

**Inspector of the
ACT Integrity Commission**

Annual Report

2023–24

Acknowledgement of Country

We acknowledge the Ngunnawal people as the traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

Contacting the Inspector

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Credits

Australian Capital Territory

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Produced by the ACT Ombudsman, Canberra.



Transmittal certificate

4 October 2024

Ms Joy Burch MLA
Speaker
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Dear Madam Speaker

I present to you the *Inspector of the ACT Integrity Commission 2023–24 Annual Report*.

The report has been prepared to fulfil the requirements of s 7A of the *Annual Reports (Government Agencies) Act 2004* and s 283 of the *Integrity Commission Act 2018* (IC Act). The report contains the Inspector's annual operational review prepared under s 281 of the IC Act, as required by s 283(2)(a) of the IC Act.

I certify the report is an honest and accurate account of the work of the Inspector and that all material information on the operations of the Inspector is included for the period 1 July 2023 to 30 June 2024.

Section 15 of the *Annual Reports (Government Agencies) Act 2004* requires that you present a copy of this report to the Legislative Assembly within 15 weeks after the end of the reporting year.

Yours sincerely



Iain Anderson
Inspector of the ACT Integrity Commission

2023-24 HIGHLIGHTS



Received



Finalised

	Complaints	21	21
	Investigations commenced under s 264	2	1
	Own Initiative Investigations commenced under s 265	1	0
	Corruption referrals received under s 105	3	4
			Number
	Referrals made by the Inspector under s 271		1
	Recommendations made by the Inspector		7
	Implementation of recommendations formally assessed		3
	Disclosures of information by the Inspector to information sharing entities under s 274		2
	Conflicts of interest reported to the Inspector under s 31		1
	Inspections of the Commission's conflicts of interest register under s 32		2

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Inspector's review

I am pleased to introduce the *Inspector of the ACT Integrity Commission Annual Report 2023–24*, including the Inspector's annual operational review.

This year, the Inspector received 21 complaints about the Commission's functions under the *Integrity Commission Act 2018* (IC Act) and the *Public Interest Disclosure Act 2012* (PID Act) and elected to investigate 2 complaints. This volume of complaints to the Inspector represents a relatively significant increase on the previous reporting period (5 complaints received during 2022–23). The rise may reflect both a maturing of the territory's integrity framework and increased public awareness of the work of the Commission and the Inspector.

The Commission referred to the Inspector 3 corruption reports it received involving the conduct of the Commissioner or staff of the Commission, under s 105 of the IC Act. In my last report, I mentioned I had one outstanding referral from June 2023. All referrals were assessed as not indicating improper conduct and were closed.

In November 2023, I commenced an own initiative investigation under s 265 of the IC Act. This is the first time an investigation under this provision has been conducted. The outcome of this investigation will be reported when it is completed.

During the reporting period, the Commissioner notified the Speaker of a decision to recuse himself from one aspect of an investigation. I am in communication with the Commissioner over whether this was a matter that should also have been reported to the Inspector. I have not yet finalised my consideration of this issue.

In my last annual report, I mentioned that, following an investigation, I had provided the Commission with 3 recommendations about how the Commission communicates its decisions to dismiss corruption reports. This financial year, my Office finalised a formal review of the Commission's implementation of those recommendations. My Office found that, by May 2023, the Commission had partially implemented each recommendation.

I also mentioned in my last annual report that I had commenced an investigation into a complaint that raised concerns about the Commission's practices and procedures for assessing corruption reports. I published a special report [Investigation into the dismissal of corruption reports by the ACT Integrity Commission](#) in November 2023. The



report made 7 recommendations to address identified gaps in the Commission's handling of some corruption reports, including instances where the Commission did not follow its own practices and procedures, kept insufficient records of reasons for dismissing corruption complaints or disclosing information, and failed to consider appropriate mechanisms for external referral. In May 2024, I commenced a formal review of the Commission's implementation of those recommendations, which the Commission considers have now been fully implemented.

It is worth noting that 2 substantial investigations by my small team have an impact on my capacity to proactively undertake other initiatives as Inspector.

My Office received and considered monthly reports from the Commission relating to specific aspects of its operational activities. Inspector staff conducted reviews of those activities to assess the Commission's compliance with the IC Act. I observed an overall decrease in Commission investigative activities that are required to be reported to the Inspector. I note that the Commission finalised 4 investigations or parts of an investigation during this reporting period and discontinued a further 3 investigations,¹ and that it moved to the public submission stage for another investigation and the procedural fairness stage for a further 2 investigations.

