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Canberra Alliance for Participatory Democracy (CAPaD)

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Web: <http://canberra-alliance.org.au>

Submission to the Inquiry into an Independent Integrity Commission

Thank you for the opportunity to make a submission to this important inquiry. The integrity of politicians and public officials is fundamental to democracy and must be monitored by an independent body. The Canberra Alliance for Participatory Democracy (CAPaD) fully supports the urgent but thoughtful and participatory establishment of an institution to meet this need in the ACT.

This submission is structured as follows:

1. Background about CAPaD;
2. Comments on the importance and conduct of the inquiry;
3. Comments on selected elements of the Inquiry Terms of Reference.

We note that we have received comment from the ACT Council of Social Service (ACTCOSS) that it supports the broad thrust of this submission.



1. Background about CAPaD

CAPaD was established in 2015 following a series of "Kitchen Table Conversations" held in Canberra that identified the strong feeling that our democracy is not working and does not protect the public interest. CAPaD seeks to improve our democracy and support the ACT to move to 21st century governance by:

- developing and supporting citizen, community and civil society *engagement* in public decision-making;
- *empowering* Canberrans to engage in owning and planning for our common future and the common good;
- facilitating opportunities for *citizen input* to government deliberations; and
- developing citizens' capacity to hold governments and policy makers *more directly accountable*.

Preceding the 2016 Election CAPaD developed a Candidate Statement which included the candidate's agreement to, or modification of, a Charter of Democratic Commitment. It included five statements relating to integrity and one committing to participatory and deliberative methods for policy, planning and legislative decisions. Fourteen of the twenty-five candidates who were elected to the Assembly had completed a Candidate Statement, which are available in a single document from <http://canberra-alliance.org.au/wp-content/uploads/2016/10/Statements-from-all-elected-candidates.pdf>. CAPaD is following up on commitments in the Statement and will be repeating the process for the 2020 ACT Election.

Further information about CAPaD is available on our website, <http://canberra-alliance.org.au>, or by contacting us by email on info@canberra-alliance.org.au.

2. Comments on the importance and conduct of the inquiry

CAPaD members are deeply concerned by the loss of trust in governance systems felt globally and locally, including in the ACT. We therefore applaud the creation

and goals of the Select Committee. We believe that an Independent Integrity Commission is needed urgently, certainly before the next ACT election; however, we believe the community should have far more opportunity to deliberate on the purpose, form, functions and funding of the body than this inquiry provides for. Further, a more participatory inquiry and design process is likely to produce a more efficient and effective final model (see TofR 1 below). We note the lack of attention to the question of participation in the Committee's Issues Paper, and hope to rectify this absence through our submission and with further participation if invited.

3. Comments on selected elements of the Inquiry Terms of Reference

TofR 1. Identification of "...the most effective and efficient model of an independent integrity commission for the ACT and ... the appropriateness of adapting models operating in other similarly-sized jurisdictions".

CAPaD would like to see the sort of creative thinking about model design that is demonstrated in the report 'Citizens' Parliamentary Groups: A proposal for democratic participation at constituency level' (Dowlen 2017). This comprehensive study considers a participative model for an institution with responsibility for "defending the integrity and fairness of the political system". There may be other better models, or variations on the Dowlen model that best suit the ACT. Our point is that Committee should encourage broad discussion and exploration of what will work best. As stated in the Committee's Issues Paper, we agree that

"...through careful deliberation, it may be possible to identify new or different institutional options, rather than presuming that the answer lies simply in copying a particular institution from another jurisdiction" (Brown and Head 2004, cited in Select Committee on an Independent Integrity Commission 2017 p13).

We are not aware of any model operating in another jurisdiction that captures the benefits of citizen participation to the extent that one informed by Dowlen's study may do. Dowlen summarizes the main benefits of his proposed model as:

- the development of an active, responsible citizenry;
- improved working of the political system;
- restored confidence in parliamentary democracy;
- citizens' increased ownership of the political process;
- enhanced electoral process through
 - strengthening active political representation; and
 - voters becoming more informed about the political system (Dowlen 2017 p70).

We would add that the level of citizen participation Dowlen suggests would go a long way to answering the critical question: "Who guards the guards?" (Brown and Head 2004, cited in Select Committee on an Independent Integrity Commission 2017 p1). We note that none of the Australian models reviewed in the Issues Paper appears to resolve this problem adequately.

TofR (a). A suitable personnel structure of the commission to ensure the appropriate carriage of workload.

As in Dowlen's model, the structure of the body can incorporate and ensure citizen participation, just as its function can, by including in the personnel a number of citizens selected by sortition on a given schedule. The same should apply for individual enquiries.

Should the body's structure not guarantee citizen participation at the level of its personnel, which we submit would be a missed opportunity, CAPaD would still like to see its operational processes provide for maximum participation in deliberation

and decision making by ordinary Canberrans. Integrity is something everyone can judge.

TofR (b). Governance and funding that delivers independence.

Independence of governance will be heightened by inclusion of randomly selected citizens.

Funding should be protected so it is not subject to arbitrary budget decisions by the government of the day. A model where the Assembly as a whole approves the budget would be appropriate.

TofR (f). The relationship between any commission and existing accountability and transparency mechanisms and bodies in the ACT.

While the Commission needs the power to be able to find and call out corruption, it shouldn't only operate as a conventional part of the legal apparatus, it should also operate by creating and supporting participation by ordinary citizens. It should be a core part of the mechanisms for political accountability in the ACT.

The policy and institutional landscape in which the Commission operates is also integral to its success. Other statutory roles: the Auditor General, the Ombudsman, and the Human Rights Commissioner among others, need to be fully functioning if the Commission is to be able to fulfill its own functions effectively and well. The role civil society plays is also critical and its participation has to be adequately resourced.

Equally importantly, the Commission should play a role in educating and building the commitment of the wider community, and encouraging participation in the work of all the accountability and transparency mechanisms and bodies in the ACT.

References

Dowlen, O. (2017) Citizens' Parliamentary Groups: A proposal for democratic participation at constituency level. Accessed: <https://www.newdemocracy.com.au/docs/researchpapers/2017/Oliver%20Dowlen%20-%20Citizens'%20Parliamentary%20Groups.pdf>

Select Committee on an Independent Integrity Commission (2017). Issues Paper—Australian Public Sector Integrity Frameworks.