The Centre for Public Integrity

Committee Secretary
Joint Committee of Public Accounts and Audit
By email

28 October 2022

Dear Secretary,

Inquiry into Commonwealth grants administration

Thank you for the opportunity to make a submission to this Committee.

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Our research into the administration of Commonwealth grants programs has led to us developing the attached set of recommendations; we hope these will assist the Committee in its efforts to ensure that the administration of grants programs is sufficiently robust to enable the Australian people to trust that public funds are used for proper, public purposes.

Yours sincerely,

Dr Catherine Williams
Research Director
The Centre for Public Integrity

Executive summary

Ensuring that public funds are used for proper, public purposes is an issue in which Australians have a significant and undeniable interest: the funds do, after all, belong to them.

The spending of public funds through Commonwealth grants programs has become increasingly contentious, in light of successive reports of misuse of funds for political gain – a form of corruption otherwise known as 'pork-barrelling' – in cases like the Safer Communities Fund, Sports Grants and the Commuter Car Parks Project.

It has been alleged that the manner in which some of these programs have been administered constitutes 'pork-barrelling',[1] the consequences of which have been described in the following terms by Professor Anne Twomey AO:

> *'Pork-barrelling' undermines the fairness of elections and aids democratic decay by heightening public distrust of politicians and the efficacy of the system of government. Making grants on the basis of political advantage, rather than merit and needs, results in the unfair distribution of public funds, the funding of unworthy or unviable projects, the inefficient allocation of scarce resources, poor planning and a lack of coordination with other levels of government in providing appropriate local facilities.*[2]

With very substantial funds being allocated via grants programs, the need for adequate scrutiny and accountability mechanisms in relation to grants administration is self-evident.

Recommendations

Addressing the current, flawed system of Commonwealth grant administration sees the convergence of multiple, urgent institutional reforms: improved parliamentary oversight of Commonwealth spending, a strengthened legislative framework, an independently-enforceable Code of Conduct for parliamentarians and staffers, a reassertion of the role of an independent public service, and a fit-for-purpose National Anti-Corruption Commission. With the latter close to establishment, it is time to turn our attention to the remaining reforms.

The Centre for Public Integrity has developed a tripartite approach designed to promote parliamentary oversight and achieve transparency and accountability of the expenditure of public funds via grants programs. This approach proposes requirements relating to clear criteria, robust reporting and augmented accountability:

- **Clear criteria:**
    - merit selection criteria and program guidelines to be published and tabled for grants programs worth less than $100 million.

[1] Richard Willingham, "*Allegations of pork barrelling as car parks promised in 2019 federal election lead-up ditched*" https://www.abc.net.au/news/2021-05-18/victoria-car-park-projects-pork-barrelling-allegations/100146922, ABC news accessed 6 July 2021; Matthew Doran, "'*Sports rorts' inquiry says federal government tried to avoid handing over evidence*", ABC news accessed 6 July 2021.
[2] Anne Twomey, "*Constitutional Risk", Disrespect for the Rule of Law and Democratic Decay*" in *Canadian Journal of Comparative and Contemporary Law*, 2021, vol 7, 293-341.

- Parliament to set out criteria and guidelines in primary legislation for all grants programs worth over $100 million.

- **Robust reporting:**
  - Ministers to report to the Parliament on a quarterly basis in respect of expenditure decisions which deviate from departmental advice; and
  - departments to periodically table documentation pertaining to the administration of grants programs worth over $100 million.

- **Augmented accountability:**
  - a joint cross-party standing committee to oversee grant administration and report to Parliament;
  - a strengthened legislative framework governing grants administration;
  - an independently-enforceable Code of Conduct; and
  - a reassertion of the role of an independent public service to enable it to provide 'frank and fearless' advice about the administration of grants programs.

I. The case for reform

An analysis of recent reports of the Australian National Audit Office (**ANAO**) in respect of the administration of grants programs is alarming.