There was a 38% decrease in the rate of examination summons issued to persons to appear in examinations or produce documents (55 issued in 2023–24 compared to 88 in 2022–23) and a 47% decrease in confidentiality notices issued to persons (63 issued in 2023–24 compared to 119 in 2022–23). Although there has been a reduction in certain activities of the Commission, this does not indicate a decrease in the overall activity levels or workload of the Commission.

The Commission issued 3 special reports and no investigation reports this year.

During this reporting period, my Office participated in a consultation process run by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on the drafting of the Integrity Commission Amendment Bill 2022 (No 2) and the government's responses to the reviews of the IC Act and PID Act. On 7 July 2023, I made a written submission to the review on the discussion paper developed to consider amendments proposed to the PID Act.

¹ Pursuant to s 112 of the IC Act.



Based on the information currently available to me, and subject to the fact that I have outstanding investigations and correspondence relating to this reporting period, I have assessed that the Commission operated within its powers. However, as noted above, I am still considering whether it has complied with the reporting requirements of the IC Act and, in relation to another matter from a previous reporting period, with other relevant laws in force in the territory. I will report on these matters when I have finalised my consideration.



Iain Anderson

Inspector of the ACT Integrity Commission

Part 1. Overview of the Office

Role of the Inspector

The Inspector of the ACT Integrity Commission (the Inspector) is established under the *Integrity Commission Act 2018* (IC Act).

The Inspector was created to provide assurance that the ACT Integrity Commission (the Commission) operates within its legislative powers. The Inspector's main functions, as set out in Part 5 of the IC Act, are to:

- assess and report on the Commission's compliance with the IC Act, including conducting an annual operational review
- receive, assess and formally investigate complaints about the Commission and its staff
- make recommendations to the Commission or public bodies about practices or procedures in relation to the IC Act
- receive monthly reports from the Commission relating to its operations
- undertake other functions as prescribed by law.

The Inspector has broad powers under s 228 of the IC Act to:

- investigate any aspect of the Commission's operations or conduct of the Commissioner or the Commission's staff
- have full access to the Commission's records
- require the Commission to provide information or produce documents
- refer matters to another public sector body or official
- recommend disciplinary action or criminal prosecution.

The ACT Ombudsman performs the role of the Inspector unless an Inspector is appointed under s 229 of the IC Act. Under the [ACT Self-Government \(Consequential Provisions\) Amendment Act 1989](#) (Cth), and by arrangement between the Australian and ACT governments, the Commonwealth Ombudsman is also the Ombudsman for the ACT. The ACT Ombudsman's annual report can be accessed on the [publications](#) webpage.



Reporting requirements

Section 283 of the IC Act requires the Inspector to produce an annual report with the following information about material received from the Commission, and about the Inspector's activities, in particular the number of:

- referrals made to the Inspector under s 105
- matters notified to the Inspector as part of the Commission's monthly reporting under s 205
- complaints, investigations and referrals made by the Inspector under s 271, and information sharing entities the Inspector has disclosed information to
- recommendations made by the Inspector under s 272 and 273
- Inspector special reports presented to the Legislative Assembly
- times the Inspector has inspected the Commission's conflicts of interest register.

Section 283 of the IC Act also requires the annual report to include:

- descriptions of complaints, investigations and referrals under s 105
- any recommendations for change to territory laws or for administrative action the Inspector considers should be made as a result of the exercise of its functions
- the Inspector's assessment of how the Commissioner is managing conflicts of interest.

Finally, s 283(2) requires the annual report to include the Inspector's annual operational review of the Commission. This review is an assessment under s 280 of the Commission's compliance with the IC Act and any other relevant Acts.



Making complaints

People can access information on how to make a complaint about the Commission, including the Inspector's complaint handling policy, on the [Inspector of the ACT Integrity Commission](#) webpage. Complaints can be made using our complaint form or by contacting us through our phone line on **(02) 5117 3650**.

Financial management

In accordance with the Services Agreement between the Office of the Commonwealth Ombudsman and the ACT Government, the Office was given \$289,930 (exclusive of GST) in 2023–24 to perform functions as Inspector. This funding was the equivalent of 1.7 full-time equivalent (FTE) employees and included standard staffing on-costs.



