



Mr Ian Govey
Independent Reviewer, *Integrity Commission Act 2018* and *Public Interest Disclosure Act 2012*
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Dear Mr Govey

1. Thank you for your invitation of 5 May 2023 to contribute to your review of the Integrity Commission Act 2018 and Public Interest Disclosure Act 2012.
2. The GNCA is a not for profit, voluntary community-based organisation operating in the Inner South/Griffith Narrabundah area. *“The objects and purposes of the Association are to protect the amenity and interests of the Griffith and Narrabundah communities, particularly in relation to the preservation of community facilities and open space.”* The Association has over 450 members.
3. The GNCA welcomes this review of the ACT Integrity Commission (IC). The interests of our community are protected by having an effective IC.
4. As Canberra rapidly approaches half a million in population it is important for our public officials to be aware of what it means to hold an office of public trust and the damage caused by corrupt practices. Corruption is secretive and difficult to find and prove.¹ It is often a crime of the powerful and it is a challenge for the ordinary citizen to complain.

(There is a) modest and deeply historically rooted proposition that the holder of a public office has a duty to exercise public power only by reference to some version of the public interest: ‘[i]t is a trust in him, inasmuch as it is not given for his own benefit’. Uncontroversial, too, is the modest proposition that the holder of a public office can held be liable to account in equity for a benefit or gain obtained or received in circumstances where that trust has been breached. What remains perplexingly obscure is just when, and how, such an accounting might be required to occur.²

5. The GNCA sees the general need for an effective ACT Integrity Commission, but it regards the need as particularly acute at present for two reasons.

¹ e.g. the Fitzgerald Royal Commission in Queensland where there is another unicameral parliament.

² Stephen Gageler ‘The Equitable Duty of Loyalty in Public Office’ in Tim Bonyhady *Finn’s Law: An Australian Justice* (2016) Chap 5 p.126-146 at 146.

- First, the ACT planning framework is about to be changed and it is proposed that many decisions on development applications (DAs) will be made by applying discretion. The move to “outcomes based” decision making has the potential to enable corruption. Developers and other DA proponents can obtain windfall gains with the stroke of a planner’s pen. Appeal rights will decrease with the introduction of discretion and the existing and foreshadowed limitations on third party appeal rights. Secrecy and discretion and money lead to corruption.
6. Secondly, the GNCA has past experience in questionable planning decisions. The following information is drawn from media reports and ACTPLA DA notification processes.
 7. As you may know, in 2017 expressions of interest were sought for a Demonstration Housing project in Griffith.³ One of the proponents worked on the Project.⁴ Her co-proponent had been awarded several contracts with the ACT government.⁵ She later moved to another (related) agency and the head of that agency decided she did not have a conflict of interest.⁶ In May 2019 six projects were adopted by the EPSDD including the Manor House in Griffith. In July 2019 the successful proponent presented her plans to the GNCA and did not disclose her involvement in the Project or the conflict-of-interest clearance. On 14 October 2021 a DA was lodged for the Manor House development⁷ and many objections to it were lodged. On 23 May 2022 a decision to approve it was made. In December 2022 the planning review documents were released and the ACT Draft Territory Plan Vol C – District Specification DS 4 Inner South shows that The Manor House Griffith at Block 6 Section 31 has its own special specification.
 8. We considered referring this matter to the Integrity Commission, in particular because of the handling of the conflict-of-interest issue. But we studied the relevant legislation and decided there was no point because of the IC’s current powers (see Attachment A). This is a main reason for our submission to this review and we have answered the questions in the discussion papers (Attachment B) with a view to ensuring increased accountability of planning decisions.
 9. The ACT government is the largest land developer in the ACT as it holds about 50% of the land. It derives much of its revenue from land sales. Lease variation charges are so high that other developers often prefer to buy and develop land released by the government. ACT government officials who manage the development of ACT land should clearly be subject to the Integrity Commission Act.

