
Submission to the Discussion Paper on the proposed new
Commonwealth Integrity Commission
December 2018

The Discussion Paper (as per pp. 6 & 7, listed on the following page) indicates that the new Commonwealth Integrity Commission (CIC) will not look at public sector integrity matters that are not criminal in nature. I think this substantially weakens the intent of reform. Even more so since it is being called an Integrity Commission!

Instead, the CIC should be a final avenue in such cases where relevant avenues within a Department or Agency have been exhausted. For example, where a staff member or stakeholder has reported an integrity issue via internal channels, but receives a response that appears to defend, contain, and/or avoid proper and adequate scrutiny of the matter. While the educational aspects may be proven; the controls may be absent, inadequate, not utilised, or not adhered to.

If provisions were made for a final avenue to be at the CIC, it would have the effect of Departments and Agencies needing to ensure matters are given proper and adequate consideration internally otherwise they would risk being elevated to and possibly outed in the public domain by either the CIC or media who reports on its findings. Departments and Agencies would then be incentivised and held strongly accountable to the *Public Service Act 1999*, the Public Service Code of Conduct and Values, the *Work Health and Safety Act 2011*, their enterprise agreements and other policies and guidelines; when it comes to how they deal with integrity matters.

Broader impacts would include the impact on staff retention and culture. It would keep in the staff who demonstrate integrity and remove the staff who do not. Currently, the reverse occurs! Integrity matters often escape 'teeth' from supervisors, executives or corporate areas. Often it is 'a quiet word', if anything is indeed done. This has the effect of undermining integrity in the workplace. The person who completely got away or just got a quiet word, continues their integrity-less conduct and other people see that too. Those with integrity exit, while the integrity-less easily stay and see what else they can get away with, then others follow suit. Pockets and webs are created, of like attracting like, scratching each other's backs.

The Commonwealth Ombudsman, under its scope and powers, cannot look at quite a few of the integrity-related matters. Even if it could, the Ombudsman's services are unfortunately like weak mediation that is too strongly aligned with the type of response that is given when Departments and Agencies do not want to look, not much is offered by way of review or a view.

All that is left, is to go down a legal path. That is not a good enough option for parties for a number of reasons such as reputation and legal costs.

If the CIC comes into being, it should offer a final avenue in relation to non-criminal integrity matters for those who choose to contact the CIC.

p. 6 The CIC will not replace agencies' own responsibility to prevent, detect, investigate and respond to internal misconduct and other integrity issues, including by educating staff and having in place relevant controls. The CIC will inform this work through its insight into whole-of-Commonwealth risks and best practice. Nor will the CIC replace the functions and responsibilities of existing integrity agencies like the Commonwealth Ombudsman and the APSC—those agencies' functions and responsibilities will operate alongside the CIC, supported by appropriate referral and information sharing arrangements.

p. 7 It is intended that the public sector division will focus on the investigation of serious or systemic corrupt conduct, rather than looking into issues of misconduct or non-compliance under various codes of conduct. Misconduct that is not defined as a criminal offence at Commonwealth law is considered more appropriately dealt with by the entities where the misconduct occurs: public sector agencies for public servants; Houses of Parliament for parliamentarians; the Prime Minister for Ministers; the Special Minister of State for ministerial staff.