Part 2. Oversight

Monthly reporting

Table 1 sets out the material the Inspector received from the Commission as part of the Commission's monthly reporting under s 205 of the IC Act compared to previous financial years.

Table 1: Items received under s 205 IC Act 2023–24 compared to previous years

Commission activity	Section of Act	2020–21	2021–22	2022–23	2023–24
Confidentiality notices	s 78 or s 79	39	66	119	63
Revocation of confidentiality notices	s 82	0	0	16	13
Preliminary inquiry notices	s 90	15	4	5	5
Examination summons	s 147	24	57	88 ²	55
Public examinations ³	ss 205(f) and (g)	0	0	0	23
Video recordings and transcripts	s 158	11 ⁴	10	55	140

The Commission did not provide any other items that required the Inspector to report on them under s 283(1)(b) of the IC Act.

My Office received and considered monthly reports from the Commission relating to specific aspects of its operational activities. Inspector staff conducted reviews of those activities to assess the Commission's compliance with the IC Act. I observed an overall decrease in those Commission investigative activities that are required to be reported to the Inspector. The Commission finalised 4 investigations or parts of an investigation during this reporting period and discontinued a further 3 investigations,⁵ and it moved

² The Inspector's 2022–23 annual report reported 91. The difference was identified after the Commission published its own annual report. It was identified the Commission was recording a joint summons (to give evidence and to produce a document or thing) as a single summons.

³ Additionally, the Commission held 11 private examinations in 2020–21, 10 private examinations in 2021–22, 55 private examinations in 2022–23 and 22 private examinations in 2023–24.

⁴ The Inspector's 2021–22 annual report reported 6. The full number was identified after the Commission published its own annual report. The Commission subsequently provided the further 5 recordings to the Inspector.

⁵ Pursuant to s 112 of the IC Act.

to the public submission stage for another investigation and the procedural fairness stage for a further 2 investigations.

There was a 38% decrease in the rate of examination summons issued to persons to appear in examinations or produce documents (55 issued in 2023–24 compared to 88 in 2022–23) and a 47% decrease in confidentiality notices issued to persons (63 issued in 2023–24 compared to 119 in 2022–23). The Commission revoked 13 confidentiality notices (compared to 16 in 2022–23), which is reflective of the Commission finalising some investigations and commencing public hearings.

The matters included in the Commission’s monthly reporting to the Inspector do not cover the full scope of investigative activities carried out by the Commission. Although there has been a reduction in certain activities, this does not indicate a decrease in the overall activity levels or workload of the Commission.

The monthly reporting numbers are consistent with the Office’s understanding of the stage the Commission is at with its investigations.

In August 2023, the Commission commenced public examinations for Operation Kingfisher. This is the first time the Commission has determined that holding public examinations is in the public interest and the public examinations can be held without unreasonably infringing a person’s human rights. I will continue to monitor the Commission’s [Witness Wellbeing Policy](#), [Reputational Repair Protocol](#) and other measures to ensure they are sufficient to identify, assess and manage risks to the health and psychological wellbeing of witnesses and persons subject to the exercise of the Commission’s duties, functions and powers, so far as is reasonably practicable.

The Commission’s monthly reports to the Inspector under s 205 of the IC Act must include the reasons for the Commission undertaking certain activities, such as issuing a preliminary inquiry notice or examination summons (reasons). The Commission has provided reasons for undertaking those activities this year. Receiving the Commission’s reasons has assisted the Inspector with contextual information on each of those activities and set out the Commission’s considerations in exercising its powers.

In 2023–24, staff of the Inspector conducted a detailed review of the following Commission activities:

- 17 recordings of private examinations
- 15 summonses issued by the Commission



- 14 confidentiality notices issued by the Commission
- 5 revocation of confidentiality notices issued by the Commission.

Where relevant, the review included the supporting reasons and authorisation. Inspector staff conducted an increased number of reviews of activities in comparison to the previous reporting period:

My Office did not raise any concerns regarding the review of these activities during this reporting period.

Complaints, investigations and referrals

Table 2 sets out the number of complaints received by the Inspector, as well as investigations and referrals, compared to previous financial years.