In the case of the Regional Jobs and Investments Packages, for example, the ANAO concluded that 'Applications were not soundly assessed in accordance with the program guidelines'.[3] In respect of the award of a $433.4 million grant to the Great Barrier Reef Foundation, it reported that there was "insufficient scrutiny of the foundation's proposal in three key areas examined".[4] The agency's report into the administration of sports grants concluded that 'the award of grant funding was not informed by an appropriate assessment process and sound advice',[5] and, in respect of the Supporting Reliable Energy Infrastructure Program, the ANAO found that the award of funding 'was not fully informed by an appropriate assessment process and sound advice on the award of grant funding. Aspects of the approach did not comply with the Commonwealth Grant Rules and Guideline'.[6] The ANAO's audit of the Commuter Car Parks Project within the Urban Congestion Fund has also given rise to grave concerns about the way in which the Commonwealth manages public funds, as detailed in the below case study.

3 Australian National Audit Office, "*Award of Funding Under the Regional Jobs and Investment Packages*", https://www.anao.gov.au/work/performance-audit/award-funding-under-the-regional-jobs-and-investment-packages accessed 6 July 2021, at para 13.
4 Australian National Audit Office, "*Award of a $443.3 Million Grant to the Great Barrier Reef Foundation*", https://www.anao.gov.au/work/performance-audit/award-4433-million-grant-to-the-great-barrier-reef-foundation accessed 6 July 2021, at para 13.
5 Australian National Audit Office, "*Award of Funding under the Community Sport Infrastructure Program*", https://www.anao.gov.au/work/performance-audit/award-funding-under-the-community-sport-infrastructure-program accessed 6 July 2021, at para 7.
6 Australian National Audit Office, "*Award of Funding under the Supporting Reliable Energy Infrastructure Program*", https://www.anao.gov.au/work/performance-audit/award-funding-under-the-supporting-reliable-energy-infrastructure-program accessed 6 July 2021, at para 8.

Case study: Commuter Car Parks Project

The Commonwealth's administration of the $660 million Commuter Car Parks Project within the Urban Congestion Fund has attracted significant criticism. In its audit of the project, the ANAO concluded that 'Project distribution reflected the geographic and political profile of those given the opportunity to identify candidate projects for funding consideration'.[7]

It further concluded that electorates held by the Coalition were 'twice as successful in attracting funding as those held by the ALP at the time of selection',[8] and that 'the geographic distribution of projects did not reflect the distribution of key factors relevant to the achievement of the policy objectives'.[9]

Of the Department's role in the process, the ANAO had the following to say:

> *Insufficient assessment work has been undertaken by the department to satisfy itself that projects are eligible for funding under the National Land Transport Act 2014. In relation to the merits of projects, the department did not seek to establish assessment criteria, and the assessment work has not adequately demonstrated that approved projects will provide value for money.*[10]

It has also been confirmed by the Deputy Auditor-General that in the process of determining how to allocate funds, a 'marginal electorate list' was shared between the offices of then-Prime Minister Scott Morrison and then-Infrastructure Minister Allan Tudge.[11] Presumably, such a document was shared as part of the fund-allocation process because an electorate's status as marginal or otherwise was a relevant consideration: this is, clearly, a problematic proposition.

In response to an ANAO request for evidence of authority to select one of the car park sites, the then-Prime Minister's office provided a copy of a press release and advised that 'There is precedent established by the Department for the Prime Minister and Cabinet that a media announcement by the Prime Minister constitutes relevant authority to progress a project'.[12] So-called 'precedent' as authority for what seems to be an inappropriately casual attitude to the allocation of taxpayers' money is alarming. Moreover, the authorisation of the commitment of taxpayers' money via press release should be abandoned in favour of more formally documented practices (we note that the ANAO also found the record of authority for the selection of the Gosford site to be incomplete).[13]

