



**Legislative Assembly for the  
Australian Capital Territory**

Standing Committee on Justice and  
Community Safety

# **Inquiry into the Integrity Commission Amendment Bill 2022 (No 2)**

Legislative Assembly for the Australian Capital Territory  
Standing Committee on Justice and Community Safety

---

Approved for publication

---

Report 26  
10th Assembly  
March 2024



# About the Committee

## Establishing resolution

The Assembly established the Standing Committee on Justice and Community Safety (JACS) on 2 December 2020.

The Committee is responsible for the following areas:

- ACT Electoral Commission
- ACT Integrity Commission
- Gaming
- Minister of State (JACS reporting areas)
- Emergency Management and the Emergency Services Agency
- Policing and ACT Policing
- ACT Ombudsman
- Corrective Services
- Attorney-General
- Consumer Affairs
- Human Rights
- Victims of Crime
- Access to Justice and Restorative Practice
- Public Trustee and Guardian

You can read the full establishing resolution [on our website](#).

## Committee members

Mr Peter Cain MLA, Chair

Dr Marisa Paterson MLA, Deputy Chair

Mr Andrew Braddock MLA

## Secretariat

Ms Kathleen de Kleuver, Committee Secretary

Mr Peter Materne, Assistant Secretary (from 4 September 2023 to 23 November 2023)

Mr Satyen Sharma, Administrative Officer (from 1 May 2023)

## Contact us

**Mail** Standing Committee on Justice and Community Safety  
Legislative Assembly for the Australian Capital Territory  
GPO Box 1020  
CANBERRA ACT 2601

**Phone** (02) 6207 0524

**Email** [LACommitteeJCS@parliament.act.gov.au](mailto:LACommitteeJCS@parliament.act.gov.au)

**Website** [parliament.act.gov.au/parliamentary-business/in-committees](http://parliament.act.gov.au/parliamentary-business/in-committees)

## About this inquiry

The *Integrity Commission Amendment Bill 2022 (No 2)* was presented in the Assembly on 20 October 2022. It was then referred to the Standing Committee on Justice and Community Safety as required by clause 5 of the establishing resolution on 20 October 2022. This clause allows committees to inquire into and report on bills within two months of their presentation.

At a private meeting on 27 October 2022, the Committee resolved to undertake an inquiry into the bill. The Committee called for public submissions on 7 November 2022.

The proposed bill makes changes to provide the ACT Integrity Commission with powers to allow it to intercept telecommunications, for the investigation and exposure of corrupt conduct through requiring recognition under the *Commonwealth Telecommunications (Interception and Access) Act 1979*. Certain oversight mechanisms are to apply.

The report was initially due under the standing orders on 20 December 2022. However, as a review of the *ACT Integrity Commission Act 2018*, required under Section 303, was due three years after commencement, the Committee was granted an extension by a motion of the Assembly on 24 November 2022<sup>1</sup>. Under this motion, the Committee had an undertaking to inquire into and present a report on the Integrity Commission Amendment Bill 2022 (No 2) within two months following when the Government review of the *ACT Integrity Commission Act 2018* becomes available.

On 28 November 2023, the Assembly agreed to a further extension to report – within four months following the Government review becoming available<sup>2</sup>. The Government review was released on 30 November 2023<sup>3</sup>.

---

<sup>1</sup> ACT Legislative Assembly, *Minutes of Proceedings*, No. 68, 24 November 2022, p 944.

<sup>2</sup> ACT Legislative Assembly, *Minutes of Proceedings*, No. 107, 28 November 2023, p 1607.

<sup>3</sup> ACT Legislative Assembly, *Minutes of Proceedings*, No. 109, 30 November 2023, p 1637.

