

## Queensland Government response to

### Economics and Governance Committee Report No. 26, 57<sup>th</sup> Parliament - *Inquiry into the report on the strategic review of the functions of the Integrity Commissioner*

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#### INTRODUCTION

On 14 October 2021, the Premier and Minister for the Olympics tabled Mr Kevin Yearbury's report on the *Strategic Review of the Integrity Commissioner's Functions*.

The report made 27 recommendations in relation to the functions of the Integrity Commissioner, relating to: advisory functions, lobbying functions, public awareness functions, performance of the Integrity Commissioner's functions and organisational arrangements. The strategic review report was referred to the Economics and Governance Committee (the Committee).

On 3 June 2022, the Committee released the report on its *Inquiry into the report on the strategic review of the functions of the Integrity Commissioner*. The Committee made the following three specific recommendations:

- the government should consider legislative amendment to the *Integrity Act 2009* to clarify the role of the Integrity Commissioner in providing post-separation employment advice;
- the *Integrity Act 2009* should be amended to ensure that Ministers and Assistant Ministers are aware of the Integrity Commissioner advice being sought by a member of their staff;
- consultation should be undertaken with a view to identify an appropriate 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 Government response to all recommendations made by Mr Yearbury and these specific recommendations of the Committee is outlined below.

#### RESPONSE TO RECOMMENDATIONS

##### **Recommendation 1**

The inability of the Integrity Commissioner to meet the current level of demand for advice be addressed by 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.

##### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **Recommendation 2**

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:

- 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).

#### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **Recommendation 3**

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”.

#### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **Recommendation 4**

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.

#### ***Economic and Governance Committee recommendation:***

*The Government should consider legislative amendment to the Integrity Act 2009 to clarify the role of the Integrity Commissioner in providing post-separation employment advice.*

#### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **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
- 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".

#### ***Economic and Governance Committee Recommendation:***

*The Integrity Act 2009 should be amended to ensure that Ministers and Assistant Ministers are aware of the Integrity Commissioner advice being sought by a member of their staff.*

#### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **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.

#### ***Queensland Government response:***

The Queensland Government supports this recommendation, noting no action is required.

### **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.

#### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **Recommendation 8**

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.

#### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **Recommendation 9**

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).

#### ***Queensland Government response:***

This recommendation will be considered in conjunction with recommendations of the Professor Coaldrake report *Let the Sunshine In: Review of Culture and accountability in the Queensland public sector* (the Coaldrake Report).

### **Recommendation 10**

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.

#### ***Queensland Government response:***

The Queensland Government supports this recommendation.

### **Recommendation 11**

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.

#### ***Queensland Government response:***

The Queensland Government supports this recommendation and will consider this in conjunction with the Coaldrake Report.

### **Recommendation 12**

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.

#### ***Queensland Government response:***

The Queensland Government supports-in-principle this recommendation, which will be considered in conjunction with the Coaldrake Report which recommends the Auditor-General be encouraged to carry out performance audits of the lobbyist register, ministerial diaries and public records.

### **Recommendation 13**

To improve the efficiency of the regulatory regime:

- 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.

#### ***Queensland Government response:***

The Queensland Government supports-in-principle this recommendation, and will consider this in conjunction with the Coaldrake Report.

### **Recommendation 14**

To improve the effectiveness in the regulation of lobbying:

- 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*, 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 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.

#### ***Economic and Governance Committee Recommendation***

*Consultation should be undertaken with a view to identify an appropriate body to undertake investigations into allegations of misconduct or corrupt conduct on the part of registered lobbyists or lobbying activity undertaken by unregistered lobbyists.*

#### ***Queensland Government response:***

The Queensland Government supports-in-principle this recommendation, which will be considered in conjunction with the Coaldrake Report.

**Recommendation 15**

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.

***Queensland Government response:***

The Queensland Government supports-in-principle this recommendation, which will be considered in conjunction with the Coaldrake Report.

**Recommendation 16**

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:

- 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.

***Queensland Government response:***

The Queensland Government supports this recommendation. Options will be explored with the Office of the Chief Procurement Officer.

**Recommendation 17**

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.

***Queensland Government response:***

The Queensland Government supports this recommendation and notes that implementation of this recommendation is a matter for the Integrity Commissioner.

**Recommendation 18**

The Act provide for the Integrity Commissioner to issue directives from time to time concerning the application of policies as circumstances require.

***Queensland Government response:***

The Queensland Government supports this recommendation, to be considered in conjunction with the Coaldrake Report.

**Recommendation 19**

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.

***Queensland Government response:***

The Queensland Government supports this recommendation and notes that implementation is a matter for the Integrity Commissioner.

**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.

***Queensland Government response:***

The Queensland Government supports this recommendation and notes that implementation is a matter for the Integrity Commissioner.

**Recommendation 21**

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

- 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.

***Queensland Government response:***

The Queensland Government supports this recommendation and notes that implementation is a matter for the Integrity Commissioner.

**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.

***Queensland Government response:***

The Queensland Government supports this recommendation and notes that implementation is a matter for the Integrity Commissioner.

**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.

***Queensland Government response:***

The Queensland Government supports this recommendation. The Department of the Premier and Cabinet will work with the Integrity Commissioner to implement this recommendation taking into account the reforms proposed in the Coaldrake Report.

**Recommendation 24**

To enhance the independence of the Integrity Commissioner:

- 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.

***Queensland Government response:***

The Queensland Government supports-in-principle this recommendation and will consider this in conjunction with the Coaldrake Report.

**Recommendation 25**

To ensure business continuity and a sustainable service to those requiring timely advice:

- 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.



***Queensland Government response:***

The Queensland Government supports-in-principle this recommendation, to be considered in conjunction with the recommendations of the Coaldrake Report.

**Recommendation 26**

If an Office of the Integrity Commissioner is established (see Recommendation 24) its structure include:

- 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).

***Queensland Government response:***

The Queensland Government supports-in-principle this recommendation, to be considered in conjunction with the recommendations of the Coaldrake Report.

**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.

***Queensland Government response:***

The Queensland Government supports this recommendation.