II. Existing constraints on grant expenditure

Various constraints exist upon grant expenditure. These include: the Constitution; the requirement that there be legislative authority to spend; the Code of Conduct for Ministers; the requirements of administrative law; and the grant administration

[7] Australian National Audit Office, "*Administration of Commuter Car Park Projects within the Urban Congestion Fund*", https://www.anao.gov.au/work/performance-audit/administration-commuter-car-park-projects-within-the-urban-congestion-fund accessed 17 September 2021 at para 2.2.
[8] Ibid at para 3.68.
[9] Ibid at para 3.69.
[10] Ibid at para 12.
[11] Shane Wright and Katina Curtis, "Railway station plans parked in ministers' offices" in *The Sydney Morning Herald*, https://www.smh.com.au/politics/federal/railway-station-plans-parked-in-ministers-offices-20210912-p58qxd.html accessed 17 September 2021.
[12] Above n 7 at para 3.9.
[13] Above n 7 at 3.8.

framework established by the *Public Governance, Performance and Accountability Act 2013* (Cth) (***PGPA Act***), the *Public Governance, Performance and Accountability Rule 2014* (Cth) (***PGPA Rule***), and the Commonwealth Grant Rules and Guidelines (***CGRGs***).

Yet spite of the existence of these constraints, there continue to be reports of significant maladministration of grants programs. It is instructive to examine the constraints in detail, in order to identify areas for improvement.

a. Constitution

The prime constraint on ministerial spending is, at least theoretically, the Constitution: as the High Court held in *Pape v Commissioner of Taxation* (2009) 238 CLR 1, Commonwealth spending must be supported by a constitutional head of legislative or executive power in order to be valid. In reality, as Professor Anne Twomey AO has explained, the Commonwealth funds many programs lacking a clear constitutional head of power – a practice that has continued in the wake of *Pape* because of the low 'constitutional risk' associated with it ('constitutional risk' refers to the likelihood that someone with standing will bring a challenge).[14] That the executive persists with this approach is both intolerable and indefensible.

b. Legislative authority

The High Court held in *Williams v Commonwealth* (2012) 248 CLR 156 *(Williams (No 1))* that parliamentary authorisation – beyond the mere appropriation of funds – is a precursor to the expenditure of public money (except for where the spending is for the ordinary administration of the functions of government, or in support of prerogative powers).

The various legislative bases available include specific legislation, s 23 of the *Public Governance, Performance and Accountability Act 2013* (Cth) (**PGPA Act**), and, in the wake of Williams (No 1), s 32B of the *Financial Framework (Supplementary Powers) 1997 Act* (Cth). Under the latter provision, all grants and programs enumerated in the *Financial Framework (Supplementary Powers) Regulations 1997* (Cth) purportedly have legislative authority – a situation that Professor Twomey has critiqued in the following terms:

> *The use of regulations to identify these programs meant that more could be added by the Commonwealth at any time without the need for direct parliamentary scrutiny that would otherwise have been required for the passage of legislation. Further, the descriptions of the listed programs were often so broad that almost anything could be included within them. Examples include expenditure of public money for "Regulatory Policy", "Diversity and Social Cohesion" and "Regional Development". Many of the listed programs had no apparent constitutional head of power to support them. Again, reliance was placed upon the fact that it was unlikely that anyone would challenge them. The 'constitutional risk' was again regarded as low.*[15]

c. Code of Conduct for Ministers

Australia's Code of Conduct for Ministers (formerly known as the Statement of Ministerial Standards), which is enforceable by the Prime Minister alone rather than an independent

[14] Above n 2 at 293.
[15] Ibid at 304.

authority, sets out principles with which Ministers must comply in carrying out their duties.[16]

Specifically, they must act with integrity, observe fairness in decision-making, accept accountability and accept 'the full implications of the principle of ministerial responsibility' (paragraph 1.3). Furthermore, their actions and decisions in conducting public business must be made with 'the sole objective of advancing the public interest' (paragraph 2.1).