# Contents

<b>About the Committee</b>	<b>i</b>
Establishing resolution	i
Committee members	i
Secretariat	i
Contact us	i
<b>About this inquiry</b>	<b>ii</b>
<b>Acronyms</b>	<b>iv</b>
<b>Recommendations</b>	<b>v</b>
<b>1. Conduct of the inquiry</b>	<b>1</b>
<b>2. Introduction</b>	<b>2</b>
Background to the Bill	2
Legislative scrutiny	3
Response to Legislative scrutiny	3
<b>3. Evidence received</b>	<b>4</b>
<b>4. Review of <i>ACT Integrity Commission Act 2018</i></b>	<b>5</b>
Review background	5
Options considered	7
Views in submissions to the review	7
Recommendations in the statutory review	9
<b>5. Conclusion</b>	<b>10</b>
<b>Appendix A: Submissions</b>	<b>12</b>

# Acronyms

Acronym	Long form
ACT	Australian Capital Territory
the bill	Integrity Commission Amendment Bill 2022 (No 2)
CLEA	Criminal Law Enforcement Agency
the Commission	ACT Integrity Commission
The Commissioner	ACT Integrity Commissioner
the Committee	Standing Committee on Justice and Community Safety
EA	Eligible Authority (only State, not Territory entities)
HRA	Human Rights Act 2004
IC Act	ACT Integrity Commission Act 2018
Inspector	Inspector of the ACT Integrity Commission
MLA	Member of the Legislative Assembly
NSW	New South Wales
NT	Northern Territory
PIM	Public Interest Monitor
QLD	Queensland
QON	Question on notice
QTON	Question taken on notice
The Review	Review of ACT Integrity Commission Act 2018
The Scrutiny Committee	Standing Committee on Justice and Community Safety (Legislative Scrutiny role)
SA	South Australia
TAS	Tasmania
TIA Act	Telecommunications (Interception and Access) Act 1979 (Commonwealth)
The Territory	The Australian Capital Territory
VIC	Victoria
WA	Western Australia

# Recommendations

## Recommendation 1

The Committee recommends that the ACT Government should accept and implement recommendations 15, 16 and 17 of the review of the ACT Integrity Commission by Mr Ian Govey AM as part of its overall legislative response to the full findings and recommendations of the review. Doing this will mean that it will no longer be necessary to pass the *Integrity Commission Amendment Bill 2022 (No 2)* as the intent of that bill will be effectively met.





# 1. Conduct of the inquiry

- 1.1. The Committee decided that it would inquire into the *Integrity Commission Amendment Bill 2022 (No 2)* on 27 October 2022, and issued a media release on 7 November 2022 inviting the community to participate in the inquiry by making a submission. Invitations to make submissions to the inquiry were also emailed directly to stakeholders.
- 1.2. The Committee received 2 submissions. These are listed in **Appendix A**.
- 1.3. The Committee did not hold public hearings for this inquiry.

## 2. Introduction

### Background to the Bill

- 2.1. The *Integrity Commission Amendment Bill 2022 (No 2)* (the bill) is a private members bill which proposes to make legislative changes that are required prior to the ACT Integrity Commission (the Commission) being able to be recognised under the *Commonwealth Telecommunications (Interception and Access) Act 1979*. Recognition under the Act would allow the Commission to be able to it to intercept telecommunications for the purposes of investigating maladministration and corruption.<sup>4</sup>
- 2.2. The bill proposes to amend the *ACT Integrity Commission Act 2018* to:
- a) enabling an investigator to apply for a warrant to intercept telecommunications, in accordance with Part 2-5 of the *Telecommunications (Interception and Access) Act 1979 (Cth)* (TIA Act) and outlines the obligations and entitlements of the investigator.<sup>5</sup>
  - b) Imposing record keeping obligations for the Commissioner (or Commission), obligations to the Speaker to provide a copy of reports provided by the Commissioner to the relevant Commonwealth Minister as soon as practicable.
  - c) Describing the functions and obligations of the inspector of the Integrity Commission.<sup>6</sup>
- 2.3. These legislative amendment are a requirement for the Commission to be recognised under the TIA Act.<sup>7</sup>
- 2.4. The Explanatory Statement to the bill says that the ACT is one of a few Australian states or territories whose public integrity entity is not recognised under the Commonwealth TIA Act. Recognition under the TIA Act would enable the Commission to intercept telecommunications, in accordance with the Commonwealth Act, for the investigation and exposure of corrupt conduct.<sup>8</sup>
- 2.5. The Explanatory Statement further notes that the Commissioner has emphasised the need for this recognition in public committee hearings and in annual reports and that enabling the Commission to properly investigate allegations of maladministration and corruption will improve community confidence in the ACT public sector.<sup>9</sup>

---

<sup>4</sup> Integrity Commission Amendment Bill 2022 (No 2), *Explanatory Statement*, p 1.

