

Inspector of the  
ACT Integrity Commission

# ANNUAL REPORT

2020–21



## Transmittal letter

27 September 2021

Ms Joy Burch MLA  
Speaker  
Legislative Assembly for the ACT  
London Circuit  
CANBERRA ACT 2600

Dear Speaker

I present to you the Annual Report (the Report) of the Inspector of the ACT Integrity Commission for 2020-21.

The Report fulfils the requirements of s 7A of the *Annual Reports (Government Agencies) Act 2004* and contains the Annual Operational Review by the Inspector, required under s 280 of the *Integrity Commission Act 2018*.

I certify the Inspector of the ACT Integrity Commission Annual Report 2020-21 is an honest and accurate account of the work of the Inspector's Office and that all material information on the operations of the Office is included for the period from 1 July 2020 to 30 June 2021.

As I am an Officer of the Legislative Assembly, this report is not subject to the *Annual Reports (Government Agencies) Directions 2021*. Where relevant to my Office, I sought to include similar information in this report to that required under these directions.

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

Yours sincerely



Penny McKay  
Acting Inspector of the ACT Integrity Commission

## Contacting the Inspector

Enquiries about this report or requests for other information should be directed to:

Manager, Communication  
Commonwealth and ACT Ombudsman

**Post**                GPO Box 442  
                              CANBERRA ACT 2601

**Telephone**        02 6276 3773

Further information about the Inspector is available at:

**Website**            [Inspector of the ACT Integrity Commission](https://www.ombudsman.act.gov.au) webpage at [ombudsman.act.gov.au](https://www.ombudsman.act.gov.au)

The Inspector of the ACT Integrity Commission Annual Report 2020-21 is available on the webpage at <https://www.ombudsman.act.gov.au/improving-the-act/inspector-of-the-act-integrity-commission>

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## Table of Contents

Transmittal letter.....	3
Contacting the Inspector.....	4
Credits.....	5
Review by the Acting Inspector.....	8
Organisational overview.....	9
Role of the ACT Integrity Commission.....	9
Role of the Inspector.....	9
Performance analysis.....	10
Operation of the Inspector role.....	10
Inspector policies and procedures.....	10
Complaint handling policy.....	10
Declaration of interest guidelines.....	10
Inspector information for the ACT community.....	11
Agency engagement.....	11
Complaint management.....	11
Mandatory reporting of activities.....	11
Referrals to the Inspector.....	12
Data based on monthly reporting.....	12
Complaints and investigations.....	12
Recommendations, reports and disclosures of information.....	13
Management of conflicts of interest.....	13
Annual operational review report.....	13
Other matters.....	13
Financial management reporting.....	13
Appendix 1—Annual operational review.....	14



## Review by the Acting Inspector

I am pleased to introduce the Annual Report of the Inspector of the ACT Integrity Commission for 2020-21.

The ACT Integrity Commission (the Commission) is an independent body with the power to investigate alleged corruption in ACT Government. The Inspector provides independent oversight of the Commission to give assurance the Commission is acting within its powers and to maintain public confidence in government integrity.

This year, in the Commission's first full year reporting year, it undertook preliminary inquiries and investigations, commenced holding private hearings and appointed a new Commissioner, the Hon Michael Adams QC, on 6 May 2021. It also moved from its temporary accommodation to permanent, purpose designed offices.

The Inspector's role is to independently assess and report on the Commission's compliance with the Act. This includes considering complaints about the Commission and its staff, receiving monthly reports from the Commission and referring matters to other public bodies or officials. The Inspector has the power to access the Commission's records and can make recommendations about a range of matters, from practices and procedures to disciplinary action or criminal prosecution.

This year the Inspector considered 4 complaints about the Commission, received 12 monthly reports from the Commission about its activities and made no recommendations or referrals. Based upon the information available, my Office found the Commission operated within its powers and in compliance with legislation.

