¹ Submission 3, p 7.

6 Performance of functions

The Reviewer noted that no issues were raised about the performance of the functions by the Integrity Commissioner in the course of stakeholder consultations. Matters raised regarding the Integrity Commissioner's advisory and lobbying functions are outlined below.

6.1 Performance of Integrity Commissioner's advisory function

The Reviewer advised that two themes emerged in relation to the Integrity Commissioner's advisory function:

1. the Integrity Commissioner's office does not have the resources to meet current demand for advice resulting in the introduction of interim service limits, and
2. requests for advice have increasingly become more complex and legalistic in nature.²⁶²

6.1.1 Lack of resources to meet demand

The Reviewer found there has been a significant increase in demand for advice since the last strategic review undertaken in 2015, with the increase representing 'a more than 250% growth in the number of requests for advice and advice-related meetings'.²⁶³

In addition to the inclusion of mayors and councillors as designated persons (discussed in section 3.2 of the report), the Reviewer found there are a number of factors behind this sustained level of requests, which include:

- a greater commitment by government to ethics and integrity generally
- Ministers and MP's being conscious of scrutiny around the personal interests of decision makers and those involved in influencing or shaping public policy, and
- transparency being required in respect of the personal interests of those involved in major projects, and major procurement decisions.²⁶⁴

Furthermore, the Reviewer found the 'current level of demand is unlikely to fall as political representatives and government decision makers seek to meet community expectations for transparency and accountability in public administration'.²⁶⁵

6.1.2 Advice has increasingly become more complex and legalistic

During the strategic review, some who have received advice indicated that the advice provided has progressively grown lengthier and seemed more legalistic, making the practical application of the advice 'not immediately obvious to the recipient'.²⁶⁶

The advice provided by the Integrity Commissioner in respect of ethical and integrity issues, and on 'interests issues', is informed by sections 21 and 23 of the Integrity Act respectively. Both Sections specify advice must have regard to a number of codes and standards. According to the Reviewer the number of these codes and standards has continued to grow, as has the number and length of agency policy documents concerning matters such as conflicts of interest, bringing with it a level of complexity and adding to the length of the advice.²⁶⁷

²⁶² Report, p 61.

²⁶³ Report, p 61.

²⁶⁴ Report, p 62.

²⁶⁵ Report, p 62.

²⁶⁶ Report, p 63.

²⁶⁷ Report, p 63.

In addition, the statement of facts included by the Integrity Commissioner to ensure clarity as to the circumstances to which the advice relates also adds to the length of some advice.²⁶⁸

Review recommendation 22

Given the Integrity Commissioner believes it is necessary the advice contains this material, the Reviewer recommended (review recommendation 22) the Integrity Commissioner ‘structure advice provided so there is a summary of the advice and any recommended course of action as the first section of the document’.²⁶⁹

6.1.2.1 Stakeholder views

The Integrity Commissioner advised she has no objection to altering the structure of an advice to include a summary in the first section.²⁷⁰

6.1.2.2 Committee comment

The committee supports the review’s recommendation 22 for the Integrity Commissioner to structure the advice provided so there is a summary of the advice and any recommended course of action as the first section of the document.

6.2 Performance of Integrity Commissioner's lobbying regulation function

During the strategic review, two issues were identified with the efficiency and effectiveness of the Integrity Commissioner’s performance of the lobbying regulation function:

1. a growth in lobbying activity has increased the scale of the regulation function, and
2. the Lobbyist Register is not fit-for-purpose.

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

The review found that over the past three years there has been a growth in third-party lobbying activity in Queensland according to the contact register, while the number of registered lobbyists has remained relatively constant at approximately 400 registered lobbyists (both registered entities and registered persons) since the financial year 2018-19.²⁷¹ According to the Reviewer, the reasons for the increase in lobbying activity includes:

- growth in economic activity in Queensland
- changing political and social landscapes, including new laws and regulations and their potential impacts
- greater acceptance of the role lobbyists play, by clients and potential clients, and
- client confusion as to whom they should make representations.²⁷²

As a result, the Integrity Commissioner’s workload regulating lobbyist activity and in providing advice sought from lobbyists has also increased.²⁷³

6.2.2 The Lobbyist Register is not fit-for-purpose

The Lobbyist Register, which was designed to record the details of registered lobbyists (both individuals and organisations), and to disclose lobbying contacts, was established in 2009.

²⁶⁸ Report, p 64.

²⁶⁹ Report, p 64.

²⁷⁰ Submission 8, p 23.

²⁷¹ Report, pp 64, 65.

²⁷² Report, pp 65-66.

²⁷³ Report, p 66.