Recommendations

10. In addition to answering the questions (Attachment B) we make the following recommendations:

³ EPSDD *Annual Report* 2017-18 p.90-91

⁴ *City News* 7 April 2021

⁵ Details provided on request

⁶ *City News* 7 April 2021

⁷ DA 2021139308

- I. Include planning in the list in s.18(4)
- II. Provide more clarity in s.10(1)(a) and s.10(3) on serious disciplinary offence.
- III. Provide more clarity in s.10(1)(a) on the rules governing dismissal, dispensing with the services of, or terminating a public servant.
- IV. Include a function of the IC to advise, and train, on conflict of interest in decision making by ACT government employees.
- V. Make it explicit in the Integrity Commission Act that an ACT government employee, including a planner, improperly exercising their discretion would face a serious disciplinary offence or dismissal etc for serious misconduct.

Yours faithfully



Dr David Denham
President
GNCA

2 June 2023

Attachment A

- a. This section describes OUR reasoning on the current IC legislation prior to the release of the review's discussion documents. WE submit that the following steps support the need for the clarity, shown in the discussion documents, including in the scope of liability of public servants.
- b. The Act provides that a function of the Commission is to investigate conduct that is alleged to be corrupt conduct (s.23(1)(a)). Section 57 provides that anyone may make a corruption complaint. Section 58 gives guidance on how to make a complaint. A complaint is a corruption report (s.69). The Commission must dismiss, refer, or investigate a report (s.70). Reports must be dismissed when one of the requirements in s.72 is met, such as frivolous or vexatious reports (s.72(3)(c) or where the subject matter has been dealt with under another law of the Territory (s.72(3)(i)).
- c. Section 12 defines the meaning of a public official and that includes a public servant (s.12(1)(b)(vii)). Section 18 of the Act provides the meaning of an entity of a public nature. Section 18(2) provides criteria for deciding whether a function of an entity is a function of a public nature and subsection (4) lists, without limiting, functions taken to be of a public nature. Planning does not appear in that list.

- d. A first question is whether actions of a planner exercising discretion in a questionable manner comes within the definition of corrupt conduct.
- e. Corrupt conduct is defined in section 9:

(1) For this Act, **corrupt conduct** is conduct—

- (i) that could—
- (ii) constitute a criminal offence; or
- (iii) constitute a serious disciplinary offence; or
- (iv) constitute reasonable grounds for dismissing, dispensing with the services of, or otherwise terminating the services of, a public official; **and**

- f. Section s. 9(1)(a) above sets out three alternatives, one of which must be satisfied before moving on to the requirements in subsection 9(1)(b). They are a criminal offence, a serious disciplinary offence, or reasonable grounds for dismissing, dispensing with the services of, or otherwise terminating the services of, a public official.

- g. Section 9(3) provides:

- i. **criminal offence** means a criminal offence under the law of the Territory or under any other law relevant to the conduct in question.
- ii. **Examples—criminal offences**
- iii. offences in the [Criminal Code](#), ch 3 (Theft, fraud, bribery and related offences), including:

pt 3.2 (Theft and related offences)

pt 3.3 (Fraudulent conduct)

pt 3.4 (False or misleading statements, information and documents)

pt 3.5 (Blackmail)

pt 3.6 (Forgery and related offences)

pt 3.7 (Bribery and related offences)

pt 3.8 (Impersonation or obstruction of territory public officials)

pt 3.8A (Cheating at gambling).

- iv. **serious disciplinary offence** includes—
 - (a) any serious misconduct; or
 - (b) any other matter that constitutes or may constitute grounds for—
 - v. (i) termination action under any law; or
 - vi. (ii) a significant employment penalty.
- vii. **serious misconduct**—see the [Fair Work Regulations 2009](#) (Cwlth), section 1.07 (Meaning of **serious misconduct**).

- h. When considering the actions of ACT public servants, a first consideration is the ACT *Public Sector Management Act* 1994. It does not define serious misconduct. Section 9(3) of that Act provides that misconduct is set out in industrial instruments or prescribed in regulations. There are no links to public service regulations. Reg 1.07 of the Fair Work Regulations 2009 appears to be inapplicable. This makes it difficult to assess whether there has been a serious disciplinary offence or serious misconduct by a planner applying their discretion improperly.

