



ECONOMICS AND GOVERNANCE COMMITTEE

Members present:

Mr LP Power MP—Chair
Mr RA Stevens MP
Mr MJ Crandon MP
Mrs MF McMahon MP
Mr DG Purdie MP (virtual)
Mr A Tantari MP

Staff present:

Ms J Langford—Committee Secretary
Ms M Salisbury—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE INTEGRITY AND OTHER LEGISLATION AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 24 OCTOBER 2022

Brisbane

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The committee met at 11.16 am.

CHAIR: Good morning. I declare open the public briefing for the committee's inquiry into the Integrity and Other Legislation Amendment Bill 2022. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to the elders. We are fortunate to live in a country with two of the oldest continuous living cultures, those of the Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share. My name is Linus Power. I am the member for Logan and chair of the committee. Other members of the committee are: Mr Ray Stevens MP, member for Mermaid Beach and deputy chair; Mr Michael Crandon, member for Coomera; Mrs Melissa McMahon, member for Macalister; Mr Adrian Tantari, member for Hervey Bay; and Mr Dan Purdie, member for Ninderry, who is on the phone.

The purpose of today's briefing is to assist the committee in its inquiry into the Integrity and Other Legislation Bill 2022. This briefing is a proceeding of the Queensland parliament. It is subject to the standing orders and rules of the parliament. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I remind members of the public that they may be excluded from the briefing at the discretion of the committee. I also remind committee members that officers are here today to provide factual or technical information and any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I give a reminder to please ensure that your mobile phones are switched to silent mode.

LANG, Ms Jenny, Deputy Director-General, Integrity Reform Taskforce, Department of the Premier and Cabinet.

WELCH, Ms Rachel, Executive Director, Integrity Reform Taskforce, Department of the Premier and Cabinet

CHAIR: Good morning. Thank you for agreeing to brief the committee today. I invite you to make some opening comments, after which committee members will have some questions for you.

Ms Lang: Thank you, Chair, and good morning. I would like to thank the committee for the opportunity for us to come along to brief you today about the Integrity and Other Legislation Amendment Bill. As you will be aware, the report by Professor Coaldrake, *Let the sunshine in: review of culture and accountability in the Queensland public sector*, made 14 direct recommendations and supported the implementation of a suite of other recommendations from former reviews and inquiries, including Mr Kevin Yearbury's September 2021 report *Strategic review of the Integrity Commissioner's functions*. While a number of the Coaldrake report recommendations are able to be implemented administratively without amendments to legislation, a number do require amendments to give effect to their intent. It is proposed to progress these legislative amendments through two bills, with the first tranche of amendments contained in this bill.

This bill amends the Auditor-General Act 2009 and the Integrity Act 2009 to better promote the independence and authority of the Queensland Auditor-General and the Queensland Integrity Commissioner. The bill also amends the Ombudsman Act, the proposed Public Sector Act and the Superannuation (State Public Sector) Act 1990. The Auditor-General Act 2009 amendments give effect to the recommendations in the Coaldrake report that the Auditor-General become an independent officer of the parliament; that the act be amended to allow for the Auditor-General's employment of Audit Office staff under that act rather than the Public Service Act 2008; that the Auditor-General be allowed to independently set basic rates for audit fees without the Treasurer's approval; and that the Auditor-General be given discretion to undertake audits on government owned corporations.

The bill gives effect to these recommendations via clause 4, which provides the Auditor-General is an officer of the parliament; and clause 14, which provides that the Auditor-General may employ the staff that they consider necessary for staffing their office under the Auditor-General Act rather than the Public Sector Act. These provisions also provide for the preservation of superannuation and leave entitlements and the ability for officers to return to the Public Service for a limited a time after those provisions commence. Clause 20 of the bill provides that the Auditor-General may decide the basic rates of fees having regard to the reasonable costs that may be incurred for conducting an audit and amounts ordinarily charged for conducting an audit by entities that provide such services. The Auditor-General may only increase these fees once per year, with the approval of the parliamentary committee, with the bill setting out matters that the committee may have regard to in considering such a proposal. Clause 16 ensures that the Auditor-General can undertake performance audits of government owned corporations.