Enhancements were made in 2012, but no substantial work has been undertaken since, with the Reviewer advising ‘the technology is now outdated’ and has a ‘myriad of functionality and reliability issues associated with the legacy platform on which the register sits’.²⁷⁴

The Reviewer found that the Register’s ‘unreliability impacts the Integrity Commissioner’s ability to perform the required monitoring and auditing functions’.²⁷⁵ Lobbyists also experience difficulties with the register, which then impacts on their ability to meet their obligations under the Integrity Act.²⁷⁶

The Reviewer advised the Integrity Commissioner has been working with the Department of Premier and Cabinet (DPC), and stated ‘Given its criticality in providing accurate real time data to ensure transparency in lobbying activity, upgrading or replacing the technology platform on which the register sits is considered a high priority for the Integrity Commissioner’s Office’.²⁷⁷

Review recommendation 23

To address the issues with the Lobbyist Register, the Reviewer recommended (review recommendation 23) the ‘Integrity Commissioner and the DPC ICT team complete, as a priority, work being undertaken to scope an upgrade or replacement of the Lobbyist Register platform, and once a solution has been identified that funding be given favourable consideration to enable its prompt implementation’.²⁷⁸

6.2.2.1 Stakeholder views

The Integrity Commissioner advised in her submission the software underpinning the lobbyists register is no longer viable, and due to there being (at the time of her submission) no IT support for the Register, an external consultant must be engaged if work needs to be done, leading to ‘substantial cost and time delays’.²⁷⁹ In addition, the Commissioner advised ‘As there is no information technology support for the current platform, the lobbyists register has been replicated in an offline document as a safety measure’.²⁸⁰

The Integrity Commissioner supported Recommendation 23 in full, stating the ‘useability and viability of the lobbyists register and software are critical issues which must be addressed as a matter of urgency’.²⁸¹ At the public hearing, the Integrity Commissioner followed up her submission by stating ‘my primary concern at this time is for urgent funding be provided to replace the lobbyist register software and that the work of transferring the data on the current register to the new platform begin immediately’.²⁸²

6.2.2.2 Committee comment

The committee supports the review’s recommendation 23.

6.2.3 Monitoring and reporting of the Integrity Commissioner’s functions

The Reviewer found the ‘Integrity Commissioner’s current systems are appropriate for monitoring and reporting data’ and that the Integrity Commissioner ‘continuously looks for opportunities to improve office efficiency, and the quality of reporting’.²⁸³ The Reviewer also found the Integrity Commissioner’s

²⁷⁴ Report, p 66.

²⁷⁵ Report, p 67.

²⁷⁶ Report, p 67.

²⁷⁷ Report, p 67.

²⁷⁸ Report, p 67.

²⁷⁹ Submission 8, p 24.

²⁸⁰ Submission 8, p 24.

²⁸¹ Submission 8, p 24.

²⁸² Public hearing transcript, Brisbane, 14 March 2022, p 2.

²⁸³ Report, p 68.

‘annual and bi-annual reports are useful tools to communicate the Integrity Commissioner's office's activity and the performance of its functions’.²⁸⁴

²⁸⁴ Report, p 68.

7 Organisational arrangements supporting the Integrity Commissioner

The Reviewer analysed organisational arrangements supporting the Integrity Commissioner's functions and found issues relating to:

- governance
- office structure
- staffing
- workload.

7.1 Governance

The Integrity Commissioner is a statutory independent officer of the Parliament, appointed under the Integrity Act. While the Integrity Commissioner sits within the Premier's portfolio for functional purposes, the administrative and management responsibility for all the Integrity Commissioner's staff lies with the PSC. The Reviewer described the current governance arrangements of the Integrity Commissioner's office as 'ambiguous' and 'not appropriate to the nature of the office'.²⁸⁵

With staff able to be removed in response to PSC responsibilities, the Reviewer found the governance arrangements 'impact the efficient administration and management of the Integrity Commissioner's office functions' and pose a 'significant business continuity risk'.²⁸⁶ The Reviewer noted that the Bridgman review also questioned the validity of the governance model.²⁸⁷

Review recommendation 24

To enhance the independence of the Integrity Commissioner the Reviewer recommended (review recommendation 24):

- a) there should formally be established an Office of the Integrity Commissioner as an independent unit within DPC, consistent with the function being one within the portfolio of the Premier, and
- b) the Integrity Commissioner be accountable for the performance of the office in discharging the functions under the Act within the budget provided, and financial delegations commensurate with prudent financial management under the Financial Accountability Act, and
- c) staff be appointed directly to the office and (although public servants) be managed autonomously by the Integrity Commissioner.²⁸⁸

7.1.1 Stakeholder views

The Integrity Commissioner advised the PSC 'is accountable for the financial, operational, and administrative performance of the office, including the provision and management of human resources', with the PSC supported by the DPC 'in relation to information technology services and a range of other support services'. The Integrity Commissioner advised her position 'does not control the budget allocated by government and does not have a supervisory relationship with the staff employed within the office'.²⁸⁹

According to the Integrity Commissioner, the 'governance and administration arrangements for the office of the Integrity Commissioner are not replicated in the case of any other integrity agency in Queensland' and yet the Integrity Commissioner 'is an independent officer of Parliament, appointed by Governor in Council, with statutory functions which require a commensurate degree of

²⁸⁵ Report, pp 69, 70.

²⁸⁶ Report, p 69.

²⁸⁷ Report, p 69.

²⁸⁸ Report, p 70.