- i. Our conclusion is that the current integrity arrangements are inadequate for responding for the proposed changes to the Planning Framework in the ACT.

ATTACHMENT B TO GNCA SUBMISSION ON INTEGRITY COMMISSION DATED 2 JUNE 2023

DISCUSSION PAPER QUESTIONS	RESPONSE
<p><i>1. Integrity Commission Powers</i></p>	
<p><u>Telecommunications Interception</u></p> <p>Option 1 – Seek Commonwealth legislation to provide the Integrity Commission the relevant powers as an EA and CLEA under the TIA Act. ¹</p> <p>Option 2A – Designation as a CLEA, but not an EA, and with no power to receive material intercepted by other agencies.</p> <p>Option 2B – Designation as a CLEA, and request amendment to the TIA Act to allow the Integrity Commission to receive material intercepted by other agencies but not conduct interception itself.</p> <p>Option 3 – Do not seek designation as either a CLEA or EA.</p> <p>1. Which of the options set out above are most appropriate for the Integrity Commission?</p> <p>2. If the Integrity Commission is able to conduct interception:</p> <p>a. Is additional oversight by the Inspector, as provided for by the current Bill, sufficient to cover protections regarding the right to privacy?</p> <p>b. Should a new position of a PIM (or similar) be provided separate to the Inspector?</p> <p>c. Is there a cost threshold where the value of interception as an investigative tool is outweighed by the cost to the public to facilitate interception?</p> <p>3. Are there further matters that the review should consider in relation to powers under the TIA Act?</p>	<p>1. The option that best allows the IC to do its job should be chosen. Option 2B appears the most suitable. The IC should have the power to receive material intercepted by other agencies.</p> <p>It is unclear from the <i>Annual Reports</i> on the operation of the Telecommunications Interception Act how many times the AFP seeks warrants in relation to the ACT because the AFP does not report its national and ACT roles separately.</p> <p>2.a. Additional oversight by the Inspector is sufficient.</p> <p>2.b. No new position is needed.</p> <p>2.c. The cost of the interception is a matter for the Commission.</p> <p>3. The ACT can benefit from the valuable and substantial information already available about the operation of the TIA and should not hesitate to use it to apply the TIA in relation to corruption in the ACT.</p>

¹ EA is Enforcement Agency and CLEA is criminal law enforcement agency under the *Telecommunications (Interception and Access) Act 1979* (Cth)

