

Hon. William Cox AC, RFD, ED, QC
Independent Reviewer
GPO Box 825
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Dear Mr Cox

RE: Independent Review of the *Integrity Commission Act 2009*

Thank you for the opportunity to make a submission on the five year independent review of the *Integrity Commission Act 2009*.

The Integrity Commission was established in 2009 under the Bartlett Government of which I was the then Attorney-General and Minister for Justice. While we believed that there was already a strong accountability framework in place in Tasmania through various bodies from the Parliament to statutory offices such as the Auditor-General and the Ombudsman, it was clear the Tasmanian community wanted more in order to restore confidence in public officers and public institutions.

With this in mind the Government developed a set of principles to underpin an integrity body. Those principles were:

- recognition that prevention is as important as dealing with allegations of unethical behaviour;
- the need to build on existing structures and mechanisms;
- the need for proportionality;
- a cautious approach to strong investigative or coercive powers;
- clarity and consistency about which public bodies are to be covered; and
- independence from the Government of the day.

At no time was the Integrity Commission intended to be an open invitation to forum shoppers, but instead was to be used as a form of triage to existing independent investigative bodies and only used for investigation in matters of serious misconduct.

Where the alleged misconduct could amount to criminality, the intention was for the commission to, in most cases, refer the matter to the police who have the necessary skills and resources to investigate criminal conduct.

At the time of developing the bill, there was quite a debate within government about how far the powers of an Integrity Commission should extend, and the balance between giving adequate powers to a new body, but also protecting the rights and liberties of individuals. While the powers of the Integrity Commission are not as strong as other similar bodies in other states, the Integrity Commission was given the capacity to recommend to the Premier that a commission of inquiry be established, where stronger powers can be applied.

Generally, the commission was given similar investigative powers as exercised by other officers such as the Ombudsman. These included the power to enter property, search for and seize material and to question witnesses.

At no time did we believe that there was any evidence of corruption in Tasmania that would warrant the establishment of an Independent Commission Against Corruption (ICAC). While there have been cases of misconduct investigated by the Integrity Commission, we are still of the view that there is no reason for an ICAC style of body in Tasmania. However, there is sufficient evidence of some misconduct to warrant the retention of the Integrity Commission with its existing powers.

You will note my dissenting report as part of the three year review of the Integrity Commission by the Joint Standing Committee on Integrity, which relates to the future of the Integrity Commission and its powers. The report largely leaves the issue of investigative powers and functions of the Integrity Commission to the five year review, with the Commission to retain its investigative functions and powers until the conclusion of that review. However, the second recommendation says the Integrity Commission be given only the authority to assess, triage and monitor all investigations. I disagree with this finding as I believe that it is also important for the Integrity Commission to retain its investigative powers. I do not however, believe that the Commission needs its powers expanded beyond what they have, notwithstanding the need to tidy up the Act to make it more consistent as seen in the technical amendments section of the report.

While the Integrity Commission has not found evidence of systemic corruption, the evidence from the Commission was clear that an independent investigative body is required in Tasmania and that there must be some report back to the Commission where matters are triaged to another agency to follow through. Considering the Integrity Commission oversees state and local government, I believe that it would be detrimental to good governance not to have an independent body capable of investigating allegations of public sector misconduct.

Terms of Reference:

- a) *The operation of the Act in achieving its object and the objectives of the Integrity Commission*

See above comments and three year review findings

- b) *The operation of the Integrity Commission, including the exercise of its powers, the investigation of complaints and the conduct of inquiries*

See above comments and three year review findings

- c) *The operation of the Parliamentary Standards Commissioner*

I am aware of Members of the Parliament using the services of the Parliamentary Standards Commissioner. While this role has provided a useful sounding board for members, it is our opinion that the adoption of a parliamentary code of conduct would provide clarity for members seeking advice, and for the Commissioner in providing advice to both members and the Integrity Commission.

We would recommend retaining this role.

- d) *The operation of the Joint Committee*

As a member of the Joint Committee I believe that it has been useful having the conduit between the parliament and the commission and I would recommend its retention.

The delay in the finalising of the three year review highlights the difficulties that can be encountered by parliamentary committees when elections intervene and new members are brought onto the committee. While the report was delayed, the process did enable members to understand the need for some change to the way the legislation is operating and how communication could be improved between the public service and the commission and vice versa.

- e) *The effectiveness of orders and regulations made under this Act in furthering the object of this Act and the objectives of the Integrity Commission*

See three year review

- f) *Any other matters relevant to the effect of this Act in improving ethical conduct and public confidence in public authorities.*

The Labor Party opposed the direction the Government appeared to be taking with their submission to the Three Year Review which effectively took the investigative powers off the Integrity Commission and left it with purely an educational role. We were also most concerned with the heavy cuts imposed on the commission through the budget process, which has impeded their ability to investigate or review as many matters as they may like.

Thank you once again for the opportunity to make a submission to the review.

Yours sincerely



Lara Giddings MP
Shadow Attorney-General
Shadow Minister for Justice