²⁸⁹ Submission 8, p 69.

independence and security'.²⁹⁰ The Integrity Commissioner submitted 'the arrangements operate in such a way as to place the Integrity Commissioner in a position of inherent vulnerability, due to dependence on the PSC exercising its powers in a judicious manner'.²⁹¹

The Integrity Commissioner fully supported recommendation 24, stating 'current governance arrangements have adversely impacted upon the Integrity Commissioner's independence and ability to discharge the purpose and functions of the Act' and recommended 'that appropriate governance arrangements be established as a matter of urgency'.²⁹²

The CCC also expressed support for recommendation 24, and submitted 'that any legislative amendments should ensure that the Office of the Integrity Commissioner is a UPA and the Integrity Commissioner is a public official under the CC Act'. The purpose of proposing such amendments was to 'ensure that the Integrity Commissioner has certain obligations (for example, an obligation to notify the CCC of suspected corrupt conduct) and the CCC has jurisdiction over the Office of the Integrity Commissioner in the same way it has jurisdiction over other UPAs'.²⁹³

7.1.2 Committee comment

The committee notes the review's recommendation 24 suggesting governance arrangements to enhance the independence of the Integrity Commissioner and Office of the Integrity Commissioner.

7.2 Office structure, staffing and workload

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

1. there are business continuity risks as the Act does not provide the Integrity Commissioner with appropriate delegation powers
2. the resourcing of the office does not meet the current workload
3. the scope of the Integrity Commissioner's responsibilities has extended outside of those mentioned in the Act.²⁹⁴

7.2.1 Business continuity risks

The Reviewer found the Integrity Commissioner 'does not have appropriate delegation powers when taking leave (both planned and unplanned) or where a conflict of interest arises for the Integrity Commissioner'.²⁹⁵ While an acting Commissioner is currently appointed for 12 months, difficulties arise if the acting Commissioner is not available, which means the process of engaging an acting Integrity Commissioner 'requires adequate notice and planning' and 'does not account for unplanned leave which may render the position vacant for a period. This risks leaving designated persons unable to access timely advice'.²⁹⁶

Review recommendation 25

To ensure business continuity and a sustainable service to those requiring timely advice, the Reviewer recommended (review recommendation 25):

²⁹⁰ Submission 8, p 69.

²⁹¹ Submission 8, p 69.

²⁹² Submission 8, p 69.

²⁹³ Submission 6, p 5.

²⁹⁴ Report, p 70.

²⁹⁵ Report, p 71.

²⁹⁶ Report, p 71.

- a) the position for which the administration of Chapter 4 of the Act (Lobbying) is responsible, (being the second most senior and executive level position within the Office) be designated Deputy Commissioner
- b) the Act be amended to provide the Integrity Commissioner delegation powers to assign the advice function to either the Deputy Commissioner or an acting Commissioner to cover periods of leave and in circumstances where the Integrity Commissioner may have a conflict of interest
- c) the Integrity Commissioner be required to obtain consent from the Minister (currently the Premier) to exercise the delegation, (consistent with the responsibility the Minister carries for the proper functioning of the office), and once consent is obtained apprise the Speaker and the Parliamentary Committee of the circumstances prior to the delegation being exercised
- d) the delegation powers should not prevent the Integrity Commissioner continuing to perform their functions in the circumstance where the delegate is given a specific advice request, for example, due to a conflict of interest
- e) at the time the Integrity Commissioner is appointed, an external acting Commissioner be appointed for the same term as the Integrity Commissioner but remunerated only for periods of actual service.²⁹⁷

7.2.1.1 Stakeholder views

The Integrity Commissioner supported recommendation 25 and further suggested that section 25(b) of the Integrity Act be further expanded to include the capacity to delegate the advice functions to a Deputy Commissioner if receiving a high volume of requests, and where those requests do not relate to Members of the Legislative Assembly, or the Integrity Commissioner has a conflict of interest.²⁹⁸

7.2.1.2 Committee comment

The committee notes recommendation 25 applies only in circumstances where the Integrity Commissioner is on leave or has a conflict of interest, and further notes the Integrity Commissioner must obtain consent from the Minister.

7.2.2 Resourcing of the office of the Integrity Commissioner

The Integrity Commissioner's office is currently structured and resourced with one of each of the following full-time equivalent positions, all of whom report to the Integrity Commissioner but are employed by the PSC:

- Director, Legal and Operations (S03)(Permanent)
- Senior Legal Officer (P05)(Permanent)
- Senior Legal Advisor (P05)(Temporary)
- Administration Executive Officer (A06)(Permanent)
- Executive Officer (A04)(Permanent).

The Reviewer found the current resourcing of the office 'has proven insufficient to meet demand for advice which has significantly increased in recent years' and should 'be aligned to support business continuity and sustainability'.

The Reviewer has made recommendations to remove the Commissioner's responsibility for 'a number of extraneous functions' and proposed 'certain categories of designated persons seek integrity advice as they require it from their respective agencies or through avenues that are more accessible and appropriate to their circumstances (see Recommendations 2 to 5)'.²⁹⁹

²⁹⁷ Report, p 72.

²⁹⁸ Submission 8, p 27.

²⁹⁹ Report, p 73.

Review recommendation 26

If the Reviewer's recommendations are adopted, and an Office of the Integrity Commissioner is established (recommendation 24), the Reviewer recommended (review recommendation 26) its structure include:

- a) Deputy Commissioner and Director Lobbying (SES 1),
- b) Senior Officer, Advice (P05),
- c) Senior Administrator and Office Manager (A06),
- d) Executive Support (Lobbyist Register) (A05),
- e) Executive Support (General Admin) (A03).