Professor Coaldrake also recommended outstanding recommendations from the 2013 Finance and Administration Committee's inquiry and the 2017 strategic review of the Audit Office be implemented, and the bill implements a number of these outstanding recommendations. The bill also implements or partially implements a number of Mr Yearbury's recommendations in relation to his strategic review report through amendments to the Integrity Act to establish the Office of the Integrity Commissioner, recommendation 24(a); create the new position of Deputy Integrity Commissioner, recommendation 26(a); continue staff of the office being employed under the proposed Public Sector Act but provide that the Integrity Commissioner has greater autonomy to control the office, including their staff; amending the definition of 'designated person' and providing for an end date for designation; revising the declaration of interest requirements in accordance with recommendation 7(a), with recommendation 7(b) being effected through the Public Sector Bill; and creating an offence of unregistered lobbying, with a maximum penalty of 200 penalty units, which gives effect to recommendation 11.

The bill also amends section 83 of the Ombudsman Act so that strategic reviews of that office are conducted at least every five years instead of the current seven, which creates consistency with the other integrity bodies' strategic review provisions.

There is intersection between the bill and the Public Sector Bill and, while some sections of the bill can commence earlier than the proposed Public Sector Act, those sections that have an interaction with that bill will commence after the act has commenced in March 2023. I thank the committee for the opportunity.

Mr STEVENS: Thank you for that introduction. I note you mentioned partially introduced recommendations of the Yearbury report. The Yearbury report in relation to the Integrity Commissioner recommends that the Integrity Commissioner's staff are directly appointed by that office and are to be managed autonomously by the Integrity Commissioner. The explanatory notes say that officers will only be subject to direction by the Integrity Commissioner, but there is no mention of the recommendation for independent appointment. Why is that so and why would the Integrity Commissioner not be in charge of those appointments?

Ms Lang: The Integrity Commissioner under the bill has control of the office, and that would include the appointment of staff to that office.

Mr STEVENS: Excellent. To further clarify, the amount of staff and who works in it will all be determined by the Integrity Commissioner?

Ms Lang: The Integrity Commissioner will be able to determine the staff that they appoint to that office. They will have a budget that they will need to meet.

Mr STEVENS: In relation to lobbying, I note the introduction of an offence for unregistered lobbying, the penalty being 200 points. How much is a point worth these days?

Ms Lang: From memory it is about \$143.

Mr STEVENS: So it is a bit of a slap on the wrist for some of these lobbyists. Who is in charge of investigating unregistered lobbying and will the Integrity Commissioner be given any powers through this bill to investigate unregistered lobbying?

Ms Lang: This bill does not give the Integrity Commissioner any power to undertake investigations; however, the Integrity Commissioner may become aware of unregistered lobbying and it would be open for the Integrity Commissioner to refer that to the Queensland Police Service.

Mr STEVENS: Or the CCC?

Ms Lang: The Integrity Commissioner could do so if the conduct met the threshold for the CCC's conduct, which is generally corrupt conduct.

CHAIR: When it comes to investigative powers, did the Yearbury report make any comments about having investigative powers?

Ms Lang: I do not believe so.

Mr STEVENS: So it is only if the Integrity Commissioner becomes aware of some unregistered lobbying that she can refer this to the Queensland police. She cannot follow up matters for her own investigation?

Ms Lang: The Integrity Commissioner does have some powers in relation to show cause, but that relates to the registration of lobbying, and has the ability, I believe, to request particular documents so may become aware in that way.

Mrs McMAHON: If I could turn to amendments in relation to the Auditor-General Act and specifically its relationship with the Legislative Assembly in relation to audits undertaken at the request of the Legislative Assembly and also now that the functions have been passed on to the parliamentary committee. I was wondering if you could outline the reasons behind that change and what members of a parliamentary committee may now be asked to do as a result of those legislative changes.

Ms Lang: The amendments in relation to that particular provision arise from Mr Coaldrake's recommendation to implement the 2013 FAC and the 2017 strategic review. Those are recommendations contained in the 2013 FAC report. That relates to ensuring that the Auditor-General cannot be directed and ensuring their independence in relation to the carrying out of their functions. In relation to the parliamentary committee, the parliamentary committee is given some additional responsibilities in relation to oversight of the Auditor-General.

Ms Welch: The main difference in this bill is oversight and decision-making around the increasing of the basic fees. This allows the Auditor-General to make a submission to the parliamentary committee if they wish to increase the basic fee for services. The parliamentary committee may consider any matters they wish, but it specifically suggests they may consider a submission from the Treasurer and the government index rate in determining whether that increase is appropriate and sufficient and then make a decision and report to parliament on that decision on the increase.