We look forward to continuing a productive working relationship with the Commission, while providing independent oversight of its functions. Now the Commission's activities are increasing, we intend to further develop our oversight activities over the coming year.

**Penny McKay**

Acting Inspector of the ACT Integrity Commission



## Organisational overview

### Role of the ACT Integrity Commission

The ACT Integrity Commission (the Commission) is established under the *Integrity Commission Act 2018* (the Act) and commenced full operations in December 2019. The Commission is an independent body with broad powers to:

- investigate alleged corruption in the ACT Government and public service
- refer suspected instances of criminality or wrongdoing to the appropriate authorities
- publish information about investigations and conduct education programs
- strengthen public confidence in government integrity.

### Role of the Inspector

The Inspector was set up to provide assurance the Commission operates within its legislative powers. The Inspector's main functions, as set out in Part 5 of the Act, are to:

- assess and report on the Commission's compliance with the Act, including conducting an annual operation review
- receive, investigate and assess complaints about the Commission and its staff
- make recommendations to the Commission or public bodies about practices or procedures in relation to the 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 Act to:

- investigate any aspect of the Commission's operations or conduct of the Commissioner or its staff
- have full access to records of the Commission
- 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 currently performs the role of Inspector in the ACT.

The role of the ACT Ombudsman is to influence systemic improvement in public administration in the ACT, as well as providing assurance that ACT Government agencies and other designated entities that fall within our jurisdiction act with fairness and integrity. A copy of our organisational chart<sup>1</sup> and the *ACT Ombudsman 2020-21 Annual Report*<sup>2</sup> can be accessed on the [Reports](#) webpage on our website at [ombudsman.act.gov.au](http://ombudsman.act.gov.au)

People can access information on how to make a complaint about the Commission, including our complaint handling policy, on the [ACT Ombudsman](#) website at [ombudsman.act.gov.au](http://ombudsman.act.gov.au). Complaints can be made using our online form and by contacting us through our ACT Ombudsman phone line.

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<sup>1</sup> ACT Ombudsman's Office, *Organisational chart*, Who we are webpage, ACT Ombudsman, Canberra, viewed 9 July 2021, [www.ombudsman.act.gov.au/dev/about-us/who-we-are?a=105930](http://www.ombudsman.act.gov.au/dev/about-us/who-we-are?a=105930)

<sup>2</sup> ACT Ombudsman's Office, *Reports*, ACT Ombudsman, Canberra, viewed 9 July 2021, [www.ombudsman.act.gov.au/publications/reports](http://www.ombudsman.act.gov.au/publications/reports)

## Performance analysis

### Operation of the Inspector role

#### *Inspector policies and procedures*

In the previous reporting period (2019-20), our Office focused on the development of policies to support the work of the Inspector. This included developing a complaint handling policy, internal complaint handling procedures and other procedures for Inspector staff, and personal interest guidelines for Inspector staff.

In 2020-21, our Office continued to refine our policies and procedures, as we found improved ways to perform our work. This included refining the Inspector's review processes for the monthly reports provided by the Commission.

The Commission is required to provide the Inspector with monthly reports on its activities (s 205 of the Act). The Office developed and tested a desk top review of the accompanying material provided by the Commission to assess compliance with the requirements under the Act of the information contained in its notices.

#### *Complaint handling policy*

The Inspector has powers under s 264(4) of the Act to make guidelines about how the Inspector is to handle complaints under the Act. These guidelines are embodied in the Inspector complaint handling policy, which was notified as an instrument on 4 July 2019.<sup>3</sup>

The purpose of the complaint handling policy is to outline, at a high level, how the Inspector will receive and manage complaints about the Commission. It is designed to ensure that complaints are handled fairly, efficiently and effectively. A copy of the policy is available on our [ACT Ombudsman](http://ombudsman.act.gov.au) website at [ombudsman.act.gov.au](http://ombudsman.act.gov.au)<sup>4</sup>

Our Office developed internal standard operating procedures, to underpin the complaint handling policy. The procedures provide detailed advice for Inspector staff on how to receive, manage and investigate complaints about the Commission, including the process for answering and addressing phone calls related to the Inspector from the ACT Ombudsman phone line.