The Code describes the requirement that Ministers act with integrity as involving 'the lawful and **disinterested** [emphasis added] exercise of the statutory and other powers available to their office, [and] appropriate use of the resources available to their office for public purposes, in a manner which is appropriate to the responsibilities of the Minister' (paragraph 1.3(i)). The requirement to observe fairness in making official decisions is expressed as requiring that Ministers 'act honestly and reasonably, with consultation as appropriate to the matter at issue, taking proper account of the merits of the matter, and giving due consideration to the rights and interests of the persons involved, and the interests of Australia' (paragraph 1.3(ii)).

d. Administrative law requirements

Ministerial decision-making that does not comply with the requirements of administrative law is vulnerable to challenge. Some of these requirements include the need for ministerial decision-making to uphold natural justice, to observe the procedures required by law to be observed, to be based on evidence or other material, and to not involve an improper exercise of the relevant power.

e. Specific legislative framework

The specific legislative framework governing Commonwealth grant expenditure consists of the *Public Governance, Performance and Accountability Act 2013* (Cth), the *Public Governance, Performance and Accountability Rule 2014* (Cth), and the Commonwealth Grants Rules and Guidelines.

Public Governance, Performance and Accountability Act 2013 (Cth)

The *Public Governance, Performance and Accountability Act 2013* (Cth) (***PGPA Act***) provides for the use and management of public resources by the Commonwealth and Commonwealth entities.

Division 9 of Part 2-4 of that Act sets out provisions relating only to Ministers. These include s 71(1), which requires that a Minister 'must not approve a proposed expenditure of relevant money unless the Minister is satisfied, after making reasonable inquiries, that the expenditure would be a proper use of relevant money'; 'proper' is defined in s 8 of the Act to mean 'efficient, effective, economical and ethical'. Division 9 also includes s 71(3)(b), which requires that Ministers must 'comply with any other requirements prescribed by the rules in relation to the approval', and s 71(2), which requires that where a Minister approves a proposed expenditure, they must record the terms of the approval and comply with any other relevant requirements established by the rules.

[16] Paragraph 9.2 states that Ministers 'will be required to stand aside […] if the Prime Minister regards their conduct as constituting a prima face breach of these Standards'.

Section 105C of the PGPA Act enables the Finance Minister to make provision about grants by the Commonwealth.

The Minister has done so in the form of the Commonwealth Grants Rules and Guidelines (***CGRGs***)

Commonwealth Grants Rules and Guidelines (***CGRGs***)

The CGRGs 'establish the overarching Commonwealth grants policy framework and articulate the expectations for all non-corporate Commonwealth entities in relation to grants administration'.[17]

Paragraph 2.6 of the CGRGs enumerates certain kinds of financial arrangements that are taken not be grants (for example, payments made under the UCF were not grants for the purposes of the CGRGs because they were made to the states, pursuant to the *Federal Financial Relations Act 2009* (Cth)). However, as the ANAO concluded in that case, payments made under the UCF *share many of the characteristics of grants*.[18]

While Part 1 of the CGRGs establishes mandatory requirements, Part 2 sets out guidance on key principles.

Part 1 requires that in managing the affairs of a relevant entity, accountable authorities must comply with the Constitution, the PGPA Act, the PGPA Rule, and any other relevant law.[19] In administering grants, accountable authorities and officials must consider their obligations under the PGPA Act and Rule, and internal guidelines, operational guidance and grant opportunity guidelines must be consistent with that framework's requirements.[20] Accountable authorities and officials must also ensure that arrangements are supported by legal authority.[21]

Grant opportunity guidelines must be developed by officials for all new grant opportunities. Officials must also provide ministers with advice in relation to the requirements of the PGPA Act, the rule, and the CGRGs where ministers are considering a proposed expenditure of relevant money.[22]