<p><u>Obtaining material in a person's custody</u></p> <p>4. Should the IC Act be amended to include material in a person's 'custody' as material that can be compelled for production?</p> <p><u>Production in the course of an examination</u></p> <p>5. Should the Integrity Commission be granted additional powers to be able to compel production of material in the course of a hearing or examination?</p> <p><u>Amendment in relation to service periods</u></p> <p>6. What service period should the IC Act provide for compliance with a summons to produce?</p> <p>a. Are the current service periods sufficient, too short, or too long, or too inflexible?</p> <p>7. Should there be scope in the IC Act for the Integrity Commission to amend or vary service periods to extend or shorten the timeframe? If so, should this need to be agreed by both the notice recipient and the Commission?</p> <p><u>Questions of privilege</u></p> <p>8. Should the Integrity Commissioner be given the power to determine privilege claims? If so, are there safeguards that could be introduced to address procedural fairness concerns?</p> <p><u>Information from public officials</u></p> <p>9. Should section 89 should be broadened to include a larger range of public officials, or is the existing scheme sufficient (noting that the head of a public sector entity may seek assistance to comply with a notice)?</p>	<p>4. Yes</p> <p>5. Yes</p> <p>6. The current service periods should be maintained.</p> <p>7. The Integrity Commissioner should have the power to vary the timeframe at their discretion without the agreement of the notice recipient but taking into account their submissions on the timeframe.</p> <p>8. The Integrity Commissioner should be given the power to determine privilege claims. The Commissioner must be trusted to do their important job having regard to procedural fairness.</p> <p>9. Section 89 should be broadened. It should include all public servants. a. Section 89 should capture anyone exercising a delegation under ACT law. For example, a planner making a decision on a development application, who may not be a member of the senior executive service but is acting under</p>
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<p>a. If so, which public officials should be captured under section 89? For example, should section 89 be limited to members of the senior executive service?</p> <p>b. If section 89 is broadened to capture a larger group of public officials, should the Integrity Commission be required to report section 89 use to the Inspector?</p> <p>c. If section 89 were to be broadened, should section 89 be repealed and section 90 extended to compel information, documents, items and other things from any public official?</p> <p>10. Should there be an equivalent provision to section 89 for an investigation? a. If so, should it also be broad and include all public officials?</p> <p><u>Preliminary Inquiry framework</u></p> <p>11. Should the IC Act be amended to remove the ability to claim secrecy during a preliminary inquiry?</p> <p>12. Should the Integrity Commission have the ability to issue a confidentiality notice to any person during a preliminary inquiry?</p> <p>13. Are there any other considerations for the preliminary inquiry framework?</p> <p><u>Arrest warrant for witness unlikely to appear</u></p> <p>14. Should the Integrity Commission be able to seek an arrest warrant for a witness prior to that witness failing to appear for their examination?</p> <p>15. If the proposed amendment was made, should the ability to seek the warrant prior to the notice's expiry be reliant on evidence that the person intends to abscond?</p> <p>a. Alternatively, should it be sufficient to shown that the person does not intend to appear before the Commission (regardless of whether they intend to remain in the ACT)?</p> <p><u>Warrant to search premises and authorise search for items</u></p>	<p>a delegation from the Chief Planner (or equivalent) and exercising a discretion, should be caught by section 89.</p> <p>b. The Commissioner should be required to give the Inspector an annual global report to the Inspector but not reports on the individual use of section 89.</p> <p>c. Yes</p> <p>10. Yes a. Yes</p> <p>11. Yes</p> <p>12. Yes</p> <p>13. No comment</p> <p>14. Yes</p> <p>15. No a. Yes.</p>
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<p>16. Noting the current distinctions in the ACT framework, is it appropriate to provide a capacity for Integrity Commission investigators to conduct a frisk search on a person while executing a search warrant?</p> <p>17. Are there any implications in relation to the HR Act if the Commission's proposals were implemented?</p> <p>18. Should the IC Act provide the capacity for a Magistrate to consider authorising a Commission investigator to conduct a frisk search in the warrant's terms?</p> <p>a. If yes, should criteria be specified when a frisk search is authorised? For example, should the Commission need to provide evidence to the Magistrate that the subject of the warrant has previously been uncooperative with the Commission or other agencies.</p> <p>19. Are there any other options to ensure occupier compliance with search warrants? For example, should there be a penalty if the occupier or any person assisting the occupier knowingly withholds items that are captured under the search warrant?</p> <p><u>Access employment records</u></p> <p>20. Should the Integrity Commission have direct access to Chris21 employment records?</p> <p>1. Could confidence be adversely impacted if the framework were amended to allow the Commission access to HR21? If so, to what extent is this a problem?</p> <p>2. Are there any alternative options that would be feasible? For example, the Commission could enter into an MOU with the PSSC so that the PSSC is required to provide certain information to the Commission, such as residential addresses.</p>	<p>16. Yes as part of the search</p> <p>17. The HR Act must be balanced against the importance of the Commission's work. The Commission must be trusted to fulfil its responsibilities having regard to the HR Act.</p> <p>18. Yes. However obtaining the warrant should not be so delayed by this requirement that its usefulness in conducting the investigation is rendered useless.</p> <p>a. The Commission should just be required to vouchsafe to the Magistrate that the search is required in the circumstances and provide the circumstances. A list of possible circumstances should not be included.</p> <p>19. Yes there should be penalties for knowingly withholding items or failing to cooperate.</p> <p>20. Yes</p> <p>1. The confidence of the community in the work of the IC could be adversely affected if the IC lacks access to all tools that will assist it in fulfilling its function for the ACT.</p> <p>2. The IC should not have to negotiate any agreements to obtain information that it needs in order to do its job.</p>
<p><i>2. Legal Representation and Privilege</i></p>	
<p>1. What arrangements should exist for legal assistance where a witness is summonsed to appear before the Integrity Commission?</p>	<p>1. An appointed lawyer, paid for by public funds, should be available to assist a witness summonsed to appear. There should be fact sheets available to such witnesses and limits on the amount of assistance. i.e. a person</p>