Table 2: Complaints, investigations and referrals compared to previous years

Complaints, investigations and referrals	2020–21	2021–22	2022–23	2023–24
Complaints received and assessed as valid under s 257	4	5	5 ⁶	17
Complaints received and assessed as not valid under s 257	0	0	0	4
Complaints finalised	3	6	3	21
Investigations commenced under s 264	0	0	1	2
Own initiative investigations under s 265	0	0	0	1
Referrals received under s 105	0	1	3	3
Referrals made by the Inspector under s 271	0	0	0	1

⁶ The Inspector's 2022–23 annual report reported 4 complaints. One complaint relating to the handling of a disclosure under the PID Act was initially assessed under the [Ombudsman Act 1989](#) (ACT) but subsequently considered under the IC Act (in relation to the Commission's exercise of its functions under the PID Act).

Complaints

In the 2023–24 reporting period, the Inspector received 21 complaints (10 complaints were from 3 individuals). Seventeen were assessed as a valid complaint under s 257 of the IC Act. This represents a significant increase in complaints to the Inspector (5 valid complaints were received in 2022–23).

During the reporting period, 20 complaints were finalised without investigation. Of these:

- 15 were finalised without investigation, as there was no indication the Commission's actions were contrary to law or involved misconduct of the type contemplated by the IC Act (as set out in s 257)
- 4 were considered as not being a valid complaint under s 257
- one was referred to another ACT information sharing entity (pursuant to s 271) better able to deal with the issues being raised.

Additional information about the finalised complaints is provided below. Two complaints received this reporting period are being investigated and one complaint is under assessment.

The most common issues raised in valid Inspector complaints this reporting period (noting some complaints raised multiple issues) included:

- disagreement with the Commission's decision to dismiss a corruption report, including reasons for decisions not being sufficiently explained (9 complaints), and concerns about the Commission's decision to dismiss a disclosure under the PID Act about the same alleged conduct (3 complaints)
- the Commission's functions under the PID Act, including referral of public interest disclosures to other public sector entities, and the Commission's oversight of how public sector entities investigate public interest disclosures and keep disclosers informed about an investigation (4 complaints)
- the exercise of the Commission's other functions under the IC Act (1 complaint)
- internal operations of the Commission (3 complaints)
- disagreement with the issuing of confidentiality notices under the IC Act (1 complaint).

Most of the complaints the Inspector has received about the Commission to date have been about the Commission's decision to dismiss a corruption report. Correspondence



from the Commission to complainants is generally limited in detail. Where reasons are provided, they do not always explain the Commission's assessment of the report or why the report was found not to concern serious corrupt conduct or did not support the use of Commission resources to investigate.

In correspondence with the Commission,⁷ I have encouraged the Commission to provide its reasons for making a decision to the fullest extent possible, consistent with the requirements of the IC Act.⁸ In my view, doing so will provide appropriate context and transparency on the Commission's decision-making processes and assist complainants to have a better understanding of the reasons why their corruption report is being dismissed. I have also made a number of recommendations to the Commission to improve the Commission's communication and decision-making practices, which are discussed on page 19 of this report.

I have considered the Commissioner's views on these matters. The Commissioner has previously advised that he agrees that in many cases it is necessary to provide some additional information beyond merely referring to the statutory basis for a decision to dismiss a complaint. At the same time, the Commissioner has noted that:

[T]he issue of the adequacy of information provided to a disappointed complainant is very much a question of judgment and discretion in respect of which reasonable minds may differ and I [the Commissioner] have the relevant responsibility to determine.⁹

I agree there may be circumstances when it is appropriate to provide limited or brief reasons for making a decision to dismiss a corruption report, for example because there is a tangible risk that providing more information would adversely affect a person's safety or compromise an investigation under the Act. I will, however, continue to encourage the Commission to provide such reasons as it is able to and to communicate this with a view to enabling individuals to understand why their report will not be investigated.

⁷ Including in correspondence to the Commission dated 27 September 2023.

⁸ Consistent with ss 72, 73 or 74 of the IC Act and the Commission's obligations under s 179 of the [Legislation Act 2001](#), while still ensuring the protections afforded under s 75 of the IC Act.

⁹ Comments provided in response to the Inspector's draft 2023-24 Annual Report and operational review of the Commission's activities.



Investigations

Investigations commenced

In November 2023, I commenced an own initiative investigation under s 265 of the IC Act. This is the first time an investigation under this provision has been conducted. The outcomes of this investigation will be reported when it is completed.

During this reporting period, I also commenced 2 complaint investigations under s 264 of the IC Act. The investigations remain ongoing as at 30 June 2024.