Under the CGRGs, ministers must receive written advice from officials on the merits of a proposed grant before approving expenditure in relation to it; ministers are also required to record the basis for approval 'relative to the grant opportunity guidelines and the key principle of achieving value with relevant money'. (This is precisely what did not happen in the administration of the Sports grants, where the CGRGs did not apply.)[23]

The CGRGs allow ministers to approve grants within their electorates, though they are required in most cases to advise the finance minister in writing.[24] In addition, in cases where ministers approve grants that are not recommended by relevant officials, they must report to the finance minister (annually) and provide a statement of reasons.[25]

[17] CGRGs para 1.2.
[18] Above n 7, footnote 10.
[19] Above n 17 para 3.2.
[20] Ibid para 3.4.
[21] Ibid para 3.6
[22] Ibid para 4.4
[23] Ibid para 4.10.
[24] Ibid para 4.11.
[25] Ibid para 4.12.

Public Governance, Performance and Accountability Rule 2014

Part 2-4 of the *Public Governance, Performance and Accountability Rule 2014* (**PGPA Rule**) provides for the use and management of public resources by corporate Commonwealth entities.

As a result of the Auditor-General's recommendation that parts of the CGRGs should apply to grants made by corporate Commonwealth entities where the decision-maker is a minister, as of December 2020 the PGPA Rule also establishes requirements for the making of grants by corporate Commonwealth entities where a minister is to approve the grant.[26] These requirements include the preparation and publication of grant guidelines (although the accountable authority or the minister can decide that there is a specific policy reason to not publicise the guidelines, and publication is not required where the grant is provided on a one-off or ad hoc basis).

In circumstances where the entity recommends to the minister that the grant not be made, and the minister continues with their intention to make it, the accountable authority must provide the minister with written notice meeting particular requirements.

The PGPA Rule further specifies that the minister must not approve the making of a grant by or on behalf a corporate Commonwealth entity (CCE) without receiving notice meeting the specified requirements, assessing the grant by having regard to the matters in the notice, and creating a record of their assessment.[27] Where a minister approves a CCE grant and it is made by or on behalf of a corporate Commonwealth entity, the accountable authority of that entity must publish specified information about the grant on GrantConnect unless — among other things — publication could reasonably be expected to adversely affect the achievement of a government policy outcome.[28]

The PGPA Rule also sets out reporting requirements for ministers who are members of the House of Representatives and who approve CCE grants in their electorates (where those grants are not of a kind that is made across a region by applying a formula): as soon as such a grant is made, such a minister must notify the finance minister (unless the relevant minister is the finance minister, in which case the prime minister must be notified), and their notice must include a statement of reasons for approving the grant.[29] These same notice requirements apply where a minister approves a CCE grant in spite of a contrary recommendation by a corporate Commonwealth entity.[30]

III. Key reforms

a. Clear criteria

In the case of the Commuter Car Parks Project, there were no established merit selection criteria or program guidelines. Rather, the ANAO reports that a series of investment principles were agreed by government: these were not released publicly.[31] The need for the development and publication of clear criteria is self-evident: without clear criteria, proper assessment of merit is precluded.

[26] These additional requirements were inserted into the Rule by the *Public Governance, Performance and Accountability Amendment (Grant Rules for Corporate Commonwealth Entities) Rules 2020* (Cth).
[27] *Public Governance, Performance and Accountability Rule 2014* (Cth), para 25B(6).
[28] Ibid para 25F(3).
[29] Ibid para 25D.
[30] Ibid para 25E
[31] Above n 7, at 3.32.

i. *Merit selection criteria and program guidelines to be published and tabled for grants programs worth less than $100 million*

In order to avoid public funds being allocated via inappropriately opaque processes, merit selection criteria and program guidelines for all grants programs worth up to $100 million should be published and publicly accessible in an easily accessible and searchable repository.

ii. *Parliament to set out criteria and guidelines in primary legislation for all grants programs worth over $100 million*