The other increase in functions is just a little in line with the similar functions of parliamentary committees for the other integrity bodies and is just to bring in alignment with the creation of the Auditor-General becoming an officer of the parliament so the parliamentary committee may be able to look at the financial annual reports of the Auditor-General. It is a scaled-down version because there is already significant parliamentary oversight of the Auditor-General's reports into audits of agencies so each of the parliamentary committees for their portfolios see any audits undertaken.

Mrs McMAHON: In relation to the request by the Legislative Assembly for audits, is there an indication of how many times a Legislative Assembly has requested an audit of the Auditor-General over the last term or two? How often does that actually happen?

Ms Lang: We were unable to locate an instance of that occurring. However, I believe the Audit Office has indicated there may have been one occasion in the past 10 years.

Mr CRANDON: What brought about removing the ability of parliament to direct the Auditor-General? What was the cause of that? Given that there has not been any abuse by the parliament—and I would not suggest that we would abuse anything like that anyway—what is the thinking behind removing that ability to direct?

Ms Welch: The Auditor-General's submission to the 2014 inquiry talks about an assessment done of auditors-general around the country as to their independence and there is a number of criteria that they look at. One of the criteria is the power for other bodies to direct or influence the auditor-general in its work. It is all set through the International Standards of Supreme Audit Institutions guidelines and the good practice related to SAI independence. My understanding from the QAO submission is that it is not in any response to any failing; it is part of a suite of recommendations or suggestions which are about improving both the perception and the actual independence of the QAO and ensuring there are not entities that can provide influence or direction over the QAO and the Auditor-General.

Mr CRANDON: Even if it is the parliament of Queensland. I take the point. Of course, we know that the Auditor-General is very open and, in fact, invites committees to make suggestions and recommendations on where he or she might like to go with audits and so forth. I take that point. Going to the Ombudsman, the explanatory notes states that the Coaldrake review suggested that the Brisbane

strategic review of the Ombudsman's office occur every five years instead of every seven years. That change is being reflected in this bill but that was not actually a recommendation of the Coaldrake review, was it?

Ms Lang: It is commentary in the Coaldrake report, and fairly strong commentary, that the term for a strategic review should be reduced to five years, which would ensure consistency with the strategic review provisions for other integrity bodies. Professor Coaldrake also comments that conducting a strategic review every five years allows the Ombudsman a more frequent opportunity to raise matters that may require reform.

Mr CRANDON: There is no recommendation there. Did you miss that, do you think?

CHAIR: I am sorry, member for Coomera?

Mr CRANDON: There was no recommendation. It was not one of his recommendations.

Ms Lang: It was not one of his formal recommendations. I am sure you have read the report. There are a number of things that Professor Coaldrake makes commentary on in fairly strong terms that could be considered to be a recommendation, and that is one of the ones that we had identified.

Mr CRANDON: There was one recommendation in the review that the Ombudsman be able to investigate complaints against private organisations carrying out functions on behalf of the government. Is that recommendation reflected in this bill?

Ms Lang: No, it is not.

Mr CRANDON: As background to maybe something in the future?

Ms Lang: It is possible. The government has not considered that yet and it may be something that is included in the second bill.

Mr CRANDON: There are two. What else do you think might be contained in the second bill that we have missed in the first bill along the lines of this one?

CHAIR: Are you asking that seriously or is it just—

Mr CRANDON: Yes. What else might be in the second bill that we have missed in this one, along the same lines as that particular response that you have given me?

CHAIR: Are you asking what might be in another bill that is not before the House as we examine this bill?

Mr CRANDON: All of the recommendations have been considered and Ms Lang has indicated, in that particular response to my question, that it could be in the second bill. That led me to ask what else might be in the second bill.

CHAIR: I think Ms Lang was indicating that anything could be in the second bill, noting the recommendations.

Mr TANTARI: Turning to the amendments to the Integrity Act, the proposed amendments to the meaning of 'designated person' include a person or class of persons prescribed by regulation. Can you expand on why those persons will be prescribed by regulation and who that is likely to cover?