If the Reviewer's recommendations are not adopted, the Reviewer proposed a workforce review be undertaken 'to identify the resources required to respond to all the requests for advice (including those currently the subject of service limits) to an acceptable standard of timeliness, quality and service'.³⁰⁰

7.2.2.1 Stakeholder views

The Integrity Commissioner noted that over the previous four and a half years she had 'provided advice on ethics, integrity, and interest matters (both written and oral) on 954 occasions, and advice on lobbying matters on a further 92 occasions', compared to the four preceding Integrity Commissioners who provided advice on ethics, integrity, and interest matters on a total of 573 occasions over the course of seventeen years (from the establishment of the role of Integrity Commissioner).³⁰¹

Hence, the Integrity Commissioner supported the staffing structure proposed by Recommendation 26, provided that Recommendation 1(a) is accepted and the role of undertaking investigations prior to the issuing of a Show Cause notice does not fall to the office of the Integrity Commissioner.³⁰²

Alternatively, if one or both of these provisions is not met, the Integrity Commissioner submitted 'a workforce report should be undertaken to identify the resources required to respond to all requests for advice expeditiously, and to also meet the administrative demands associated with the lobbying function'.³⁰³

7.2.2.2 Committee comment

The committee notes the proposed structure and suggests that staffing be considered once the Reviewers recommendations have been considered by the State Government, including in relation to review recommendation 1(a) and the proposal to establish a separate Office of the Integrity Commissioner.

7.2.3 The scope of the Integrity Commissioner's responsibilities has extended outside of those mentioned in the Integrity Act

The Reviewer advised the Integrity Commissioner 'has inherited a responsibility for the receipt, checking (including auditing) and filing of AASB 124's (a disclosure of related interests shareholding Ministers are required to make in the financial statements of government owned corporations)'.³⁰⁴

³⁰⁰ Report, p 74.

³⁰¹ Submission 8, p 27.

³⁰² Submission 8, p 28.

³⁰³ Submission 8, p 28.

³⁰⁴ Report, p 75.

This responsibility is unrelated to the Integrity Commissioner's functions and is not required under the Act, and therefore no funding or resources are provided. The Reviewer found 'this places a burden on an already resource constrained office'.³⁰⁵

Review recommendation 27

As a result, the Reviewer recommended (review recommendation 27) the Integrity Commissioner 'be relieved of the responsibility for the receipt and management of AASB 124's as these are not related to the functions under the Act'.³⁰⁶

7.2.3.1 Stakeholder views

The Integrity Commissioner noted that Treasury has responsibility for the process regarding AASB 124 (Related Party Disclosures), and has 'the capacity to receive and store the forms appropriately, and would be able to liaise with DPC regarding this process, as well as liaise with the Auditor-General for the purpose of the forms being audited'.³⁰⁷ The Integrity Commissioner supported the commendation in full.³⁰⁸

7.2.3.2 Committee comment

The committee supports the review's recommendation 27 that the Integrity Commissioner be relieved of the responsibility for the receipt and management of AASB 124's.

³⁰⁵ Report, p 75.

³⁰⁶ Report, p 75.

³⁰⁷ Submission 8, p 28.

³⁰⁸ Submission 8, p 28.

8 Strategic issues for the future

The Reviewer identified four matters that should be monitored and addressed in the next strategic review:

1. the effectiveness of the strengthened lobbying compliance regime
2. the Lobbyist Register
3. the appointment of the Integrity Commissioner could be four (4) years set from year two (2) of the Parliamentary term, and
4. the Terms of Reference should remain the same for future Strategic Reviews of the Integrity Commissioner's functions.³⁰⁹

8.1 The effectiveness of the strengthened lobbying compliance regime

The Reviewer advised his review recommends a strengthening of the compliance regime by proposing the Integrity Commissioner 'be provided with a wider range of enforcement tools and new powers to refer matters to the CCC for investigation' as well as 'an upgrading or replacement of the technology platform upon which the Lobbyists Register sits and changes to the office structure to improve monitoring and auditing'.³¹⁰

The Reviewer suggested the effectiveness of these new initiatives should be monitored over the next five years and an evaluation of their efficacy should be part of the next Review, with further legislative changes considered if they aren't found to be effective.³¹¹

8.2 The Lobbyist Register

The Reviewer added to the recommendation (no. 23) regarding replacement or upgrade of the technology platform for the Lobbyists Register by stating the 'site should be easily navigable by both lobbyists to enter data, and those seeking access to information regarding lobbying entities and contacts'.³¹²

The Reviewer also suggested that 'prior to implementation there should be a report to the Premier and the Parliamentary Committee that confirms the functionality, reliability and redundancy features are such as that a user can access it 24/7, whether to input data or reference entries', plus it should 'also allow the Integrity Commissioner to cross tabulate data required for the purpose of monitoring and audit'.³¹³

The Reviewer proposed the Integrity Commissioner's biannual reports to the committee include commentary on the performance of the Lobbyists Register in terms of the above criteria, while the next review 'should evaluate the extent to which it has assisted in management of the relationship with clients as part of the office CRM system'.³¹⁴

8.3 The Integrity Commissioner's term of appointment

The Reviewer suggested consideration be given at the next review to changing the Integrity Commissioner's term of appointment to a four-year appointment, rather than the current five-year appointment, to enhance the independence of the Integrity Commissioner. The Reviewer proposed the four-year appointment run from the second year of the Parliamentary term, stating this 'would more appropriately reflect the role of the Commissioner as an Officer of the Parliament as the

³⁰⁹ Report, p 76.

