



FACULTY OF LAW

GEORGE WILLIAMS AO

DEAN
ANTHONY MASON PROFESSOR
SCIENTIA PROFESSOR

4 April 2017

Committee Secretary
Select Committee on a National Integrity Commission
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

Thank you for the opportunity to make a submission to this inquiry into the Establishment of a National Integrity Commission. We do so in a personal capacity.

Australia's anti-corruption system needs reform. The diffusion of responsibilities across multiple agencies risks underreporting of corrupt conduct, while gaps in the regime mean that the system fails to hold people accountable. As a result, community and public confidence in Australia's institutions is eroded. The solution is a national whole-of-government anti-corruption body encompassing the public sector with the power to apply a uniform standard of corrupt conduct.

The existing system: the multi-agency approach

Australia's existing anti-corruption and integrity system divides responsibilities across several Commonwealth agencies. Characterised as the 'multi-agency' approach, this framework empowers different institutions with 'specific responsibilities for tackling corruption in different levels of government, and in relation to specific types of corruption'.¹ It is premised on the fact that 'the risks of corruption in the Australian Public Service vary according to each agency's operating environment', and that anti-corruption efforts will be best realised when each agency 'consider[s] their own risk profile[] and take[s] reasonable measures to mitigate risks'.²

¹ Attorney-General's Department, *The Commonwealth's Approach to Anti-Corruption* (Discussion Paper, 2012) 4.

² Australian Public Service Commission, *State of the Service Report 2012–2013* (2013) 71.

However, as Professor AJ Brown has explained, a ‘multi-faceted approach is not automatically a comprehensive approach’.³ Indeed, at present, Australia’s legislative, institutional and policy framework governing all facets of institutional, organisational, political and electoral, and individual corruption and misconduct is under-inclusive and unwieldy.

Our submission centres on two difficulties that arise from the multi-agency approach.

1. The existence of multiple agencies with responsibility for detecting and investigating corrupt conduct makes it difficult for persons alleging such conduct to know which body they should approach in order to make their allegations, resulting in underreporting and confusion.
2. Despite the proliferation of anti-corruption agencies, the current arrangements do not apply equally to all sectors of the Australian government. Federal politicians are not subject to legally enforceable anti-corruption accountability mechanisms. Recurring high profile cases of federal parliamentarians behaving outside community expectations indicates that this gap is of significant concern.

Australia’s major anti-corruption institutions

The 2016 Interim Report of the Select Committee on the Establishment of a National Integrity Commission identified several institutions with mandates that encompass the enforcement of public sector integrity and anti-corruption within the Commonwealth sphere. Major institutions are the Australian Commission for Law Enforcement Integrity (ACLEI), the Australian Federal Police (AFP), the Australian Public Service Commission (APSC), the Commonwealth Ombudsman and the Office of the Commonwealth Auditor-General.

Consistent with the Commonwealth’s approach, these institutions work within different parts of government and are tasked with investigating and deterring differing types of corruption. The ACLEI’s primary role is to investigate law enforcement-related corruption,⁴ encompassing oversight of the Australian Criminal Intelligence Commission, the Australian Federal Police, the Australian Transaction Reports and Analysis Centre (AUSTRAC), prescribed aspects of the Department of Agriculture and Water Resources, and the Department of Immigration and Border Protection. The AFP investigates serious and complex crimes, including fraud against Australian government programs whether committed within or outside Australia. The APSC is responsible for promoting the Australian Public Service’ Values and Codes of Conduct and ensuring that government agencies comply with the Code.⁵ Among other values, the Code of Conduct contains principles relating to managing conflicts of interest, and using Commonwealth resources. The Commonwealth Ombudsman undertakes investigations into complaints received from members of the public concerning government administrative action, as well as initiating investigations into systemic problems on its own motion.⁶ Finally, the Commonwealth Auditor-General and Australian National

³ Evidence to Select Committee on the Establishment of a National Integrity Commission, Parliament of Australia, Canberra, Canberra, 21 April 2016, 10 (Professor AJ Brown).

⁴ *Law Enforcement Integrity Commission Act 2006* (Cth) Pt 13, Div 3.

⁵ *Public Service Act 1999* (Cth) Pt 5.