#### *Declaration of interest guidelines*

The Inspector is required, under section 251(4), to make guidelines about the personal interests the Inspector considers relevant to be declared. Under section 251(6) of the Act, the Inspector must publish these guidelines. Our Office published guidelines which provide advice, ACT specific examples and impose additional requirements for staff, who are also Commonwealth Public Servants, to declare personal interests to ensure any potential conflicts of interest are managed effectively.

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<sup>3</sup> ACT Government, *ACT Integrity Commission Complaint Investigation Guidelines 2019*, ACT Ombudsman, Canberra, viewed 9 July 2021, [www.legislation.act.gov.au/View/ni/2019-437/current/PDF/2019-437.PDF](http://www.legislation.act.gov.au/View/ni/2019-437/current/PDF/2019-437.PDF)

<sup>4</sup> ACT Ombudsman's Office, *Inspector of the ACT Integrity Commission, Complaints Handling Policy*, June 2019, ACT Ombudsman, Canberra, viewed 9 July 2021, [www.ombudsman.act.gov.au/\\_data/assets/pdf\\_file/0018/102636/Inspector-Integrity-Commission-Complaint-Handling-Policy-A1811676.pdf](http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0018/102636/Inspector-Integrity-Commission-Complaint-Handling-Policy-A1811676.pdf)

The declaration of interest guidelines<sup>5</sup> were notified as an instrument on 4 July 2019 and are available on our [ACT Ombudsman](https://www.ombudsman.act.gov.au) website at [ombudsman.act.gov.au](https://www.ombudsman.act.gov.au)

### *Inspector information for the ACT community*

Our Office continues to focus on implementing strategies to inform ACT residents about the role of the Inspector. There is an Inspector webpage on the [ACT Ombudsman](https://www.ombudsman.act.gov.au) website, which includes a factsheet and Inspector complaint form.

A telephone line (02 6276 3773) is also available for members of the public to contact the Inspector.

In 2020-21, our Office continued refining and updating publicly available information about the role of the Inspector.

## Agency engagement

The Inspector and the Commission have a Relationship Protocol, which includes a schedule of meetings.

On 20 May 2021, the Office hosted the National Meeting of Inspectors and Parliamentary Commissioners. A broad range of topics were discussed, including establishing a community of practice for agency officials to collaborate.

Staff from our Office also attended the NSW Independent Commission Against Corruption Prevention forum.

During 2020-21, Inspector staff worked with the Commission to maintain arrangements for:

- the Commission to provide monthly reports to the Inspector under s 205 of the Act
- secure digital delivery and storage of protected and sensitive materials, and
- other emerging operational activities for each office.

## Complaint management

Any person can make a complaint to the Inspector about the Commission's operations, and action or inaction by Commission staff. Notices issued by the Commission to individuals must include information about a person's right to complain to the Inspector.

We understand the Commission initially experienced delays and challenges in becoming fully operational and progressing its matters on hand, which impacted the number of complaints received by both the Commission and the Inspector.

## Mandatory reporting of activities

Section 283 of the Act requires the Inspector's annual report to include the following information about material it has received from the Commission and about the Inspector's own activities:

- referrals made to or by the Inspector
- matters notified to the Inspector as part of the Commission's monthly reporting under s 205

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<sup>5</sup> ACT Ombudsman's Office, *Inspector of the ACT Integrity Commission, Declaration of Interest Guidelines*, June 2019, ACT Ombudsman, Canberra, viewed 9 July 2021, [www.ombudsman.act.gov.au/\\_data/assets/pdf\\_file/0017/102635/Declaration-of-Interest-Guidelines-ACT-Ombudsman-A1805973.pdf](https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0017/102635/Declaration-of-Interest-Guidelines-ACT-Ombudsman-A1805973.pdf)

- complaints made to the Inspector
- investigations conducted by the Inspector
- recommendations made by the Inspector
- other information sharing entities to whom the Inspector has disclosed information
- Inspector special reports presented to the Legislative Assembly.