<p>2. Should a person be entitled to seek their own legal assistance using public funds through the ACT Government? Should this extend to all people, including members of the public?</p> <p>a. Should there be limitations or caps on assistance in these scenarios?</p> <p>b. If a request for assistance is denied, or if the funding provided is limited, should there be an avenue for review?</p> <p>3. Should a witness provided with assistance be found to have committed an offence by a court be required to pay back any or all legal assistance funding provided by the Territory?</p> <p>a. Alternatively, if the Integrity Commission makes a finding that a person has engaged in serious and/or systemic corrupt conduct, should that person be required to repay legal assistance?</p> <p><i>Legal professional privilege</i></p> <p>4. Should the IC Act to abrogate legal professional privilege of the Territory where the advice was obtained as part of a public official's duties (and not for the purpose of Commission proceedings)?</p> <p>a. If the answer is <i>yes</i>: Are there situations where privilege should be maintained? For example, the IC Act could provide factors to retain privilege and the Supreme Court adjudicates whether those factors are present.</p> <p>i. Should privilege be maintained over information that was created prior to the amendment, or should legal advice provided previously also be abrogated?</p> <p>ii. Should restrictions apply on republication or other disclosure of information that is compelled by the Commission and that is otherwise subject to legal professional privilege?</p> <p>iii. Noting that section 270 of the IC Act mirrors the privilege abrogation provisions in section 175 in respect an investigation undertaken by the Inspector, should this also be amended to match any amendments to section 175 in respect of legal professional privilege?</p>	<p>appearing before the IC should be told about their rights in relation to self incrimination etc but they must answer truthfully etc</p> <p>2. A person seeking their own legal assistance should be required to meet their own costs, including members of the public. They should be entitled to the publicly funded assistance described above and if they seek more they should pay for it themselves.</p> <p>a. Yes there should be a cap on the amount of public assistance provided</p> <p>b. There should be no denials. The amount of time available from the publicly funded lawyer should be set. There should be no right of review.</p> <p>3. Yes. If a Court finds an offence there should be repayment of a fixed fee.</p> <p>a. Yes. If the IC finds there has been serious and/or systemic corrupt conduct there should be repayment of a fixed fee.</p> <p>4. Yes</p> <p>a. Yes . privilege should be maintained over legal advice created prior ot the amendment.</p>
<p><i>3. Confidentiality information sharing and well being</i></p>	
<p><u>Wellbeing and access to mental health care</u></p>	

<p>1. Should people by default be allowed to speak with a mental health professional without breaching the terms of a confidentiality notice?</p> <p>2. Should the IC Act include, as a default position, provision for a person to bring a support person to a private and/or public examination conducted by the Integrity Commission?</p> <p>a.If not, should a person be allowed to nominate a friend, relative or spouse to whom they can speak under the terms of the confidentiality notice (assuming that person is not also involved in the investigation)?</p> <p>b.If so, should the IC Act impose any limitations on who may act as a support person and the approval process for a specific identified individual?</p> <p>c.Should there be provision for an appropriate vetting and approval for a support person to attend an examination?</p> <p>d.Does the risk that a witness-selected support person could jeopardise the investigation require the setting up of a dedicated pool of counsellors or other qualified people who may act as a support person for a witness during an examination?</p>	<p>1.Yes</p> <p>2.Yes</p> <p>a.Yes but only one and they must sign the notice</p> <p>b.Yes. Only a person with no criminal record</p> <p>c.Yes</p> <p>d.Yes</p>
<p><u>Access to reimbursement for expenses</u></p> <p>3.Should a regulation be made to trigger section 172 of the IC Act and implement the witness expense reimbursement scheme?</p> <p>4.Should assistance be limited to those appearing before an examination, rather than witnesses who may only be required to produce documents to the Integrity Commission?</p> <p>5.Should financial assistance be limited to any specific categories (such as travel, costs in preparing documents)?</p> <p>6.At what rate should reimbursement be provided?</p> <p>For example, current DPP practice utilises the relevant ATO travel determination to calculate allowances. In Victoria, IBAC regulations allow reimbursement of lost wages at \$100 per hour, capped at \$600 per day, and all reasonable children.</p>	<p>3.Yes</p> <p>4.Yes</p> <p>5.Yes</p> <p>6.Yes</p>
<p><u>Information sharing with other agencies</u></p> <p>7.Should there be mandated situations or criteria where the Integrity Commission is obliged to share information with an appropriate entity?</p>	<p>7.Yes</p>