⁶ *Ombudsman Act 1979* (Cth) s 5.

Audit Office independently assess selected areas of public administration and provide assurance about public sector financial reporting, administration, and accountability.⁷

There is evidence that these bodies are effective, within their scope of operations, in combating corruption. High-profile instances of corrupt conduct, such as the Australian Wheat Board oil-for-wheat scandal, and the Note Printing Australia and Securrency scandal, in which organisations were found to be paying bribes to secure lucrative international contracts, suggests that the multi-agency approach can detect, investigate, and prosecute acts of corruption. Indeed, Transparency International places Australia in the top echelon of ‘clean’ countries. The latest report ranked Australia 13th in the world.⁸ However, there has been a slide in Australia’s position: in 2012, for instance, Australia was ranked 7th.⁹ Equally, discovery of even large-scale incidents of corruption is not evidence that all corruption is uncovered. In fact, evidence suggests that two problems beset Australia’s current system. First, that the current multi-agency approach may make it difficult for persons alleging corrupt conduct to know which body they should approach to make their allegations, resulting in underreporting. Second, that gaps in the regime mean some persons avoid being held accountable for corrupt conduct.

The multi-agency approach may underreport incidents of corruption

Under Australia’s multi-agency approach, corruption and misconduct is tackled by different institutions under an ad hoc collection of federal laws. Consequently, it can be unclear which agency is responsible for a matter. In these circumstances, there is a substantial risk that breaches of public trust, dishonesty and corruption may fall between the cracks. This can lead to failures to prevent corruption, and an under-reporting and under-investigation of the problem. In their submission to the 2016 Select Committee on the Establishment of a National Integrity Commission, Gabrielle Appleby, Sean Brennan, Shipra Chordia and Grant Hoole recognised this risk. They explained that diffusing integrity and anti-corruption functions across multiple institutions ‘may deny individuals, including citizens and public service employees, a prominent and accessible point of contact for reporting concerns’.¹⁰

This problem at the federal level can be contrasted with approaches at the state level. In New South Wales, for instance, anyone with a lead on corrupt conduct can go to the Independent Commission Against Corruption website, where a prominent “report corruption here” button invites them to take action. By contrast, at the federal level, people with information can find it hard to know where to start, which may stop them from coming forward. Empirical evidence suggests this risk is a reality. The APSC 2016 Employee Census reported that, over the previous year, more than 3000 federal public servants had seen inappropriate or illegal behaviour at work, including conflicts of interest, nepotism, blackmail, bribery, fraud and collusion with criminals. Disturbingly, only a third reported this behaviour to their supervisor. The larger group said that they

⁷ *Auditor-General Act 1997* (Cth) Pt 4, Pt 6.

⁸ Transparency International, *Corruption Perceptions Index 2016* (Transparency International, 2017) 4.

⁹ Transparency International, *Corruption Perceptions Index 2012* (Transparency International, 2012) 3.

¹⁰ Gabrielle Appleby, Sean Brennan, Shipra Chordia and Grant Hoole, Submission No. 19 to Select Committee on the Establishment of a National Integrity Commission, 20 April 2016, 12.

were unsure how to report corruption, and so the problem was not properly dealt with.¹¹ This is evidence that the existing multi-agency approach is not working.

The multi-agency approach leaves significant gaps in coverage

Despite the number of institutions dedicated to investigating corruption across government agencies, the breadth of Australia's current anti-corruption system is inadequate. Excepting of potential AFP investigations into criminal conduct, there are no independent integrity or anti-corruption mechanisms with the authority to monitor the federal Parliament. Instead, members of Parliament are held accountable by soft-law instruments and unenforceable codes of conduct. These include the 2013 Standards of Ministerial Ethics,¹² the Statement of Standards for Ministerial Staff,¹³ the Lobbying Code of Conduct,¹⁴ and Register of Lobbyists.¹⁵ While such unenforceable statements are prevalent across the public and private sector, evidence suggests that they are only effective if sanctions apply for their breach.¹⁶