³¹⁰ Report, p 76.

³¹¹ Report, p 76.

³¹² Report, p 76.

³¹³ Report, p 76.

³¹⁴ Report, p 76.

appointment would not coincide with the term of a government as might occur from time to time with the current five (5) year term'.³¹⁵

8.4 The Terms of Reference should remain the same for future Strategic Reviews of the Integrity Commissioner's functions

The Reviewer commented that the Terms of Reference for this Review 'provided a clear framework for reviewing the Integrity Commissioner's functions', particularly 'the direction provided as to emerging issues associated with the regulation of lobbying'.³¹⁶ The Reviewer suggested it may be useful for future reviews to contain similar Terms of Reference 'so that it is possible to track progress in the performance of the Integrity Commissioner's functions'.³¹⁷

³¹⁵ Report, p 77.

³¹⁶ Report, p 77.

³¹⁷ Report, p 77.

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

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

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

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

SCOPE

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

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

POWERS OF REVIEWER

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

QUALIFICATIONS AND EXPERIENCE OF THE REVIEWER

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

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

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

METHODOLOGY

In conducting the strategic review, the reviewer is to:

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

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

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

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

The reviewer is to interview the Integrity Commissioner about the Review and consideration should also be given to interviewing staff of the Integrity Commissioner and the EGC. The reviewer 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, Assistant Ministers, Members of Parliament, statutory office holders, Chief Executives of government agencies, senior executive officers and senior officers, Ministerial staff)
- former designated persons
- lobbyists (from the Register of Lobbyists)
- integrity agencies, such as: the Crime and Corruption Commission, Queensland Ombudsman, Independent Assessor, Electoral Commissioner, and Queensland Audit Office.

Information sources and documents relevant to the Review are listed in this Appendix.

DURATION

The final review report is to be given to the Premier and Integrity Commissioner within six (6) months of the commencement of the review.

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

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

REPORTING

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

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

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

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

Sections 88 and 89 of the Act provide that the Premier must table the Review report in the Legislative Assembly within three (3) sitting days after receiving the report, and that the report will be referred to the Parliamentary Committee for examination. The Committee may comment on any aspect of the report and make recommendations.

Information sources and documents relevant to the Review:

Document	Source
<i>Integrity Act 2009</i>	https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2009-052
Queensland Integrity Commissioner's website	https://www.integrity.qld.gov.au/
Queensland Integrity Commissioner Annual Reports	https://www.integrity.qld.gov.au/publications/annual-reports.aspx
Queensland Integrity Commissioner Half-year Update July - December 2019	https://www.integrity.qld.gov.au/assets/document/taledpapers/half-year-update-2019.pdf
Register of Lobbyists	http://lobbyists.integrity.qld.gov.au/who-is-on-the-register.aspx
Lobbyists Code of Conduct	https://www.integrity.qld.gov.au/assets/document/catalogue/general/lobbyists code of conduct Sept 2013.pdf
Strategic Review of the Functions of the Integrity Commissioner - Final Report - 8 July 2015	https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2015/5515T804.pdf
Finance and Administration Committee Report No. 19, 55 th Parliament- Inquiry into the Report on the Strategic Review of the functions of the Integrity Commissioner	https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2015/5515T1885.pdf
Government Response to Finance and Administration Committee Report No. 19, 55 th Parliament	https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2016/5516T273.pdf

Appendix B – Table of Strategic Reviewers’ operational recommendations

The Review has highlighted 27 key areas for adjustment or improvement to support the Integrity Commissioner to deliver on the intent of the Act most effectively. The table below provides a summary of the recommendations from the Review with the relevant section noted for reference.

Summary of recommendations

Recommendation	Detail
Integrity Commissioner’s advisory function	
Recommendation 1 Section 5.6	<p>The inability of the Integrity Commissioner to meet the current level of demand for advice be addressed by either:</p> <ul style="list-style-type: none"> a) discontinuing, or reassigning to other more appropriate agencies, superfluous functions and amending the Act to eliminate duplication where other appropriate advice structures exist, (as outlined in Recommendations 2 to 4 and 7). This will improve the economy and efficiency of the integrity system, enhance accountability and provide greater transparency in respect of the advice function, or b) undertake a workforce review to identify the resources required to respond to all requests for advice including those currently the subject of service limits.
Recommendation 2 Section 6.1	<p>To bring transparency to the nomination of a designated person (or persons) and avoid unmonitored incremental creep in numbers of those who can access Integrity Commissioner advice beyond which there is capacity to service:</p> <ul style="list-style-type: none"> a) provide for future nominations of Designated Persons to be by amendment to Section 12 of the Act or by Regulation, b) repeal Section 12 (1) (h) of the Act that allows a Minister or Assistant Minister to (without limitation) nominate a person or an individual within a class of person, c) sunset the right of individuals previously nominated under this provision to request advice at the time the section is repealed, and d) repeal Section 17 (e) and 18 (b) of the Act (as consequential amendments).
Recommendation 3 Section 6.1.1.3	<p>Section 12 (1) (d) of the Act that enables a "senior executive or senior officer" to unilaterally seek advice from the Integrity Commissioner be amended to omit "senior officer".</p> <p>There is a large cohort of "senior officers" within the public sector who have access to advice through departmental structures. The effect of this recommendation would be to eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a departmental officer below the executive level in departments. This is consistent with the accountability Chief Executives have under the Public Service Act for ensuring their agency acts with integrity and the ethical conduct of its employees.</p>

