

# Chapter 1

## Introduction

### Referral and conduct of the inquiry

1.1 On 8 February 2017, the Senate established the Select Committee on a National Integrity Commission (the committee) to inquire and report by 15 August 2017 on:<sup>1</sup>

- (a) the adequacy of the Australian Government's legislative, institutional and policy framework in addressing all facets of institutional, organisational, political and electoral, and individual corruption and misconduct, with reference to:
  - (i) the effectiveness of the current federal and state/territory agencies and commissions in preventing, investigating and prosecuting corruption and misconduct,
  - (ii) the interrelation between federal and state/territory agencies and commissions, and
  - (iii) the nature and extent of coercive powers possessed by the various agencies and commissions, and whether those coercive powers are consistent with fundamental democratic principles;
- (b) whether a federal integrity commission should be established to address institutional, organisational, political and electoral, and individual corruption and misconduct, with reference to:
  - (i) the scope of coverage by any national integrity commission,
  - (ii) the legislative and regulatory powers required by any national integrity commission to enable effective operation,
  - (iii) the advantages and disadvantages associated with domestic and international models of integrity and anti-corruption commissions/agencies,
  - (iv) whether any national integrity commission should have broader educational powers,
  - (v) the necessity of any privacy and/or secrecy provisions,
  - (vi) any budgetary and resourcing considerations, and
  - (vii) any reporting accountability considerations; and
- (c) any related matters.<sup>2</sup>

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1 *Journals of the Senate*, No. 25, 8 February 2017, pp. 860–861.

2 *Journals of the Senate*, 2017, No. 25, 8 February 2017, p. 860.

1.2 On 9 August 2017, the Senate extended the reporting date to 13 September 2017.<sup>3</sup>

1.3 The committee received and published 46 submissions, listed at Appendix 1. A further approximately 2098 campaign submissions were received and not published.

1.4 The committee took evidence from 57 witnesses over five days of public hearings in:

- Sydney on 12 May 2017;
- Brisbane on 15 May 2017;
- Melbourne on 17 May 2017; and
- Canberra on 16 June and 5 July 2017.

1.5 The witnesses who appeared at these hearings are listed at Appendix 2.

1.6 The committee also received a number of additional documents, answers to questions on notice and supplementary submissions, listed at Appendix 3.

1.7 The committee was empowered to access and refer to the evidence received by the Select Committee on the Establishment of a National Integrity Commission during the 44th Parliament, in addition to any new evidence received.

### ***Select Committee on the Establishment of a National Integrity Commission***

1.8 This inquiry continues the work commenced by the Select Committee on the Establishment of a National Integrity Commission (2016 select committee) established during the 44<sup>th</sup> Parliament on 24 February 2016. The 2016 select committee tabled an interim report on 3 May 2016.

1.9 The 2016 select committee received 31 submissions during the 44<sup>th</sup> Parliament, and held two public hearings in Canberra and Sydney.

1.10 The interim report provided 'an introduction to perceptions of corruption in Australia', and concluded 'with a discussion of the existing national anti-corruption framework, and the potential benefits and drawbacks of creating a national anti-corruption commissioner covering elements of public administration'.<sup>4</sup>

1.11 The interim report contained a single recommendation:

...that the Australian Government support current and sound future research into potential anti-corruption systems appropriate for Australia including the research led by Griffith University, in partnership with Transparency International Australia.<sup>5</sup>

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3 *Journals of the Senate*, No. 50, 9 August 2017, p. 1636.

4 Senate Select Committee on the Establishment of a National Integrity Commission, *Interim Report*, May 2016, p. 2.

5 Senate Select Committee on the Establishment of a National Integrity Commission, *Interim Report*, May 2016, p. 39.

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## **Structure and scope of this report**

1.12 This report comprises four chapters. Chapter 1 outlines the conduct and scope of the inquiry. Chapter 2 considers the Commonwealth's current multi-agency integrity framework. Chapter 3 describes the existing state integrity commissions. Chapter 4 concludes the report by outlining the arguments for and against the establishment of a national integrity commission (NIC).

### ***Scope of the inquiry***

1.13 The committee was particularly tasked with considering the adequacy of the current integrity arrangements and to ascertain whether a national integrity commission should be established. As such, and consistent with the 2016 select committee's interim report, this report focuses on the integrity of and anti-corruption measures relating to Commonwealth public administration in Australia.

1.14 The committee received many items of correspondence relating to individual cases of alleged public sector mismanagement and corruption or personal disputes between individuals and public sector agencies. These were not accepted as submissions by the committee on the basis, in the committee's opinion, these were not directly relevant to its terms of reference. However, the volume, complexity and, in some cases, length of time over which many of these cases span serve to demonstrate that the current integrity framework, at both state and federal levels, can be difficult to comprehend and access, with complainants often left wondering how, if at all, their complaint was resolved.

### ***Integrity and corruption: other relevant developments***

1.15 Integrity and corruption refer to a broad range of activities and can be conceptualised in a variety of ways. For the purpose of its inquiry, the committee adopted a broad interpretation of integrity and corruption with a view to facilitating wide-ranging discussion reflecting on what has already been done by a number of Australian states but also contemplating what, if anything, ought to be done in the future at the Commonwealth level.