The Attorney-General's Department justifies unenforceable codes of conduct on the basis that 'robust democratic institutions' are more effective in 'promoting a fair and transparent society and combatting corruption'¹⁷ than legally enforceable standards. The Department identifies parliamentary committees, a free media, civil society, and Royal Commissions, as democratic institutions that can play this role. Certainly, at times, such institutions have been effective at exposing instances of misconduct. For instance, the 2015 Royal Commission into the Home Insulation Program found that failures of ministers and public servants in the design and implementation of the home insulation program led to the deaths of four men.¹⁸ Similarly, in recent years the media has been significant in revealing parliamentary expenses scandals. Nonetheless, however robust these democratic institutions may be, they are not designed to perform the systemic anti-corruption role prescribed by the Attorney-General's Department. Although a Royal Commission is a major formal public inquiry with considerable powers, it is ad hoc and can only investigate according to defined terms of reference.

¹¹ Referring to the 2016 APS Employee Census; cited in Australian Public Service Commission, *State of the Service Report 2015–2016* (2016) 27-28; Henry Belot, 'Corruption, cronyism and leaks: Public servants dob on colleagues, survey finds', *The Canberra Times*, 5 September 2016 <<http://www.canberratimes.com.au/national/public-service/corruption-cronyism-and-leaks-public-servants-dob-on-colleagues-survey-finds-20160901-gr6ay5.html>>.

¹² Australian Government, 'Statement of Ministerial Standards' (December 2013).

¹³ Special Minister of State, 'Statement of Standards for Ministerial Staff' <<http://www.smos.gov.au/resources/statement-of-standards.html>>.

¹⁴ Department of Prime Minister and Cabinet, 'Lobbying Code of Conduct' <http://lobbyists.pmc.gov.au/conduct_code.cfm>.

¹⁵ Department of Prime Minister and Cabinet, 'Who is on the Register?' <http://lobbyists.pmc.gov.au/who_register.cfm>.

¹⁶ Alan Doig and John Wilson, 'The Effectiveness of Codes of Conduct' (1998) 7 *Business Ethics: A European Review* 140-149.

¹⁷ Attorney-General's Department, above n 1, 11.

¹⁸ Ian Hangar AM QC, *Report of the Royal Commission into the Home Insulation Program* (Commonwealth of Australia, 2014).

In addition, democratic accountability mechanisms, such as the ballot box, can be blunt instruments.¹⁹ Voters are unlikely to have complete information about a candidate's behaviour, and may vote for a party based on decisions around the performance of the government and the opposition, rather than an individual. Further, as an inherently political body, Parliamentarians can shield members of their own political party from scrutiny, preventing proper accountability. Relatedly, allegations can take years to resolve, often until public attention has moved on, or the member in question has left Parliament. Recent examples elucidate the failures of the unenforceable soft-law anti-corruption mechanisms that exist for federal politicians.

Over the last few years, repeated scandals involving federal parliamentarians misusing entitlements has raised alarms over Australia's anti-corruption and integrity system. Revelations that taxpayers have paid for politicians to attend weddings,²⁰ undertake book tours,²¹ tour local Canberra wineries,²² attend family ski holidays,²³ sell haircare products,²⁴ and fly interstate to inspect and purchase luxury accommodation,²⁵ has fuelled public distrust in federal parliamentarians. This distrust is heightened by the process of investigating allegations of entitlement abuse. Since 1998, the Department of Finance and Deregulation has been tasked with this role. The Department investigates internally, asking the member to explain why the expenses were incurred. It also has the power to refer serious matters to the AFP to determine whether proceedings should be brought in court.²⁶ However, under this protocol, politicians generally repay expenses that have been wrongly claimed rather than are investigated by the AFP.²⁷ While, numerous reviews and audits have identified that the remuneration and entitlements framework is 'complex' and difficult to understand and 'manage for both the

¹⁹ Alysia Blackham and George Williams, 'The Accountability of Members of Australia's Federal Parliament for Misconduct' (2013) 13 *Oxford University Commonwealth Law Journal* 115, 117.

²⁰ James Robertson, 'Brandis, Joyce attended wedding on taxpayers' tab', *Sydney Morning Herald*, 29 September 2013 <<http://www.smh.com.au/federal-politics/political-news/brandis-joyce-attended-wedding-on-taxpayers-tab-20130928-2ulgn.html>>; James Robertson and Jonathan Swan, 'Buck bucks' for MPs Bollywood adventure', *Sydney Morning Herald*, 6 October 2013 <<http://www.smh.com.au/federal-politics/political-news/big-bucks-for-mps-bollywood-adventure-20131005-2v0wf.html>>.