<p>a. In what situations should this obligation exist? For example, where it is needed to prevent harm, to protect a vulnerable person, or the environment</p> <p><u>Information sharing with other witnesses</u></p> <p>8. Should a witness generally be entitled to know what matter their examination summons is referring to?</p> <p>a. In what situations should this information be able to be withheld?</p> <p>b. Where the Integrity Commission does withhold this information, should it be explicitly reported to the Inspector as part of the monthly reporting requirements under section 205 of the IC Act?</p> <p>9. Are there any alternative options to ensure witnesses can be well-prepared for an examination?</p> <p>a. For example, should the Commission be required to inform the Inspector they intend to withhold the information from the witness?</p> <p>b. If so, should the Inspector be required to approve this approach?</p> <p><u>Wellbeing</u></p> <p>10. Does the IC Act adequately provide for witness mental health and wellbeing, and if not, what measures should be included in the IC Act?</p> <p>11. Should the Inspector be given oversight responsibilities for how the Integrity Commission deals with witness mental health and wellbeing? How could this best be implemented?</p> <p>12. Should there be a legislative power for the Commission to revoke or amend the examination summons based on the circumstances of the witness, such as those with health or disability issues?</p>	<p>a.harm to a vulnerable person</p> <p>8.No, given the small size of the jurisdiction and the danger of compromising the investigation</p> <p>a.n/a b.n/a</p> <p>9.n/a</p> <p>10.Yes</p> <p>11.Yes</p> <p>12.Yes</p>
<p><i>4. Inspector and oversight</i></p>	
<p><u>Information the IC must provide to the Inspector</u></p> <p>1.Should section 205 be amended to explicitly require that the Integrity Commission must provide information to support its reasons for issuing a notice?</p>	<p>1.No</p>

<p>2.Should legal professional privilege be available to the Commission as a ground for refusing to provide information requested by the Inspector?</p> <p>a) If no, should clarification be provided in the IC Act that the Inspector should have full access to information of the Commission, including information subject to a claim of legal professional privilege?</p> <p>b) If no, should clarification be provided in the IC Act that legal professional privilege is not taken to be waived by the Commission in circumstances where the Commission provides such information to the Inspector for the purpose of the Inspector’s functions?</p> <p><u>14 days notice for a public hearing</u></p> <p>3. Should the IC Act require the Integrity Commission to provide the Inspector with at least 14 days’ notice of any intended public examination to give the Inspector increased time to consider a notice from the Commission?</p> <p>4. Should the sequencing ensure the Inspector receives notice before the Integrity Commission provides the notice to the recipient?</p> <p>a. If so, should the Inspector have powers to obtain additional information from the Commission and powers to recommend that a public examination not occur or to challenge the need for a public hearing?</p> <p><u>Inclusions on the annual operationsl review</u></p> <p>5.Should the annual operational review scope by the Inspector be expanded to include other mandatory matters?</p> <p>a. If so, what other matters should the Inspector review?</p>	<p>2.Yes</p> <p>3 Yes but 10 days’ notice like Victoria is sufficient</p> <p>4 Yes a.Yes</p> <p>5.Yes a.wellness and data prtections and ICT security – as suggested – with the opportunity for further suggested inclusions to be made</p>
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<p><u>Review of the Integrity Commissions Act 2018</u></p> <p>6. Should the IC Act be amended to make specific provision for the reviewer to be able to access information about the operation of the legislation, process and procedure of the Integrity Commission?</p> <p>7. If so, should there be any limitations on access and use of information to ensure the integrity of ongoing investigations? For example:</p> <p>b. Should the reviewer be subject to a form of confidentiality notice?</p>	<p>6.Yes</p> <p>7.Yes a Yes</p>
<p><i>5.Integrity Commission purpose and jurisdiction</i></p>	
<p><u>Mandatory corruption referrals</u></p> <p>1.Should the IC Act not require reporting where a report on the same matter is known to have been made to the Commission?</p> <p><u>Interaction of reporting under the IC Act and PSA Act</u></p> <p>2.Is the current interaction between section 9 of the PSM Act and section 62 of the IC Act incompatible or capable of improvement?</p> <p>3.Should the IC Act impose a positive duty on all public officials to report corrupt conduct?</p> <p>4.Should the PSM Act definition of ‘public sector member’ be aligned with that of ‘public official’</p>	<p>1.The IC Act should require reporting but not require the same detailed administrative steps if a previous report on the same matter has already been made. That is, the reporting should be required because all senior executives and others who become aware of an allegation of corruption should be alert to it and act upon it as a matter of good practice. The administration of this should be streamlined so that if the IC has already received a report the later reports are noted.</p> <p>2.The interaction is capable of improvement – see covering letter to this submission</p> <p>3.Yes</p> <p>4.Yes</p>