Ms Welch: I cannot speak to who it is likely to cover. At the moment, a minister or an assistant minister, under section 12, can nominate any person to be a designated person and the Integrity Commissioner is then required to provide services and integrity advice, if requested. Mr Yearbury, in his report, identified that that has a significant impact on the workload of the Integrity Commissioner, particularly after the initial piece of advice is sought and the person remains a designated person forever, basically. This amendment is intended to provide a little bit of rigour around who is nominated as a designated person. It does not stop people from becoming designated persons but, by making it a regulation with a potential end date to that nomination as a designated person, it provides a bit of rigour and enables an end date so that you do not have, in perpetuity, people remaining designated persons. Again, it will be up to ministers and assistant ministers and the government to make recommendations and seek nomination of a designated person.

Mr STEVENS: Ms Welch, in relation to the Integrity Commissioner's office, the bill provides for the staff of the Audit Office to be appointed under their constituting act. It provides for the Deputy Integrity Commissioner and the staff, even though he or she appoints them, to be appointed under the Public Sector Act. Are there any conflicts that may arise on the independence of the office because they are working under the Public Sector Act or any impediments to their independent advice in these matters?

Ms Welch: That follows the lines of the recommendations in the Coaldrake report that the Queensland Audit Office become entirely independent and no longer be subject to the Public Service Act. The amendments in this bill provide that no-one can direct the Integrity Commissioner in the Brisbane

functions that he or she performs and only the Integrity Commissioner can direct staff as to the functions under the act. There are some exceptions to the Public Sector Bill as well that remove the ability for the Public Sector Commissioner to have the sort of oversight that they do for the rest of the Public Service. I am not across exactly all of those, but it does bring in a degree of independence into the Integrity Commission's office that separates it out from a normal department Public Service.

Mr STEVENS: Ms Lang, do you want to add to that?

Ms Lang: We did consult with the Acting Integrity Commissioner in relation to these provisions and he was content with the provisions. There is a range of employment arrangements with the integrity bodies. Some are excluded from the Public Sector Act, but the Integrity Commissioner, similar to the Information Commissioner, is subject to the Public Service Act currently and will be subject to the Public Sector Act. The Integrity Commissioner's office is quite a small office. To exclude the Integrity Commissioner from the Public Sector Act would mean that they would need to create employment arrangements and an employment framework for that small office, which is perhaps not something that the Integrity Commissioner wishes to do at this time.

Mr CRANDON: Does this mean that the Public Service Commissioner cannot just pull a person from the Integrity Commissioner's employ anymore, because that was the case in the past as I understand it?

Ms Lang: That is correct.

Mr CRANDON: Going back to my previous question, which was around what else might be in the bill, Chair, it seemed that you answered the question for Ms Lang in the way that perhaps you might have wanted it answered. I was wondering if there were any other highlights that Ms Lang might like to touch on that might come into the second bill along the lines of the review of the Ombudsman question.

CHAIR: With respect, member for Coomera, I guess I was choosing not to admonish you for the line of questioning given that we have been given clear directions, in both the standing orders and my directions earlier, that officers here today are to provide factual or technical information and any questions seeking an opinion about policy should be directed to the minister or left to debate—

Mr CRANDON: It is not about policy, Chair.

CHAIR: The implementation of a future bill is no doubt about the policy of the government. It is a policy question. Further to that, our capacity here today—and I read this out in the beginning as well—is to examine the current bill that we have and not a future bill. My moving on from the question was to not admonish you in that way but to simply move on. Clearly, the question that you have put seeks the public servant's opinion on a future hypothetical non-existent, as yet, bill that would be the policy of the executive—

Mr CRANDON: That we referred to, in the explanatory notes.

CHAIR:—and, further, that is not related to our examination of the current bill. That is why I moved on, member for Coomera.

Mr CRANDON: If I could put the question another way, then?

CHAIR: You possibly could.

Mr CRANDON: Ms Lang, could you give me your thoughts on what else could have been included in this bill from the recommendations that were made?

CHAIR: Could we perhaps have included the transport act or maybe some issues to do with flood warnings?

Mr CRANDON: Based on the recommendations made, Chair.

CHAIR: What other opinions would a public servant have about what else could be included in a bill outside the long title or inside the long title? Is that a serious question, member for Coomera?

Mr CRANDON: It is. I am referring to recommendations that were made and I am not being flippant, as you are by bringing those other areas into the equation.

CHAIR: With regret, I have to counsel the member that the standing orders ask us to give officers the ability to provide factual or technical information and that opinions on policy are not to be directed as a question and, unfortunately, are not in order. I think you know that, member for Coomera, so it is disappointing that you persist in this line of questioning.