A decision to investigate is simply that and does not convey any concluded view. An investigation may be necessary to enable the Inspector to seek relevant information to properly consider concerns raised. I will advise the outcomes of these investigations either in my next annual report or, if I consider it necessary, in a special report.

Investigations finalised

In my last annual report, I reported that, in August 2022, I received a complaint from a person raising concerns about the Commission's practices and procedures for assessing corruption reports. I finalised my investigation in November 2023 and published a special report of the complaint investigation: [*Investigation into the dismissal of corruption reports by the ACT Integrity Commission*](#). I talk more about that report below.

Referrals

Referrals to the Inspector (s 105)

The Commission must refer corruption reports about the Commissioner or staff of the Commission to the Inspector under s 105 of the IC Act.

In my last report, I mentioned I had one outstanding referral from June 2023. The referral related to a person being dissatisfied with the outcome of the Commission's decision made under the PID Act. The person alleged the Commission did not properly investigate the matter. My Office assessed the referral and decided the complaint did not warrant investigation by the Inspector.



In 2023–24, the Inspector received 3 referrals. Two of the referrals recorded a complainant’s dissatisfaction with the Commission’s decision to dismiss their corruption report alleging corruption by the Commission. One referral recorded an anonymous complainant’s dissatisfaction with the Commission’s exercise of its functions. During communication with the Commission, the complainant made a broad allegation the Commission was corrupt and lacked independence. All 3 referrals were assessed as not indicating improper conduct and were closed.

Referrals by the Inspector (s 271)

The Inspector referred one complaint to another ACT information sharing entity (pursuant to s 271), as the entity was considered better able to deal with the issues being raised.

Reports and recommendations

Table 3 sets out the number of special reports published and recommendations made by the Inspector compared to previous financial years.

Table 3: Special reports and recommendations made by the Inspector

Reports and recommendations	2020–21	2021–22	2022–23	2023–24
Special reports presented to the Legislative Assembly under s 278	0	0	0	1
Recommendations made by the Inspector under s 272 about practices or procedures	0	3	0	7
Recommendations made by the Inspector to the Speaker under s 273	0	0	0	0

Special reports and recommendations

In my last annual report, I reported that, in August 2022, I received a complaint from a person raising concerns about the Commission's practices and procedures for assessing corruption reports. In November 2023, I published a special report of the complaint investigation: [Investigation into the dismissal of corruption reports by the ACT Integrity Commission](#).

This was the first time I exercised the power to prepare a special report under s 275 of the IC Act. That provision permits me to prepare a report for the Legislative Assembly at any time if I consider the report needs to be brought to the attention of the Legislative Assembly sooner than in my next annual operational review report.

The investigation focused on the Commission's framework for assessing corruption reports and included examining samples of corruption reports that had been assessed and dismissed by the Commission. The investigation also considered how the Commission responded to concerns initially raised with the Commission and how the Commission managed referrals of information to other entities.

The investigation identified gaps in how the Commission assessed and dismissed some corruption reports, including instances where the Commission did not follow its own practices and procedures, kept insufficient records of reasons for dismissing corruption reports or for disclosing information, and failed to consider appropriate mechanisms for external referral.

Seven recommendations were made to the Commission to improve its policies, procedures and practice. The Commission agreed to all 7 recommendations.

Recommendations made in special report

1. Where the Commission is satisfied on reasonable grounds that a corruption report does not justify investigation, the Commission should clearly articulate and record its reasons for dismissing the corruption report, including explaining how it reached the position that the particulars of each allegation met the grounds for dismissal under s 71 of the IC Act.
2. The Commission should review corruption reports R21/0052, R21/0055, R21/0060, R21/0066 and R21/0067 to determine whether there were reasonable grounds to dismiss each report under s 71(3)(b) of the IC Act and provide the Inspector with the outcome of its reconsiderations.
3. The Commission should provide the Inspector with the outcome of its reconsideration of corruption report R21/0065.
4. The Commission should ensure that assessment of corruption reports is conducted in accordance with the Commission's policies and procedures.
5. The Commission should update its policies and procedures to require the following steps be taken when deciding to disclose information to an information sharing entity under s 196 of the IC Act:
 - identify the specific information approved for disclosure
 - ensure all requirements for disclosing information under s 196 of the IC Act are met and sufficient records are made to demonstrate the reasons for decisions.
6. The Commission should update its policies and procedures to require consideration of whether s 107 (Commission may refer corruption reports to referral entity) or s 196 (Disclosure of information by Commission) is the appropriate mechanism to refer a corruption report to another agency, having regard to the intention of the referral. This should include appropriate practical guidance to assist staff in making or recommending correct decisions and keeping appropriate records of these decisions.
7. The Commission should ensure that appropriate action is taken in response to concerns raised by staff about potential non-compliance with the IC Act or non-conformance with the Commission's policies and procedures. It may be helpful to develop policies and procedures to guide decision-making about such action.