Recommendation	Detail
Recommendation 4 Section 6.1.1.4	<p>In relation to advice able to be sought by designated persons "post separation", consideration be given to Section 20A (2) of the Act being amended to clarify that:</p> <ul style="list-style-type: none"> a) in respect of a designated person who is a former public servant Integrity Commissioner advice does not extend to contractual matters pertaining to post separation obligations, (in recognition the Integrity Commissioner being unable to provide legal advice), or b) advice in respect of a designated person who is a former public servant is limited to related lobbying activity.
Recommendation 5 Section 6.1.2	<p>To ensure Ministers and Assistant Ministers are aware of Integrity Commissioner advice being sought by a member of their staff and full contextual information is provided to the Integrity Commissioner:</p> <ul style="list-style-type: none"> a) Section 12 (1) (f) of the Act (that allows a Ministerial staff member who gives, or person engaged to give, advice to a Minister to unilaterally seek the Integrity Commissioner's advice) be amended to read "Chief of Staff with the knowledge of the Minister", and b) Section 12 (1) (g) of the Act (that allows an Assistant Minister staff member who gives, or person engaged to give, advice to an Assistant Minister to unilaterally seek the Integrity Commissioner's advice) be repealed, and c) Section 17 (d) of the Act (that provides for a Minister to ask for the Integrity Commissioner's advice on an ethics or integrity issue) be amended to read "a Ministerial staff member who gives, or a person engaged to give, advice to a Minister", and d) Section 18 (a) (that provides for an Assistant Minister to ask for the Integrity Commissioner's advice on an ethics or integrity issue) be amended to read "an Assistant Minister staff member who gives, or a person engaged to give, advice to the Assistant Minister".
Recommendation 6 Section 6.2	<p>There be no change to the disclosure provisions of the Act designed to ensure confidentiality surrounds the requesting and the provision of advice.</p>
Recommendation 7 Section 6.3	<p>Relieve the Integrity Commissioner of administrative processes that have no relevance to the function by:</p> <ul style="list-style-type: none"> a) the repeal of Section 40E of the Act (that requires Statutory Office Holder Declaration of Interests be filed with the Integrity Commissioner), and b) amending Section 101 of the PSA to remove the requirement for Chief Executive Declarations of Interest be provided to the Integrity Commissioner. <p>Statutory Officers are required to provide a Declaration of Interests to the appropriate Minister and/or Parliamentary Committee to which the officer holder is accountable. The Integrity Commissioner has no statutory function to perform in relation to the declarations. The effect of the recommendation would relieve the Integrity Commissioner of an administrative responsibility that has no relevance to the function.</p>

Recommendation	Detail
Integrity Commissioner's lobbying regulation function	
Recommendation 8 Section 7.1	<p>To enhance transparency in respect of contact by employees of organisations and associations who represent that entity's own interest:</p> <ul style="list-style-type: none"> a) the government provide more specific criteria as to the information that must be included in Ministerial diaries as to the purpose of the meeting, including the possibility of a pre-set menu of options, and b) the Leader of the Opposition's diary contain similar detail in respect of meetings with those employed within organisations and associations who represent that entity's own interests.
Recommendation 9 Section 7.1	<p>While not broadening the definition of 'lobbyist' in Section 41 of the Act, provide clarification as to the meaning of entity to include an individual, organisation or related party (as defined in the ASA 550 Auditing Standard).</p>
Recommendation 10 Section 7.2	<p>For the avoidance of doubt, Section 44 of the Act be amended to include reference to Statutory Officers as responsible persons for reporting unregistered lobbying activity.</p>
Recommendation 11 Section 7.3	<p>To improve its effectiveness, the Act be amended to make unregistered lobbying activity an offence, together with penalties commensurate with those in other legislation for acts of deception intended to subvert the integrity of public administration.</p>
Recommendation 12 Section 7.4.1	<p>To enable auditing of lobbyists records and monitor compliance, the Act be amended to require government representatives or Opposition representatives to provide meeting records and other relevant information when requested by the Integrity Commissioner.</p>
Recommendation 13 Section 7.4.2	<p>To improve the efficiency of the regulatory regime:</p> <ul style="list-style-type: none"> a) the Act be amended to enable the Integrity Commissioner, to seek an explanation and/or issue a direction to take remedial action about a compliance matter, without first having to issue a show cause notice, and b) retain the "show cause" provisions to deal with more serious instances of non-compliance.
Recommendation 14 Section 7.4.3	<p>To improve the effectiveness in the regulation of lobbying:</p> <ul style="list-style-type: none"> a) the Act be amended to provide for the Integrity Commissioner to refer matters to the CCC: <ul style="list-style-type: none"> (a) (i) when there is information available that the activities of a registered lobbyist may offend the provisions of Section 15 of the Crime and Corruption Act, or (b) (ii) an individual or entity is allegedly undertaking lobbying activities (as defined by the Act) but who are not registered (i.e., unlawful lobbying), b) the Integrity Commissioner be given powers to warn lobbyists upon becoming aware of alleged misconduct without reference to the CCC, and c) an assessment be made as to whether consequential amendments to the Crime and Corruption Act are necessary to enable the investigation of alleged corrupt activity on the part of a lobbyist, (as distinct from the public official) and any other matter referred by the Integrity Commissioner as constituting serious misconduct that warrants investigation.