²¹ Glenn Milne, 'How taxpayers helped Tony Abbott flog Battlelines', *ABC News*, 29 September 2010 <<http://www.abc.net.au/news/2010-07-28/35544>>.

²² See *Slipper v Turner* [2015] ACTSC 27 (26 February 2015) [66].

²³ Jonathan Swan and Daniel Hurst, 'Expenses critic Mark Dreyfus embarrassed over taxpayer ski trip to Perisher', *Sydney Morning Herald*, 8 October 2013 <<http://www.smh.com.au/federal-politics/political-news/expenses-critic-mark-dreyfus-embarrassed-over-taxpayer-ski-trip-to-perisher-20131008-2v5sc.html>>.

²⁴ Hedley Thomas, 'Tim Mathieson's car use cost Julia Gillard \$4000', *The Australian*, 17 September 2013 <<http://www.theaustralian.com.au/national-affairs/tim-mathieson-car-use-cost-julia-gillard-4000/news-story/6267159bdfa5d9748d1d2ea0b7c7f9ef>>.

²⁵ Stephanie Anderson and Ashlynn McGhee, 'Sussan Ley defends purchase of \$800k unit on taxpayer-funded trip to Gold Coast', *ABC News*, 6 January 2017 <<http://www.abc.net.au/news/2017-01-06/leys-purchase-of-unit-on-taxpayer-funded-trip-not-planned/8165414>>.

²⁶ Department of Finance and Deregulation, *Protocol Followed when an Allegation is Received of Alleged Misuse of Entitlement by a Member or Senator* (tabled in the Senate by the then Special Minister of State on 31 October 2000). Available at: <http://maps.finance.gov.au/docs/Protocol_on_Allegations.pdf>.

²⁷ Peter Slipper was a notable exception; though the case was dismissed on appeal: *Slipper v Turner* [2015] ACTSC 27 (26 February 2015).

Parliamentarians and relevant departments',²⁸ politicians operate under a different system to ordinary members of the public. Indeed, while some federal ministers have been demoted due to expenses scandals, they are not subject to the same standards faced by other members of the public found to have misappropriated monies. This has been a cause of long-standing public concern.

Such allegations may also be investigated by parliamentary processes. However, these are subject to partisanship, and can extend over several years. For example, Craig Thompson was a federal Labor MP for Dobell and former trade union official. In 2012, a Fair Work Australia (FWA) report found that, prior to his parliamentary service, as national secretary of the Health Services Union, Thompson had committed 156 breaches of workplace laws.²⁹ Responding to the FWA report, Thompson denied these findings in a speech to Parliament. Thompson rejected any wrongdoing, and explained that he was the victim of 'many enemies who did not like increased transparency', naming individuals he considered responsible.³⁰ In 2014, Thompson was subsequently found guilty of theft and fraud. Parliament passed a motion of regret, apologised to the individuals named in Thompson's statement to the House, and referred the matter to the Privileges Committee to investigate whether Thompson had deliberately misled the House.

In March 2016, the Privileges Committee released its report. It found that Thomson's statement was 'at odds with the findings of the court', and held that the deliberate and formal nature of his statement led to 'a reasonable presumption ... of Mr Thomson's intention to mislead the House'.³¹ It concluded that Thompson's conduct constituted a 'contempt of the House'. However, while the committee had the power to recommend a term of imprisonment of up to six months, or a fine of up to \$5000, the Committee recommended only that Thompson be reprimanded for his conduct. Accepting this recommendation, Parliament reprimanded Thomson.³² This case provides a clear example of the inadequacy of parliamentary committees at managing misconduct by a politician. As has been noted: 'The process took four years to be completed, by which time Thomson had left Parliament; and the ultimate penalty – a reprimand – was very weak'.³³

Most recently, reports have emerged that former Speaker Bronwyn Bishop refused to cooperate with a 2015 Department of Finance review into her travel and related entitlements sparked by the revelation that she chartered a \$5,227.27 helicopter for travel

²⁸ Australian National Audit Office, *Parliamentarians' Entitlements 1999-2000* (Audit Report No. 5, 7 August 2001) 17 [15]; See also Australian National Audit Office, *Administration of Parliamentarians' Entitlements by the Department of Finance and Deregulation* (2009); Commonwealth of Australia, Committee for Review of Parliamentary Entitlements, *An Independent Parliamentary Entitlements System: Review* (February 2016) 1-2 [5]-[6].