#### *Referrals to the Inspector*

The Commission is required to refer corruption reports about the Commissioner, or a member of the Commission’s staff, to the Inspector under s 105 of the Act.

No such referrals were received during 2020-21.

#### *Data based on monthly reporting*

In 2020-21, the Inspector received the following material from the Commission in relation to its activities. This material was provided as part of the Commission’s monthly reporting under s 205 of the Act:

<b>Commission activity</b>	<b>Section of the Act</b>	<b>Number received</b>
Confidentiality notices	s 78 or s 79	39
Preliminary inquiry notices	s 90	15
Examination summons	s 147	24
Video recordings and transcripts	s 158	6

The Commission made no reports or referrals against the other categories under s 283(1)(b) of the Act.

#### *Complaints and investigations*

The Inspector received 4 complaints under s 257 about the Commission in the 2020-21 reporting period.

Two of these complaints related to decisions by the Commission not to investigate reports of alleged corruption. One of these two complaints also raised concerns about alleged service issues by Commission staff. The second of these complaints also raised issues related to decisions about the jurisdiction of the Commission. Both complaints were assessed and the Inspector’s decision in each case was not to investigate the complaint.

The third complaint was an enquiry about access to the Commission, claiming it was not responding. Current contact details were provided to the complainant.

The fourth complaint related to a decision not to investigate a report of alleged corruption and is currently being assessed.

The Inspector did not investigate under the Act.

### *Recommendations, reports and disclosures of information*

The Inspector did not make a recommendation or complete a report under the Act during the reporting period. No disclosures of information were made by the Inspector to information sharing entities under the Act.

### *Management of conflicts of interest*

For the period 1 July 2020 to 30 June 2021, the Commissioner reported one potential conflict of interest under s 31 of the Act. No reports were made under s 105, covering corruption reports about Commission staff.

Under s 283(1)(e) of the Act, the Inspector has responsibilities to inspect the Commission's conflict of interest register and provide an assessment of how the Commissioner is managing conflicts of interest (see also **Appendix 1**). An inspection was not carried out during the reporting period. However, the Inspector subsequently (after 30 June 2021) reviewed a copy of the Commission's conflict of interest register for its staff for the full reporting period. Under the Act (s 32), the conflict of interest register must contain each conflict of interest disclosure made by the Commissioner under s 31(2). The Commission has a general conflict of interest register for the Commissioner and all Commission staff. The register provided to the Inspector for the 2020-21 reporting period was the general conflict of interest register. The register included:

- the name of the Commission staff member
- the nature of any actual, potential or perceived conflicts of interest
- the relationship of those interests to the Commission's activities or proposed activities
- date declared
- who the conflict was reported to, and
- the action recommended following consideration.

The register indicates active reporting and consideration of conflict of interest by staff of the Commission. Based on the information provided to the Inspector, the Inspector is satisfied the Commission has taken appropriate steps to manage conflicts of interest as they arise.

### *Annual operational review report*

A copy of the Inspector's annual operational review report is attached to this report at **Appendix 1**, as required under s 283(3) of the Act. This report assesses the Commission's compliance with the Act for 2020–21.

### *Other matters*

The Commission started full operations on 1 December 2019. Because this is the first full reporting year, it is still too early for the Inspector to identify trends and systemic issues and make recommendations, including recommendations for changes to territory laws or for administrative action.

## Financial management reporting

In accordance with the Service Agreement between the Office of the Commonwealth Ombudsman and the ACT Government, the Office was provided with \$96,000 [exclusive of GST] for the 2020-21 financial year to implement and perform functions as the Inspector of the ACT Integrity Commission.

