Submission to the “Independent” Review of the Integrity Commission Act 2009

Any review of the Tasmanian Integrity Commission should have as a starting point the circumstances which led to the creation of this ineffectual body.

The Integrity Commission established by the then Attorney General Lara Giddings was a knee jerk response to public anger over the disclosure of the dubious manner by which judicial appointments were made.

The aborted magisterial appointment that cost the then Attorney General Steven Kons his Ministerial position had the potential to undermine public confidence in the judiciary.

Recognising this, the Government announced the creation of this body in an attempt to dampen down this concern.

It was never intended that this would be a genuinely independent body to oversight the conduct of Tasmanian politicians and public officials. As a consequence the Tasmanian taxpayer is spending upwards of $4 million a year for an ineffectual bureaucracy that only began to do anything whatsoever when its own existence started to come into question.

The shortcomings of the Act identified by former CEO Dianne Merryfull were a conscious decision of the then Government to restrict this new body’s effectiveness and minimise any possibility of a truly independent and ethical integrity watchdog acting in the public interest.

Ms Merryfull said as much when she told a 2014 Parliamentary inquiry that that it was clear that the current Liberal Government appeared determined to shut the Commission down. The ABC reports Merryfull as saying *“it is no coincidence to us that as soon as an integrity commission starts to get some runs on the board….the response is to shut it down”.*

While I agree with this part of her assessment the unanswered questions include why did the Integrity Commission itself take upwards of five years to do anything of worth whatsoever?

While this current review will not cost anywhere near the $4 million wasted each year on a non-functioning Integrity Commission I believe it is nevertheless, equally ethically bankrupt because any submission at odds with the predetermined outcome will not be considered. I say this with some understanding of the modus operandi adopted by the Justice Department bureaucracy when setting up and controlling these makes believe reviews.

Even inviting submissions *(albeit narrowing it to the effect the Act has on the functioning of the Commission)* so soon after the 2014 inquiry by a Parliamentary Joint Standing Committee is a give away that this “independent review” is nothing more than a similar sham.

There was no positive result from that review and Tasmanians can be assured that this current exercise will also amount to nothing

The carefully crafted terms of reference have been drafted to allow Bill Cox an excuse for not focusing on the actual conduct and performance of the Commission. The terms of reference limit this so called inquiry to commenting on how the Act specifically prevents (or hinders) the Commission from vigorous investigation of corrupt behaviour.

The diligence and effectiveness of the Commission’s handling of its investigative role can be conveniently ignored as “outside the scope of this review”.

Justice Department bureaucrats are well aware that public apathy wins out on all but the most controversial issues. Having participated in previous Justice Department calls for expressions of interest I share the view of a correspondent in this weeks Mercury newspaper letters feature that the primary concern of the public service is not to be found out. In other words the long term success of a public service agency lies in its ability to conceal its abject failure. An independent and active Integrity Commission is as unpalatable to these individuals as it is to the politicians who rely on their advice.

While an occasional academic may make a submission to these reviews the bulk of what is received is motivated by the greed and self interest of lobbyists with an identifiable vested financial interest in the outcome.

If there was a genuine concern to obtain wider community feed back why is it always necessary to appoint a retired legal identity to oversee the inquiry? The answer to that is that it provides the wider community a misplaced sense of impartiality and independence.

Tasmania has always had a plethora of individuals, tribunals and committees allegedly policing ethical standards both in the public sector and within the wider community. Unfortunately through incompetence, laziness or self interest none have performed to an acceptable standard. One only has to point to the Legal Profession Board of Tasmania to understand how powerful lobby groups such as the Tasmanian Law Society manipulate Government, (in this example guaranteeing that systemic corrupt behaviour within the legal profession will never be exposed).

The current State Government is arguing that the Integrity Commission should be scaled back to nothing more than a referral body, which in reality would render it totally ineffectual. Precisely who would fill the current investigative role of the Commission has not been revealed. If that scenario is seriously being contemplated why not abolish it altogether. Surely this would be preferable to continuing to waste public money funding an unworkable and unproductive charade.

It is also my opinion that a potential conflict of interest can arise by having the Auditor General and the Ombudsman as ex-officio members of the Commission.

In relation *to (f) any other matters relevant to the effect of this Act in improving ethical conduct and public confidence in public authorities* it can be said with 100% certainty that public confidence in the integrity of the Tasmanian Public Service is at an all time low and the self evident non performance of the Integrity Commission is one significant reason why this is the case.

This inquiry could (but will not) consider the handling of the removal of the inaugural CEO Barbara Etter and ask if the secrecy and deceit displayed during this scandal met standards one should reasonably expect from a truly independent, open and transparent integrity commission.

In conclusion I believe a truly independent, ethical, proactive, and transparent Integrity Commission is essential if Tasmania is to have a public service that enjoys the confidence of the wider community. However no amount of tinkering with the wording of the Act will achieve that goal. Only a complete revamp (including personnel) will do anything to restoring public trust in this instrumentality.

Regrettably that will never happen

 John Forsyth