²⁹ Terry Nassios, *Report of the Delegate to the General Manager of Fair Work Australia: Investigation into the National Office of the Health Services Union under section 331 of the Fair Work (Registered Organisations) Act 2009* (28 March 2012).

³⁰ Commonwealth, *Parliamentary Debates*, House of Representatives, 21 May 2012, 4719.

³¹ Commonwealth, House of Representatives Standing Committee of Privileges and Members' Interests, *Report into whether the former Member for Dobell, Mr Craig Thomson, in a statement to the House on 21 May 2012 deliberately misled the House* (March 2016) 12 [1.47], 15 [1.62].

³² Commonwealth, *Votes and Proceedings*, House of Representatives, 4 May 2016, 75, item 26.

³³ Alysia Blackham and George Williams, 'Craig Thompson and the Limits of Parliamentary Accountability for Misconduct', *AusPubLaw*, 21 June 2016 <<https://auspublaw.org/2016/6/craig-thomson/>>.

from Melbourne to a Liberal Party function in Geelong in 2015. The Report indicates that Ms Bishop ‘provided limited explanations of her reasons for claiming various entitlements, making it impossible for the department to verify whether her claims were a legitimate use of taxpayer dollars or not’.³⁴ The Report explained that, as it ‘is reliant on information provided by Mrs Bishop to fulfil its role in the exercise, no further assessment is possible in relation to the incomplete seven years’.³⁵ The inadequacy of the Report, as well as meaningful accountability over broader misuse of entitlements, demonstrates several gaps in Australia’s anti-corruption and integrity system with regard federal parliamentarians. These include: a clear standard as to what conduct satisfies ‘misconduct’ or ‘corruption’; strong enforcement powers enabling the compulsion of documents; consequences for breaching standards; and the absence of an effective mechanism for addressing conduct once the member in question has left Parliament. Additionally, as this report was only revealed via a Freedom of Information request, transparency surrounding investigations is lacking. A requirement to make findings public, or to hold public hearings, would increase the likelihood of meaningful accountability.

Changes to the existing regime have been implemented, but they appear unlikely to be particularly effective. In February 2017, in the wake of another parliamentary entitlements controversy that culminated in Health Minister Sussan Ley’s resignation, the Commonwealth Parliament established an Independent Parliamentary Expenses Authority (IPEA),³⁶ based on the model used by the United Kingdom. Its functions include administering and overseeing the work expenses of parliamentarians and ministers.

Persons are required to give the Authority information or documents relevant to its reporting and auditing functions, which includes material relating to work and travel expenses.³⁷ A criminal penalty may be levied for contravening this requirement. However, such a penalty can be excused if it ‘might incriminate the person or expose the person to a penalty’.³⁸ Consequently, the IPEA is not able to impose sanctions for failing to comply with an order to provide documents. As Paul Karp has explained, this:

means the authority will have weaker powers than many civil regulators including the Australian Securities and Investments Commission, the Australian Competition and Consumer Commission, the Australian Taxation Office and the Australian Building and Construction Commission whose regimes don’t allow people to refuse on the basis of a privilege against self-incrimination.³⁹

³⁴ Latika Bourke, ‘Bronwyn Bishop cut short participation in expenses review after repaying more than \$6700, report reveals’, *Sydney Morning Herald* 30 March 2017 <<http://www.smh.com.au/federal-politics/political-news/bronwyn-bishop-cut-short-cooperation-with-expenses-review-after-repaying-more-than-6700-report-reveals-20170329-gv9g8r.html>>.

³⁵ Department of Finance Report, *Travel and Related Entitlements of the Hon Bronwyn Bishop: 1 July 2005-30 July 2015* (August 2016) 6 [1.11].

³⁶ *Independent Parliamentary Expenses Authority Act 2017* (Cth).

³⁷ *Independent Parliamentary Expenses Authority Act 2017* (Cth) s 53.