<p>in the IC Act?</p> <p><u>Referrals and assessment of matters</u></p> <p>Option 1 – Legislated reporting on assessment timeframes</p> <p>Option 2 - Implement a triage system that accepts all maladministration complaints</p> <p>Option 3 – Defer consideration until the next review</p> <p>5. Would any of the above options be worth adopting to streamline the existing process and improve assessment timeframes?</p> <p>6. Alternatively, are there other mechanisms to seek to ensure timely assessment of referrals made to the Integrity Commission?</p> <p><u>Interaction with clause H7.1 of the ACTPS Enterprise Agreements</u></p> <p>7. What factors should the review consider in relation to this proposal?</p> <p>8. Is legislative amendment required to address this issue?</p> <p><u>Limiting investigations to serious and/or systemic corrupt conduct</u></p> <p>9.Should the jurisdiction of the Integrity Commission be amended so that only matters which demonstrate serious or systemic corrupt conduct fall within its remit?</p> <p><u>Coverage of MLA conduct</u></p> <p>10.Are the current provisions in the IC Act and other legislation sufficient to ensure broad enough coverage of MLA conduct is captured under the IC Act?</p>	<p>5.Adopt Option 2 because of the seriousness of the IC’s job</p> <p>6.n/a</p> <p>7.The main factor is the overarching responsibility of the IS to identify corrupt conduct and the public interest prevails over employment contracts.</p> <p>8.Yes</p> <p>9. Any corrupt conduct has the propensity to spread.</p> <p>10. No</p>
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<p>6.Operational matters</p>	
<p><u>Allowing ACT public servants to work at the IC</u></p> <p>Option 1 – remove the current five-year restriction.</p> <p>Option 2 – Amend the existing provision to provide flexibility in appointing former public servants.</p> <p>Option 3 – Maintain the existing provision.</p> <p>1.Should the prohibition on the Integrity Commission hiring staff who are, or have been in the last five years, public servants be removed? Which of the options listed above would be preferable?</p> <p>a. If the proposal is accepted, what protections should be put in place to ensure that conflicts of interest are adequately addressed?</p> <p>2. Are there categories of employees that should be restricted from employment at the Integrity Commission, such as MLAs or their staff?</p> <p>a. If so, should the restriction apply only for a limited time and/or only to high-level positions?</p> <p><u>Extend time an arrested person can be held</u></p> <p>3. Should the Integrity Commission’s proposal be dealt with through legislative amendment to allow for the detention of people subject to a warrant until they can be brought before the Commission, or should it be dealt with through the Commission’s operational practices?</p> <p>a.For example, is it preferable that the Commission coordinate the arrest warrant’s execution with ACT Police to ensure the person is capable of</p>	<p>1.Option 2 i.e. allow a shorter period but condition that conflict of interest is applied. That is, if an IC staff member has had any association with anyone involved in an investigation it must be immediately disclosed. The penalties for non disclosure should be severe.</p> <p>2. Yes. Restrict MLAS and their staff. For example, no one who has ever worked for a Federal Minister can apply to a member of the ABC Board.</p> <p>a.Apply to all positions indefinitely</p> <p>3.Warrant</p> <p>a.Yes</p>