1.16 It is not a static area of policy development and implementation. The committee is aware that its work has occurred at the same time as other developments in public sector integrity and anti-corruption. For example, the Commonwealth government has been engaged for a number of years now in the Open Government Partnership (OGP). In December 2016, the government released the first OGP Action Plan in which it made a number of commitments in relation to reviewing and strengthening the Commonwealth integrity framework (see chapter 2 for a more detailed discussion of the OGP).

1.17 The Commonwealth Public Interest Disclosure (PID) Scheme was implemented in 2013 and provides processes and protections for whistleblowers in the Commonwealth public sector. The PID Scheme is currently the subject of an inquiry by the Parliamentary Joint Committee on Corporations and Financial Services and so

this committee has not endeavoured to consider the scheme in detail.<sup>6</sup> The Joint Committee on Corporations and Financial Services intends to table its report on 14 September 2017.

1.18 Similarly, while within the scope of public sector integrity and this committee's inquiry, the matter of electoral donations, including foreign donations, is the subject of an inquiry by the Joint Standing Committee on Electoral Matters (PJSC EM) and so is not addressed in this report.<sup>7</sup> On 22 August 2017, the PJSC EM announced that, as part of its inquiry, it would conduct a review of political donations.<sup>8</sup> Further consideration of political donations will also be undertaken by the recently established Senate Select Committee into the Political Influence of Donations, which is due to report by 15 November 2017.<sup>9</sup>

1.19 With regard to the work of Parliament and parliamentarians, the Independent Parliamentary Expenses Authority (IPEA) was established on 1 July 2017 as a Commonwealth statutory authority to:

...audit and report on parliamentarians' work expenses. It will provide advice to parliamentarians and their staff on travel and work related expenses to support them in undertaking their duties, requiring that taxpayer funds be spent appropriately and in compliance with the relevant principles and regulations.<sup>10</sup>

1.20 As an agency, IPEA is in its infancy, however, as the agency becomes more established and further legislative reform is implemented, it is expected that the management and transparency of parliamentary expenses will be further strengthened.

1.21 Other important collaborative work between academia, civil society organisations and government agencies has also been underway. In May 2016, a partnership—comprising Griffith University, Flinders University, the University of the Sunshine Coast, Transparency International Australia, the New South Wales

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6 Parliamentary Joint Committee on Corporations and Financial Services, *Whistleblower protections in the corporate, public and not-for-profit sectors*, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Corporations\\_and\\_Financial\\_Services/WhistleblowerProtections](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/WhistleblowerProtections) (accessed 29 August 2017).

7 Joint Standing Committee on Electoral Matters, *Inquiry into and report on all aspects of the conduct of the 2016 Federal Election and matters related thereto*, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Electoral\\_Matters/2016Election](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election) (accessed 15 August 2017). To date, the committee has released three interim reports.

8 Joint Standing Committee on Electoral Matters, 'Review of political donations commences', Media release, 22 August 2017, available: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Electoral\\_Matters/2016Election/Media\\_Releases](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2016Election/Media_Releases) (accessed 29 August 2017).

9 Select Committee into the Political Influence of Donations, further information available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Political\\_Influence\\_of\\_Donations](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Political_Influence_of_Donations) (accessed 29 August 2017).

10 Independent Parliamentary Expense Authority, <http://www.ipea.gov.au/> (accessed 29 August 2017).

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Ombudsman, the Queensland Integrity Commissioner and the Queensland Crime and Corruption Commission<sup>11</sup>—was funded by the Australian Research Council to establish the Australian Research Council Linkage Project, *Strengthening Australia's National Integrity System: Priorities for Reform* (the linkage project).<sup>12</sup>

1.22 In March 2017, the linkage project released its first discussion paper 'to assist public and expert debate on key issues and options for the strengthening of Australia's systems of integrity, accountability and anti-corruption'.<sup>13</sup> That paper flagged future discussion papers to be released examining:

- Strategic approaches to corruption prevention
- Measuring anti-corruption effectiveness
- Australia's integrity system: more than just a sum of its parts?<sup>14</sup>

### **Acknowledgements**

1.23 The committee thanks those organisations and individuals that contributed to its inquiry.

1.24 The committee extends special thanks to the Parliamentary Library which provided valuable research and background information in support of the inquiry.

### **Note on references**

1.25 References to the *Committee Hansard* may be references to a proof transcript. Page numbers may differ between proof and final transcripts.

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11 Australian Research Council Linkage Project, *Discussion Paper #1: Strengthening Australia's National Integrity System: Priorities for Reform*, March 2017, p. iv.

12 Transparency International Australia, *Submission 21*, p. 3.

13 Australian Research Council Linkage Project, *Discussion Paper #1: Strengthening Australia's National Integrity System: Priorities for Reform*, March 2017, p. iv.

14 Australian Research Council Linkage Project, *Discussion Paper #1: Strengthening Australia's National Integrity System: Priorities for Reform*, March 2017, p. iv.