Recommendation	Detail
Recommendation 15 Section 7.5	To improve transparency in relation to the nature of contacts with government representatives and Opposition representatives, lobbyists be required, when entering details on the Lobbyist Register, to provide a short explanation of the subject matter when selecting the 'other' category.
Recommendation 16 Section 7.6	To ensure possible conflict of interest situations are properly addressed where a company is supplying services to government but also works for non-government clients, the Queensland government Supplier Code of Conduct be amended to provide that: <ul style="list-style-type: none"> a) when submitting a proposal to undertake work for the government, a firm be required to make a specific statement addressing Item 3.2 (Managing conflicts of interest) and attach a) copy of the company Conflict of Interest policy where they have one, and b) Conflict of Interest be added as one of the due diligence checks to be made as part of the evaluation process.
Recommendation 17 Section 7.7	In relation to lobbyists working in an advisory capacity to political parties, the Integrity Commissioner update the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration.
Recommendation 18 Section 7.7	The Act provide for the Integrity Commissioner to issue directives from time to time concerning the application of policies as circumstances require.
Integrity Commissioner's public awareness function	
Recommendation 19 Section 8.1	The Integrity Commissioner continue to develop education material as this can reduce the demand on the office to respond to requests for basic information, freeing time and resources to conduct the advisory and lobbyist regulation functions.
Recommendation 20 Section 8.2	The expertise and knowledge of the Integrity Commissioner be used to build capacity and competency across the public sector by: <ul style="list-style-type: none"> a) continuing to make presentations to Statutory Boards and agency Chief Executives regarding best practice in meeting community expectations in respect of integrity in public administration, and b) continuing the education, training and professional development of those in public sector agencies who provide advice to employees regarding integrity and ethics matters.
Recommendation 21 Section 8.3	To improve understanding of the requirements of Chapter of the Act (Regulation of Lobbying Activities), its intent and obligations, the Integrity Commissioner: <ul style="list-style-type: none"> a) develop educational materials tailored to needs of registered lobbyists and relevant public officials and undertake training sessions, and b) create a compulsory training module that promotes best practice within the lobbying industry active in Queensland, and c) require successful completion of the module by all currently registered lobbyists and those who intend to register, as a condition for registration.

Recommendation	Detail
Performance of the Integrity Commissioner's functions	
Recommendation 22 Section 9.1.2	The Integrity Commissioner structure advice provided so there is a summary of the advice and any recommended course of action as the first section of the document.
Recommendation 23 Section 9.2.2	The Integrity Commissioner and the DPC ICT team complete, as a priority, work being undertaken to scope an upgrade or replacement of the Lobbyist Register platform, and once a solution has been identified that funding be given favourable consideration to enable its prompt implementation.
Organisational arrangements supporting the Integrity Commissioner	
Recommendation 24 Section 10.1	To enhance the independence of the Integrity Commissioner: <ol style="list-style-type: none"> a) there should formally be established an Office of the Integrity Commissioner as an independent unit within DPC consistent with the function being one within the portfolio of the Premier, and b) the Integrity Commissioner be accountable for the performance of the office in discharging the functions under the Act within the budget provided, and financial delegations commensurate with prudent financial management under the Financial Accountability Act, and c) staff be appointed directly to the office and (although public servants) be managed autonomously by the Integrity Commissioner.
Recommendation 25 Section 10.2.1	To ensure business continuity and a sustainable service to those requiring timely advice: <ol style="list-style-type: none"> a) the position for which the administration of Chapter 4 of the Act (Lobbying) is responsible, (being the second most senior and executive level position within the Office) be designated Deputy Commissioner, b) the Act be amended to provide the Integrity Commissioner delegation powers to assign the advice function to either the Deputy Commissioner or an acting Commissioner to cover periods of leave and in circumstances where the Integrity Commissioner may have a conflict of interest, c) the Integrity Commissioner be required to obtain consent from the Minister (currently the Premier) to exercise the delegation, (consistent with the with responsibility the Minister carries for the proper functioning of the office) and once consent is obtained apprise the Speaker and the Parliamentary Committee of the circumstances prior to the delegation being exercised, d) the delegation powers should not prevent the Integrity Commissioner continuing to perform their functions in the circumstance where the delegate is given a specific advice request, for example, due to a conflict of interest, and e) at the time the Integrity Commissioner is appointed, an external acting Commissioner be appointed for the same term as the Integrity Commissioner but remunerated only for periods of actual service.
Recommendation 26 Section 10.2.2	If an Office of the Integrity Commissioner is established (see Recommendation 24) its structure include: <ol style="list-style-type: none"> a) Deputy Commissioner and Director Lobbying (SES 1), b) Senior Officer, Advice (P05), c) Senior Administrator and Office Manager (AO6), d) Executive Support (Lobbyist Register) (AO5), and e) Executive Support (General Admin) (AO3).

Recommendation	Detail
Recommendation 27 Section 10.2.3	The Integrity Commissioner be relieved of the responsibility for the receipt and management of AASB 124's as these are not related to the functions under the Act.