³⁸ *Independent Parliamentary Expenses Authority Act 2017* (Cth) s 55.

³⁹ Paul Karp, ‘Malcolm Turnbull’s new expenses authority to have weaker powers than many civil regulators’, *Guardian Australia*, 9 February 2017 <<https://www.theguardian.com/australia-news/2017/feb/09/malcolm-turnbulls-expenses-authority-to-have-weaker-powers-than-many-civil-regulators>>.

Further, as Cathy Madden and Deirdre McKeown have identified, in the case of a breach of expenses, is not clear what avenues the IPEA could pursue other than recovery of payments.⁴⁰ This contrasts to the situation in the UK, where the Independent Parliamentary Standards Authority (IPSA) operates within a stronger integrity regime. Members of Parliament entitlement claims are published online every two-months, and are searchable via an interactive map.⁴¹ A statutory compliance officer has the authority to review IPSA's decisions about claims, and publishes all investigations into allegations of misuse of entitlements online.⁴² In addition to recovering overpayments to parliamentarians, the compliance officer has the authority to impose penalties on Members 'for failing to comply with a request for information or a repayment direction'.⁴³ A Member of Parliament who knowingly makes a false or misleading claim is liable for 12 months imprisonment.⁴⁴

Despite the introduction of the IPEA, Australia's anti-corruption and integrity system still lacks an effective mechanism for holding federal politicians accountable at the same standards as other members of the public. This is clear when contrasted to the UK IPSA, which operates under an enhanced transparency regime, and with considerable powers of enforcement and sanction.

Effect of gaps in Australia's anti-corruption system

Surveys indicate that the share of Australians who trust in government has fallen. For instance, the global 2017 Edelman Trust Barometer found that Australians' trust in government fell by 8 points between 2016 and 2017.⁴⁵ Likewise, empirical work by the University of Canberra Institute for Governance and Public Analysis and the Museum of Australian Democracy released in 2016 has found that trust in government and politicians is now at the lowest levels in over two decades, indicating that 'only 42 per cent of Australians are happy with the way democracy works in the country'.⁴⁶ Sarah Cameron and Ian McAllister's long-running *Trends in Australian Political Opinion* reveals a similar result. Cameron and McAllister found that since 2007, trust in government has fallen 17 points, and the percentage of people satisfied with democracy

⁴⁰ Cathy Madden and Deirdre McKeown, 'Independent Parliamentary Expenses Authority Bill 2017 and Independent Parliamentary Expenses Authority (Consequential Amendments) Bill 2017', *Flagpost*, 14 February 2017 <http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2017/February/Independent_Parliamentary_Expenses_Authority_Bill_2017>.

⁴¹ Independent Parliamentary Standards Authority, 'MP Costs: Interactive Map' <<http://www.theipsa.org.uk/mp-costs/interactive-map/>>.

⁴² Compliance Officer for Independent Parliamentary Standards Authority, 'Completed Reviews', <<http://www.parliamentarycompliance.org.uk/transparency/Pages/completed-reviews.aspx>>.

⁴³ Independent Parliamentary Standards Authority, *IPSA's First Parliament 2010-2015: Regulation, Support, and Remuneration* (May 2016) 17 [60].

⁴⁴ *Parliamentary Standards Act 2009* (c 13) s 10.

⁴⁵ 2017 Edelman Trust Barometer, 'Global Results: 'Trust in Government Further Evaporates'' 13 <<http://www.edelman.com/global-results/>>.

⁴⁶ University of Canberra, 'Trust, An Absent Commodity in this Election: UC-IGPA', 24 June 2016 <<http://www.governanceinstitute.edu.au/news-and-media/news/104/trust-an-absent-commodity-in-this-election-uc-igpa>>.

has dropped 26 points.⁴⁷ These results are also reflected in Scanlon Foundation surveys, which, since 2010, ‘have registered continuing low level of trust in the federal parliament’.⁴⁸ While declining trust in government is a global phenomenon and a result of multiple causes, Australia’s inadequate anti-corruption and integrity system is fuelling concerns. Recurring parliamentary expenses scandals trigger ‘a public loss of faith in [Parliament] and its members’,⁴⁹ ‘destroying public confidence in the integrity of Parliament’⁵⁰ and have a ‘corrosive effect’ on democracy.⁵¹