During this reporting period, I commenced a formal review of the Commission's implementation of those recommendations, which the Commission considers have now been fully implemented.



Recommendations for change to territory laws or administrative action

Under s 283(2)(b) of the IC Act, I must provide any recommendations for change to territory laws or administrative action I consider should be made. I do not have any recommendations for change to territory laws or administrative action.

Although I have not recommended any changes, the [review of the IC Act by Mr Ian Govey AM](#) recommended several changes that would assist the Commission to streamline its processes and efficiently investigate and conclude investigations. I am supportive of those recommendations.

In particular, I support the implementation of recommendation 42, which would change the requirement for the Inspector to provide a 6-week period to comment on a proposed special report to instead be a requirement to provide a 'reasonable amount of time'.¹⁰

I would support equivalent amendments for the Commission to streamline the mandatory provision of the report for purposes of procedural fairness. Notably, the review recommended the requirements in s 188(2) for the mandatory provision of a Commission's proposed special report be limited to persons and public sector entities named or otherwise identifiable in the report, and that the minimum period to comment on a proposed report be reduced (Recommendation 41).

I consider there would be benefit in focussing the mandatory provision of proposed reports to individuals or public sector entities who may be adversely affected by the report, and in amending the minimum period to provide comment on a proposed report to a 'reasonable period'. I consider these changes would strike an appropriate balance between providing individual procedural fairness with the ability of the Commission to efficiently finalise an investigation and make public the details of the investigation.

During the reporting period, my Office participated in several consultation processes. In May 2024, my Office participated in a consultation process by CMTEDD on the drafting

¹⁰ Recommendation 42: *'The Review recommends that section 285 of the Integrity Commission Act 2018 be amended to replace the requirement for the Inspector to provide a six-week notice period for persons and public sector entities to comment on a proposed special report with a requirement to provide a reasonable amount of time.'*



of the Integrity Commission Amendment Bill 2022 (No 2). The Bill was introduced to the ACT Legislative Assembly on 26 June 2024. If passed, the Bill will implement the government's first stage of reforms to the IC Act.

In March 2024, I participated in a consultation process by CMTEDD on the ACT Government's response to the independent review by Mr Ian Govey AM of the IC Act and the PID Act. On 7 July 2023, I made a written submission to the review on the discussion paper developed to consider amendments proposed to the PID Act. My submission can be viewed on my [website](#).

Recommendations to the Speaker

Under s 283(1)(c)(iv) of the IC Act, the Inspector must report on any recommendations to the Speaker that the Commissioner or staff of the Commission be investigated under s 273.

I did not make any recommendations that the Commissioner or Commission staff be investigated under s 273.

Disclosures of information

During this reporting period, 2 disclosures of information were made by the Inspector to information sharing entities under s 274 of the IC Act.

Part 3. Operational review

Under s 280(2) of the IC Act, in assessing the Commission's compliance with the IC Act for the purpose of this annual operational review, the Inspector must consider the Commission's management of conflicts of interest, whether the Commission and members of staff of the Commission acted within legislative power, implementation of recommendations made by the Inspector, and any other relevant matters.

Conflicts of interest

Management of conflicts of interest

During 2023–24, staff of the Inspector carried out 2 inspections of the Commission's conflicts of interest register for Commission staff. In July 2023, staff of the Inspector reviewed a copy of the Commission's conflicts of interest register for the period 1 January 2023 to 30 June 2023. A further inspection of the register was conducted in March 2024 to review information for the period 1 July 2023 to 31 December 2023.

In the last annual report, I mentioned I was aware that during 2022–23 the Commission entered into a contract with a staff member for consultancy services and that I had sought further information from the Commission about this procurement. The consideration of this matter remains ongoing as at 30 June 2024.