In respect of grants programs worth over $100 million, merit selection criteria and program guidelines should be set out in primary legislation: this would enhance transparency and accountability and enable the Parliament to perform a real and meaningful role in respect of the use of significant amounts of public money. This measure would also help avoid scenarios like that encountered in respect of the administration of sports grants, where the ANAO concluded that the legal authority for the Minister's approval role in the process was unclear;[32] furthermore, it would ensure that there is legislative authority for government grant-making.

b. Robust reporting

Central to improving the administration of government grant programs is bolstering transparency, accountability and the Parliament's ability to perform its oversight function in respect of the expenditure of public funds**.** Robust reporting requirements would support the Parliament's ability to fulfil this function, by ensuring access to essential information.

i. *Ministers to report to the Parliament on a quarterly basis in respect of expenditure decisions which deviate from departmental advice*

Currently, paragraph 4.12 of the Commonwealth Grants Rules and Guidelines requires ministers approving grants against the advice of relevant officials to notify the finance minister. Transparency and accountability of executive spending is not furthered by one member of the executive informing another of such cases: it would, however, be furthered by a requirement that ministers report such cases to the Parliament.

ii. *Departments to periodically table documentation pertaining to the administration of grants programs worth over $100 million*

Parliament's ability to access information to enable it to perform its scrutiny function would be assisted by a requirement that Departments table documentation pertaining to grant administration at specific points of the grant-making process. Such points could include tender, selection and delivery.

[32] Above n 5, at para 8.

This would also encourage appropriate departmental record-keeping – which was found to be deficient in the Commuter Car Parks Project audit[33] and capable of being improved in the sports grants audit[34] – and enable access by the public to these records.

We have proposed a $100 million threshold here in order to reduce the administrative burden that would result from such a requirement.

c. Augmented accountability

The current dearth of accountability mechanisms available in respect of the administration of grants programs needs to be rectified: levers to penalise wrongdoing and incentivise compliance are critical to changing the status quo.

i. *A joint cross-party standing committee to oversee grant administration and report to Parliament*

Committees can play a valuable information and transparency role, and promote accountability of the executive to the Parliament.

A committee whose sole functions are to oversee grant administration in relation to all portfolios, and report to the Parliament, is an essential element of any framework designed to achieve improved scrutiny of the expenditure of public funds. Such a committee could report on a quarterly basis throughout the administration of any grant program worth in excess of $100 million, with a discretion to report more frequently, and in respect of programs below the threshold.

Any such committee must be multi-party with no more than half of its members coming from parties forming government, in order to give effect to the Commonwealth Parliamentary Association's recommendation that scrutiny committees should ensure "*meaningful opportunities for minority or opposition parties and independent MPs to engage in effective oversight of government expenditures*".[35]

ii. *A strengthened legislative framework governing grants administration*

The limitations of the specific legislative framework governing Commonwealth grant expenditure, as set out above, need to be remedied as follows:

- The application of the Commonwealth Grants Rules and Guidelines needs to be extended beyond non-corporate Commonwealth entities. Specifically, they should apply to grants made by corporate Commonwealth entities, as well as to grants made to the states via s 96 of the Constitution and the *Federal Financial Relations Act 2009* (Cth), and to local government under the *Local Government (Financial Assistance) Act 1995* (Cth).

[33] Above n 7, at para 10.
[34] Above n 5, at para 3.
[35] Commonwealth Parliamentary Association, "*Recommended benchmarks for democratic legislatures*", https://www.cpahq.org/media/l0jjk2nh/recommended-benchmarks-for-democratic-legislatures-updated-2018-final-online-version-single.pdf accessed 6 July 2021 at para 7.2.3.