Inspector of the ACT Integrity  
Commission – Annual Operational  
Review of the ACT Integrity Commission

**September 2021**

## Introduction

This annual operational review by the Inspector of the ACT Integrity Commission (the Inspector) is conducted under s 280 of the *Integrity Commission Act 2018* (the Act). It assesses the compliance of the ACT Integrity Commission (the Commission) with the Act for the period 1 July 2020 to 30 June 2021.

The ACT Ombudsman is currently the Inspector of the Commission. The functions of the Inspector, as outlined in s 227 of the Act, include receiving, assessing, and investigating complaints about the Commission or its members of staff – both current and former.<sup>6</sup>

## Annual operational review matters

In assessing the Commission's compliance with the Act and undertaking the annual operational review, the Inspector must consider:

- the Commission's management of conflicts of interest including:
  - any conflicts of interest reported to the Inspector
  - the Commission's conflicts of interest register
  - any suspension of a Commissioner or ending of a Commissioner's appointment that relates to a conflict of interest.
- whether the Commission and its staff acted within its power and in compliance with the Act and any other relevant Acts
- whether the Commission has implemented previous recommendations made by the Inspector
- any other matters the Inspector considers relevant.

### Conflicts of interest – s 280(2)(a)

Conflicts of interest are not wrong in themselves.<sup>7</sup> It is how they are managed that is important. All conflicts of interest must be disclosed and effectively managed.

In the 2020-21 reporting period, the Commissioner reported one potential conflict of interest to the Inspector under s 31 of the Act. Based on the information provided, no matters were identified by the Inspector that needed to be considered in relation to this report and the Inspector assessed that no further action was warranted.

In the reporting period, a Commissioner's appointment has not been suspended or ended due to a conflict of interest.

An inspection of the Commission's conflict of interest register was not carried out during the reporting period. However, the Inspector subsequently (after 30 June 2021) conducted a review of the Commission's conflict of interest register for all staff for the reporting period. Under the Act (s 32), the conflict of interest register must contain each conflict of interest disclosure made by the Commissioner under s 31(2). The Commission has a general conflict of interest register for the Commissioner and all Commission staff. The register provided to the Inspector for the 2020-21 reporting period was the general conflict of interest register.

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<sup>6</sup> See s 256(1)(b) of the *Integrity Commission Act 2018*.

<sup>7</sup> A conflict of interest exists where it appears likely that an employee could be influenced or perceived to be influenced by their personal interests. Conflicts of interests may be real, apparent or potential.

The register indicates active reporting and consideration of conflict of interest by staff of the Commission. Based on the information provided to the Inspector, the Inspector is satisfied the Commission has taken appropriate steps to manage conflicts of interest as they arise.

The Integrity Commission (Personal Interest) Guidelines 2020, notified as an instrument on 10 August 2020, is available on the Commission's website at [www.integrity.act.gov.au](http://www.integrity.act.gov.au)<sup>8</sup>

### Whether the Commission and members of staff of the Commission acted within legislative power—s 280(2)(b)

During the reporting period, the Inspector did not receive any complaints or reports the Commission had not acted within its powers. The Commission has policies and procedures in place, including an Investigation and Assembly Policy Framework to ensure the Commission and staff act in compliance with the law.

Based on the information available, the Inspector is satisfied the Commission and its staff acted within its powers and in compliance with the Act and other relevant Acts.

### Implementation of recommendations made by the Inspector—s 280(2)(c)

During the reporting period, the Inspector did not make any recommendations that required implementation by the Commission.

### Other relevant matters—s 280(2)(d)

Nil noted for the 2020-21 reporting period.

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<sup>8</sup> [Integrity Commission \(Personal Interest\) Guidelines 2020](#), 12 August 2020, ACT Legislation Register webpage, viewed 9 July 2021.