<p>being brought immediately before the Commission for examination at time of execution?</p> <p>b. Is it preferable for the Commission to convene after hours rather than detaining a person?</p> <p>c. Could keeping a person in detention be allowed only where there are grounds for believing the person may leave the jurisdiction or destroy evidence?</p> <p>4. If the proposal is implemented, should there be a time-limit on the person's detention in police custody?</p> <p>a. If so, what is the appropriate amount of time of detention?</p> <p><u>Loss of immunity for prior inconsistent statement</u></p> <p>5. Should the circumstances where a witness would lose derivative use immunity for a prior inconsistent statement, be expanded? If so, how and with what limitations?</p> <p>a. In particular, are there any other risks or consequential issues if the proposal were implemented that would make a change unnecessary or undesirable?</p> <p><u>Receiving draft copy of IC reports</u></p> <p>6. Is the current framework outlining who should receive a copy of an investigation or special report adequate?</p> <p>a. If not, what are the appropriate limitations on who should receive a copy of a report? For example, should provision of the report be limited to those directly named in a report?</p>	<p>b. Yes</p> <p>c. Yes</p> <p>4. Yes</p> <p>a. no comment</p> <p>5. No evidence of need for change</p> <p>6. Can be improved</p> <p>a. restrict to those directly affected</p>
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<p>b Alternatively, should a broader range of people be sent a copy of the report, but not be permitted to provide comment unless they have a direct interest in the report (for example, as in practice in Victoria)?</p> <p><u>Shortening timeframe to comment on reports</u></p> <p>7. Is the current six-week timeframe an appropriate amount of time to comment on a report, or could it be reduced to say four weeks without unfairly limiting the ability to consider a report?</p> <p>8. Should the IC Act afford greater scope for flexibility within the response timeframe?</p> <p>a. For example, should the legislation require that the Integrity Commission provide a reasonable amount of time to respond to the report?</p> <p><u>Interactions between IC act and Corrections Management Act</u></p> <p>Option 1 – amend the CM Act to clarify the existing requirement for a detainee to provide consent</p> <p>Option 2 – remove the requirement of a detainee to provide consent to transport</p> <p>9.Should the IC Act be amended to give effect to Option 1 or Option 2?</p> <p>10. Are there any other relevant matters to be considered in relation to detainees appearing before the Integrity Commission?</p> <p><u>Limit scope of disclosure to a court</u></p> <p>11.Should the scope of disclosure to a court be further limited under the IC Act to reflect the Integrity Commission’s proposal?</p> <p><u>Extend disclosure protections for complainant being initial corruption complaint</u></p>	<p>7.Too long. One month.</p> <p>8.Yes.a Yes</p> <p>9.Option 2</p> <p>10.no comment</p> <p>11.Yes</p>
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<p>12. Does the IC Act currently provide satisfactory protections for complainants?</p> <p>13. Are there unintended consequences of extending continued immunity to complainants beyond the initial disclosure?</p> <p>14. Alternatively, should the IC Act be amended to reflect the apparent intent outlined in the explanatory statement, in that immunity would apply only once the Integrity Commission assesses the complaint as genuine?</p> <p><u>Enable exercise of power production of attendance notice where reasonably required rather than necessary</u></p> <p>15. Should the wording in sections 90 and 147 of the IC Act be changed to 'reasonably required' rather than 'necessary'?</p>	<p>12. Protect complainant as long as necessary</p> <p>13. Yes but complainants must be protected</p> <p>14. No. Too limited</p> <p>15. Yes</p>
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