- In respect of s 96 grants, we note that the Commuter Car Park Fund highlighted an additional difficulty associated with the Commonwealth's approach to the use of public funds: its reliance on s 96 to make grants in areas where it would otherwise lack a constitutional head of power. As Dr Brendan Gogarty has observed, the Commonwealth has been permitted to "*construct increasingly liberal s 96 schemes, which treat the states largely as conduits of Commonwealth spending on matters lying outside the limits of its legislative power*".[36] While we recognise that it is, regrettably, unlikely that the Commonwealth will abandon this practice – which benefits it by permitting it to appeal to voters via spending commitments in areas where it is otherwise precluded from spending – in the absence of a judicial decision requiring it do so, we nonetheless exhort it to respect the constitutional bounds of its powers and act accordingly.

- The requirement that ministers approving certain kinds of grants (such as those within their own electorates, or against the advice of relevant officials) notify the finance minister should be amended as per our reporting recommendations. Transparency and accountability of executive spending is not furthered by one member of the executive informing another of such cases: it would, however, be furthered by a requirement that ministers report such cases to the Parliament.

iii. Independently-enforceable Code of Conduct

There is a clear case for the adoption of an appropriate and independently-enforceable Code of Conduct for parliamentarians and political staffers. With allegations of misconduct, including in respect of the administration of grants programs, frequently met with no real consequence, Australia's weak parliamentary ethical standards framework must be strengthened. We have previously considered Codes of Conduct in detail and made associated recommendations.

iv. A reassertion of the role of an independent public service to enable it to provide 'frank and fearless' advice about the administration of grants programs

The proper administration of grants programs is predicated upon the existence of a public service that is able to provide "frank and fearless" advice with respect to the merit of grants applications, and we welcome the Government's recognition of the importance of empowering the public service to be both honest and genuinely independent.

The 2019 Independent Review of the Australian Public Service, led by David Thodey AO, made 40 recommendations designed to reinforce and support a public service that is 'apolitical, merit-based and open [and] underpinned by integrity'. The Morrison Government agreed in full in 15 of the Thodey Review's recommendations, and in part with a further 20. However, a number of vitally important recommendations were never adopted. These include:

- recommendation 39c, relating to the implementation of 'robust processes' governing secretaries' terminations. Specifically, the Review recommended that the *Public Service Act 1999* (Cth) be amended in order to allow termination only on

[36] Brendan Gogarty, "*Making sense of s 96: Tied Grants, Contextualism and the Limits of Federal Fiscal Power*", Melbourne University Law Review Vol 42(2):455 at 458.

legislated grounds, or that the APS Commissioner and PM&C Secretary develop a policy governing what must be done before the Prime Minister is provided with advice in relation to a proposed termination govern the termination of secretaries' appointments";

- recommendation 7, relating to the need to amend the *Public Service Act 1999* (Cth) in order to empower the APS Commissioner to undertake own-motion investigations and reviews, and to require agencies to provide integrity information to the Australian Public Service Commissioner; and
- recommendation 11, in respect of the need to establish a legislated code of conduct for ministerial advisers, and the implementation of guidance that policy advisors with public service experience compose at least half of the advisory staff within ministerial offices.

Action by the Government on these and the Review's remaining recommendations is vitally important to empowering the public service to act as a bulwark against the misuse of public funds.

Conclusion

There is a manifest and urgent need to create a grants administration framework that facilitates transparency and accountability: public funds are not infinite, and more must be done in order to guarantee that grant expenditure is for proper, public purposes, and achieves value for money. While the imminent establishment of the National Anti-Corruption Commission is expected to make substantial progress on the achievement of these objectives, it will not – indeed cannot – be a panacea. If the public is to be able to regain trust in the expenditure of public funds by the Commonwealth, reform of the nature we have set out above is indispensable.

About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Stephen Charles AO KC, the Hon Anthony Whealy KC, Professor George Williams AO, Professor Joo Cheong Tham, Geoffrey Watson SC and Professor Gabrielle Appleby. Former directors include the Hon Tony Fitzgerald AC KC and the Hon David Ipp AO KC. More information at www.publicintegrity.org.au.