Trust in government is integral for good governance and social cohesion. A 2013 OECD Report highlighted trust in government as a determinant of effective functioning of democracy:

Trust in government has been identified as one of the most important foundations upon which the *legitimacy and sustainability of political systems are built*. Trust is essential for *social cohesion and well-being* as it affects governments’ ability to govern and enables them to act without having to resort to coercion. Consequently, it is an efficient means of lowering transaction costs in any social, economic and political relationship.⁵²

It is critical that Australia arrests the decline in faith in our democratic institutions. Revamping our under-inclusive and unwieldy anti-corruption and integrity system, is a central element of this strategy.

How can this be fixed?

Australia’s national corruption framework is under-inclusive and unwieldy. Our submission has identified two major problems with the existing multi-agency approach: the multiplicity of agencies responsible for investigating allegations of corrupt conduct make it difficult for individuals to know which body they should address their allegations, and the absence of an effective mechanism to hold federal parliamentarians to account detracts from Australia’s commitment to good governance.

A national whole-of-government anti-corruption body able to apply a uniform standard of corrupt conduct across all parts of government offers the best hope for rectifying these problems. Such a body will operate as a ‘one stop shop’, providing a clear path for persons with information about alleged corrupt conduct to report; coordinate prevention, risk assessment and monitoring activities; and eliminate gaps in the existing regime. As the 2016 Interim Report of the Select Committee on the Establishment of a National Integrity Commission noted, a national whole-of-government anti-corruption body has broad potential benefits:

⁴⁷ Sarah Cameron and Ian McAllister, *Trends in Australian Political Opinion: Results from the Australian Election Study 1987-2016* (ANU Press, 2016) 74-75.

⁴⁸ Andrew Markus, *Mapping Social Cohesion: The Scanlon Foundation Surveys 2016* (Scanlon Foundation, 2016) 3.

⁴⁹ ‘Pollies Caught Out by Public Expectations’, *The Australian*, 26 May 2012, 15.

⁵⁰ Philip Hudson, ‘High Time for an Umpire in Parliament’, *Herald-Sun*, 25 May 2012, 39.

⁵¹ Amanda Lohrey, ‘Comment: Australian Democracy and the Right to Party’, *The Monthly* (July 2012). For more commentary see Blackham and Williams, above n 19, 131.

⁵² OECD, *Government at a Glance 2013* (OECD, 2013) 21 (emphasis in original).

While the most prominent function of a NAC [National Anti-Corruption Commission] is the discovery and investigation of corruption, a NAC may also improve policy co-ordination, provide leadership and education services, reduce potential jurisdictional gaps, increase administrative efficiency, send an unambiguous signal that the issue of corruption is being taken seriously, and provide confidence to the public that corruption is minimised at the highest level of government.⁵³

As with state-based whole-of-government anti-corruption bodies,⁵⁴ the national body should also be tasked with an educative function. As the 2016 Interim Report identified, ‘[p]roviding education services surrounding corruption can increase the resilience of organisations and individuals to corruption, and clarify expectations around what does and does not constitute corrupt behaviours.’⁵⁵

The case for whole-of-government anti-corruption bodies has proved overwhelming in the states. They are now in place in every state jurisdiction.⁵⁶ It is beyond time that a similar body is established at the federal level in Australia. At a time where trust in government and democratic institutions is falling precipitously, a national whole-of-government anti-corruption and integrity body, is sorely needed.

Yours sincerely

George Williams

Harry Hobbs

⁵³ Select Committee on the Establishment of a National Integrity Commission, Commonwealth of Australia, *Interim Report* (2016) 27 [3.71].

⁵⁴ See e.g. *Independent Commission Against Corruption Act 1988* (NSW) s 13(1)(h).

⁵⁵ Select Committee on the Establishment of a National Integrity Commission, above n 48, 27 [3.72].

⁵⁶ NSW: Independent Commission Against Corruption; Qld: Crime and Corruption Commission; Vic: Independent Broad-based Anti-Corruption Agency; SA: Independent Commissioner Against Corruption; WA: Crime and Corruption Commission; Tas: Integrity Commission Tasmania.