Mr CRANDON: I was not asking for opinions, Chair, but I will leave it at that.

CHAIR: But you were asking for an opinion about future policy that is not part of this bill. I think you know that, member for Coomera.

Mrs McMAHON: I want to go back to the changes or amendments to the Integrity Act and what is expected and allowed in relation to ministerial advisers. I know this had quite significant commentary during the review. Could you outline to the committee what changes have been made in relation to ministerial advisers—what they are entitled to or what they are required to do when seeking advice?

Mr TANTARI: That is a good factual question.

Ms Welch: The changes that have been made to ministerial advisers were in recognition of the fact that at the moment ministerial advisers are often nominated to be designated persons and there is a sound reason for allowing ministerial advisers to be able to seek advice from the Integrity Commissioner. By changing section 12 and removing the ability for that very simple nomination process, we needed to create ministerial advisers as their own separate category of person who can seek advice from the Integrity Commissioner to ensure they did not lose that ability. The provisions that have been included in this bill simply pull them out of the definition of 'designated person' but do not expand their ability or their rights in terms of getting integrity advice.

The bill does increase the role of chief of staff so that the chief of staff of a ministerial office is aware of who is seeking advice. Again, this is about workload for the Integrity Commissioner and making sure that ministerial advisers are appropriately seeking advice and not just simply seeking advice on matters outside their employment as a ministerial adviser. They retain the right to seek advice around employment contracts for two years after being a ministerial adviser, similar to their current position as a designated person. It is really just extracting them out of the definition but maintaining them as persons who can seek advice from the Integrity Commissioner.

Mr CRANDON: I return to an earlier question that I asked. According to the explanatory notes accompanying the bill, consultation was not undertaken on the change to the Ombudsman Act 2001 regarding reducing the strategic review period for the Ombudsman's office from seven years to five years. Can you please advise the committee why consultation was not undertaken and whether the Queensland Ombudsman has made any comment on the change? You may have answered the second part but not the first part.

Ms Lang: The provision was a fairly straightforward provision. The Ombudsman was generally aware that we were proposing to make that change, but we did not specifically consult him on the provision itself. I am not aware that the Ombudsman has made any comment in relation to that.

Mr CRANDON: Was there any consultation with anyone else? Is there any reason there was no consultation with—

Ms Lang: We did consult with the Department of Justice and Attorney-General.

Mr CRANDON: I ask because it indicates that there was no consultation.

Mr STEVENS: Ms Welch, you just mentioned that the ministerial advisers had access for two years after they ceased employment. Is that what you said just moments ago?

Ms Welch: Yes. Currently under the Integrity Act anyone who has been a designated person may seek advice from the Integrity Commissioner for up to two years after they cease being a designated person in relation to future employment. This is particularly around where there may be conditions on their employment in a ministerial office or a department which precluded them from taking other appointments for up to two years after their exit.

Mr STEVENS: Is it framed around the lobbyist industry that they have that protection to still come back and seek advice regarding their lobbying from the Integrity Commissioner?

Ms Welch: That would be one category, but it might not necessarily be the only one.

CHAIR: Just to clarify, that provision about seeking advice post separation from the Public Service or the other designated position was contained as a continuum of advice regarding ethics for people post separation for that two-year period previously?

Ms Welch: Yes. The amendment in this bill is purely a consequential amendment changing the way that 'designated person' is referred to in order to ensure it continues to capture ministerial advisers.

CHAIR: For two years?

Ms Welch: For up to two years.

Mr CRANDON: The acting Integrity Commissioner was the Integrity Commissioner that you sought feedback from. We now have a permanent appointment. Have you engaged at all with the new Integrity Commissioner in relation to any of this?

Ms Lang: Yes, it was the acting Integrity Commissioner that we sought feedback from. I do not know that the new Integrity Commissioner had been appointed or the appointment had been announced before this bill was introduced so, no, we had not engaged.

CHAIR: With that, I want to thank you for your attendance here today. I note that the time allocated has now expired and there are no further questions. Thank you for the information you provided. Thank you to our Hansard reporters and the broadcast staff. A transcript of the proceedings will be available on the committee's webpage in due course. To confirm, there were no questions taken on notice. With that, I declare this public briefing closed.

The committee adjourned at 11.49 am.