Based on these inspections, and noting there is an outstanding matter still under consideration, I am satisfied the Commission's register demonstrated active reporting and consideration of conflicts of interest by staff of the Commission during the relevant period. My Office will undertake further inspections of the register in 2024–25.

Declarations made by the Commissioner

Section 31(2) requires the Commissioner to declare a conflict of interest – defined as a financial or other personal interest that conflicts, may conflict or may be perceived to conflict with the Commissioner's functions – to the Speaker and the Inspector in writing, including disclosing the nature of the interest and conflict or potential conflict.



The Commissioner did not declare any conflicts of interest in writing to the Inspector pursuant to s 31(2) of the IC Act during this reporting period.

During the reporting period, the Commissioner notified the Speaker of a decision to recuse himself from one aspect of an investigation. I am in communication with the Commissioner over whether this was a matter that should have been reported to the Inspector. I have not yet finalised my consideration of this issue.

As a result of the Commissioner's recusal, the Speaker appointed Prof. John McMillan AO as acting Commissioner to manage that aspect of the investigation.¹¹ During this reporting period, Professor McMillan declared in writing to the Inspector one potential conflict of interest in relation to that investigation pursuant to s 31(2) of the IC Act.

I will report on my final assessment of the Commissioner's reporting and management of conflicts of interest in next year's annual operational review report or through a special report under s 275 of the IC Act.

Under s 280(2)(a)(iv), I must also consider any ending of a Commissioner's appointment under s 38 that relates to a conflict of interest. During this reporting period, there was no suspension or ending of a Commissioner's appointment that related to a conflict of interest.

Acted within legislative power

Under s 280(2)(b), I must consider whether the Commission and members of staff of the Commission acted within legislative powers and in accordance with the IC Act and any other relevant Acts.

The Commission has policies and procedures in place, including an Investigation and Assessment Policy Framework, to support the Commission and its staff to comply with the law and good practice.

The Commission's monthly reporting to the Inspector under s 205, referrals to the Inspector under s 105 and complaints to the Inspector did not identify any instances of non-compliance with the IC Act or other relevant Acts.

¹¹ Integrity Commission (Acting Commissioner) Appointment 2024 (No 1).

Based on the information currently available to me, and subject to the fact that I have outstanding investigations relating to this reporting period, my assessment is that the Commission operated within its powers but may not have complied with a reporting requirement of the IC Act or with some provisions of other relevant laws in force in the territory in a previous reporting period.

I will report on the outcomes of my outstanding investigations in next year's annual operational review report or through a special report under s 275 of the IC Act.

Recommendation implementation

Under s 280(2)(c), the Inspector must report on whether the Commission has implemented any previous recommendations made by the Inspector. As reported in last year's annual operational review report, in 2021–22 the Inspector made 3 recommendations to the Commission following the investigation of a complaint concerning the Commission's communication of reasons for dismissing corruption reports:

1. The Commission review its Assessment Process Management procedure to ensure reasons are clearly recorded for decisions made by the Assessment Panel and the Assessment Panel's considerations are more fully documented.
2. The Commission ensure reasons are included, as required by s 72(1)(a)(ii) of the IC Act, and are clearly explained in correspondence advising a person of the Commission's decision to dismiss a corruption report.
3. The Commission review its processes and procedures in relation to communication with complainants, noting the suggestions included in Part 6, Step 6 of the *Commonwealth Ombudsman – Better Practice Guide to Complaint Handling*.

During 2022–23, my Office commenced a review of the Commission's implementation of these recommendations. Information was sought from the Commission to assess how effectively it had implemented the recommendations. My Office received the requested information in May 2023. The review was finalised during this reporting period. It was assessed that, by May 2023, the Commission had partially implemented each recommendation.



For the purposes of this annual operational review report, I acknowledge this assessment is from a particular point in time and may not reflect the Commission's current practices, and the Commission may have taken further steps since then to progress implementation.

Some of the issues identified in the investigation were also considered in my subsequent investigation, [*Investigation into the dismissal of corruption reports by the ACT Integrity Commission*](#) published in November 2023. My review of the Commission's implementation of recommendations made in that later investigation will provide the Commission with an opportunity to detail any further action taken to implement the recommendations, to the extent they overlap.

Other relevant matters

During 2023–24, I sought information from the Commission on a range of matters and had frequent and productive engagement with the Commission. I will continue to engage with the Commission to seek the information required to inform the Inspector's oversight function.