Appendix C – Submitters

Sub #	Submitter
001	Elaine Abery
002	Office of the Independent Assessor
003	Hawker Britton
004	Crisis&Comms Co
005	Greg Smith
006	Crime and Corruption Commission
007	Brisbane Residents United
008	Dr Nikola Stepanov, Queensland Integrity Commissioner

Appendix D – Witnesses at public hearing

Queensland Integrity Commissioner

- Dr Nikola Stepanov, Queensland Integrity Commissioner
- Mr Russell Hood, Senior Legal Officer

Crime and Corruption Commission

- Mr Bruce Barbour, Acting Chairperson
- Ms Jen O'Farrell, Chief Executive Officer

Crisis&Comms Co

- Mr Paul Bini, Partner

Hawker Britton

- Mr Elliot Stein, Director

Barton Deakin

- Mr Andrew Humpherson, Managing Director

Office of the Independent Assessor

- Ms Kathleen Florian, Independent Assessor

Statement of Reservation

Non-government Statement of Reservation

Mr Kevin Yearbury PSM was appointed to undertake the five year strategic review of the Office of the Integrity Commissioner on 11 March 2021. Prior to the appointment, the committee was consulted on his appointment and on the terms of reference.

Mr Yearbury's final report on the strategic review (Report) was presented to the Premier and Minister for the Olympics (Premier) on 30 September 2021 and tabled in the Legislative Assembly by the Premier on 14 October 2021.

Many of the concerns raised by the non-government members in this Statement of Reservation relate to matters that came to light post Mr Yearbury's report. Nonetheless, these matters are vital to the Office of the Integrity Commissioner and, more generally, integrity, transparency and accountability in the State of Queensland. These matters, although becoming public after Mr Yearbury's review, cannot now be simply ignored and directly relate to the strategic direction of the Office of the Integrity Commissioner.

Any report on the strategic direction of the Office of the Integrity Commissioner is premature.

For months, Queenslanders have been made aware of several serious allegations relating to the Office of the Integrity Commissioner and wider related issues. These include:

- During the public hearing, the outgoing Integrity Commissioner provided some very concerning evidence. The Integrity Commissioner:
 - Discussed the lack of resourcing, preventing her from maintaining an independent, confidential service;
 - Traversed the advice of the CCC that the Office of the Integrity Commissioner be made a unit of public administration, and her support of that advice;
 - Indicated that she could not guarantee that confidential information she held had not been compromised by a public sector entity;
 - Alleged name-calling and bullying of the Integrity Commissioner by another Senior Officer;
 - Stated her concerns about the controls of the Integrity Commissioner's office resources, assets and phone records; and
 - Called for a Royal Commission into integrity issues in Queensland.
- Public revelations about issues surrounding a Public Service Commission investigation into the Office of the Integrity Commissioner, the seizure of a laptop from the Office of the Integrity Commissioner and the unknown confidential information accessed by that investigation.
- A Crime and Corruption Commission investigation into the above. An investigation which was supposed to be the subject of report in April, but has still, to date in early June, not occurred.
- Wider issues touching upon integrity, transparency and accountability in the State of Queensland, which include the Office of the Integrity Commission.
- The establishment of the Coaldrake Review to investigate culture and accountability in the Queensland public sector. But the Coaldrake Review is not a Commission of Inquiry with the powers and protections needed to encourage public interest disclosures. In any event the interim Coaldrake Report noted issues of very great concern, many of which are relevant to the Office of the Integrity Commissioner. At page 7 of that report Coaldrake stated:

Aside from the recent airings involving the Integrity Commissioner, former State Archivist and the Public Service Commissioner, examples frequently cited in representations to this Review include: concerns about the influence of lobbyists on decision-making; the overreach of some ministerial staff and their lack of accountability; the erosion of functions designed to hold government to account, such as the Auditor-General; the increased use of outside consultants and the subsequent loss of capacity in the public service.

At pages 15-16 of that Report, Coaldrake outlines some of the additional issues raised by his review concerning the Integrity Commissioner. The Committee's inquiry and report does not touch upon or mention the Coaldrake report.

And what the Queensland public still do not know is very concerning.

Throughout this process, the non-Government Members have sought to bring to light as much information as possible, in the interest of all Queenslanders. The non-Government Members of the Committee believe that openness and accountability matters concerning the office of the Integrity Commissioner would have been greatly enhanced if all correspondence concerning the Commissioner's issues at the time the review was being conducted were publicly released to aid in a more comprehensive review of the Commissioner's role. Under the current portfolio committee system, this was not possible.

In this report, there are 25 'committee comments' made in regard to the recommendations of Mr Yearbury when he submitted this report to the Premier on 30th September 2021. Some of these comments were supportive and plenty were non-committal.

This report needed make only one recommendation - that a Royal Commission (or a Commission of Inquiry as they are known in Queensland) be immediately called into the integrity, accountable and transparency issues raised during the term of this government.

Mr Yearbury's report was tabled well before any serious integrity issues were brought to public light. However, at the time of this report's finalisation, several issues have been brought to light and remain unresolved. Two inquiries, one by the CCC and one by the Coaldrake review are incomplete.

Only a properly empowered Commission of Inquiry where public interest disclosures can be protected will resolve these issues.



Ray Stevens MP

Deputy Chair

Member for Mermaid Beach



Michael Crandon MP

Member for Coomera



Dan Purdie MP

Member for Ninderry