

26 February 2016

The Honourable William Cox AC,RFD,ED, QC
Independent Reviewer
PO Box 825
HOBART TAS 7001

Dear Hon Cox,

Five Year Independent Review of the *Integrity Commission Act 2009* (the Act) - Submission

I make the following submission to the five-year Review (the Review):

Inclusion of the Auditor-General on the Board (assuming a Board continues to exist)

Under the Act, the Auditor-General (A-G) is, as is the Ombudsman, an ex-officio member of the board of the Integrity Commission (IC). I was consulted at the time of the drafting of the Bill which resulted in the Act, and noted at that time, inclusion of the A-G, Ombudsman and the then State Service Commissioner would likely result in 'manageable' conflicts of interest.

At that time, on balance, I was not against inclusion of the A-G on the IC board and I believe that in the early years this proved helpful. One positive outcome from this was a change to the *Audit Act 2009* (Audit Act) whereby the A-G, despite the confidentiality provisions in the Audit Act, and subject to the public interest, could share/discuss what might otherwise have been confidential information with the IC.

However, now that the IC has operated for some years, I consider that, for reasons of conflict of interest, and because the Audit Act now enables consultation with the board and with the IC, statutory inclusion of the A-G on the IC board should cease. Examples of areas for potential or actual conflict include:

- a. The IC is a State entity under the Audit Act and, therefore, its annual financial statements are subject to audit by the A-G. To overcome this conflict I delegate the audit to my Deputy. However, I acknowledge that this 'delegation' does not fully address this conflict.
- b. As a State entity, the IC could be selected, under the A-G's discretionary powers, for the conduct of a performance audit, compliance audit, investigation or other project determined by the A-G to be carried out. I would not want to avoid including the IC in projects of this nature because I am on its board. In this regard, my investigative powers are broad and I would not want to be in a position where I am requested to, or wish to, investigate a matter concerning the IC, but then withdraw due to that membership or be in a position where there is a perception that I avoid looking into matters regarding the IC that perhaps I should.
- c. Similarly, there may be occasions where the IC is requested, or it chooses to, investigate me or my Office requiring me not to attend a particular meeting or part of a meeting or to participate in a discussion regarding the scope of an IC inquiry.

- d. There has been one occasion when the IC has initiated a project involving multiple agencies including my Office resulting in a public report. As a member of the board, I supported:
- i. the project being undertaken
 - ii. inclusion of the Tasmanian Audit Office in the project scope
 - iii. the underlying principles underlying the recommendations made by the IC in its public report but not necessarily, in every detail, the proposed policy framework subsequently promoted by the IC.

This placed me in a position whereby as an IC board member I found that I was required to comply with a policy framework different from one implemented in my Office.

Overall therefore, and while I believe that most conflicts of interest can be sensibly managed, on balance I think it best that the A-G no longer be a member of the IC board.

Should you wish to discuss this submission or any other matter relating to your Review, please do not hesitate to contact me, or my Deputy Mr Ric De Santi, on (03) 6173 0900.

Yours sincerely



HM Blake
Auditor-General