<sup>5</sup> Integrity Commission Amendment Bill 2022 (No 2), *Explanatory Statement*, p 1.

<sup>6</sup> Integrity Commission Amendment Bill 2022 (No 2), *Explanatory Statement*, pp 2-5.

<sup>7</sup> Integrity Commission Amendment Bill 2022 (No 2), *Explanatory Statement*, p 1.

<sup>8</sup> Integrity Commission Amendment Bill 2022 (No 2), *Explanatory Statement*, p 1.

<sup>9</sup> Integrity Commission Amendment Bill 2022 (No 2), *Explanatory Statement*, p 1.

## Legislative scrutiny

- 2.6. The bill was considered by the Standing Committee on Justice and Community Safety (Legislative Scrutiny role) (the Scrutiny Committee) in *Scrutiny Report 23* of 15 November 2022.
- 2.7. The Committee noted that the bill of itself does not authorise the interception of telecommunications or provide for an application for a warrant under the Commonwealth Act. However, the bill puts in place a number of changes that will facilitate the Commission in making an application for a warrant for telephone interceptions under the Commonwealth Act that may substantially limit the protection of privacy provided under Section 12 of the *Human Rights Act 2004* (HRA).<sup>10</sup>
- 2.8. The Scrutiny Committee raised a number of issues including that:
- a) noted that only eligible authorities of States and the Northern Territory can be declared by the Commonwealth Minister to be an agency able to apply for a warrant under Part 2-5 of the Commonwealth Act.
  - b) there are substantial preconditions which must be satisfied before such a declaration can be made, primarily in relation to record keeping and reporting, and an agreement to meet the costs connected with the issue of a warrant. However, it was not clear to the Scrutiny Committee whether the arrangements in the bill are intended to satisfy these preconditions or to put in place additional privacy protections.
  - c) It was not clear to whether the bill makes effective provision for the Inspector to have the right to appear and appeal at a hearing to test the validity of an application by asking questions and making submissions, in the absence of amendment to the TIA Act.<sup>11</sup>
  - d) the bill may limit various rights in criminal proceedings protected under Section 22 of the HRA.<sup>12</sup>
- 2.9. The Scrutiny Committee drew these matters to the attention of the Assembly and requested that the Member respond to these concerns before the bill was debated.<sup>13</sup>

## Response to Legislative scrutiny

- 2.10. In her response, Ms Elizabeth Lee MLA, presenter of the bill, commented that in her view the bill satisfies the preconditions for the Commission to be declared an eligible authority as per Part 2-5, Section 35 of the TIA Act. She drew attention to the importance of the inspectors role in protecting human rights and privacy and the proposed penalties for failing to meet those stringent measures, that arrangements have been in place in other

---

<sup>10</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 23*, 15 November 2022, p 3.

<sup>11</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 23*, 15 November 2022, p 4.

<sup>12</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 23*, 15 November 2022, p 4.

<sup>13</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 23*, 15 November 2022, p 5.

Australian jurisdictions for some time and the importance of telephone interception powers to properly investigate allegations of maladministration or corruption. It was stressed that any potential limitations on human rights under the HRA would be restricted, necessary and proportionate.<sup>14</sup>

- 2.11. These comments were noted with no comment in Scrutiny report no. 25.<sup>15</sup>

### 3. Evidence received

- 3.1. The Committee received two submissions as part of its inquiry into the bill.
- 3.2. The Commission supported the bill saying that it would provide a necessary framework for gaining recognition under the TIA Act that would help it investigate corrupt conduct in the ACT, noting the arguments it had argued in favour of this in their Annual Reports.<sup>16</sup> However, the Commission did not think a 'public interest monitor' was 'necessary or desirable' given the strong oversight framework that is already in place in the TIA Act and because interception warrants can also be granted to ACT Policing.<sup>17</sup>
- 3.3. They also argued that the public interest monitor should not be the Inspector given the existing role of the Commonwealth Ombudsman, including as the Inspector of the Commission. This would mean they would be involved in operational decisions which they would also have overall oversight for.<sup>18</sup> The Commission made several suggestions for amendment in its submission.
- 3.4. The ACT Ombudsman told the Committee that while the bill proposed that he perform the role of overseeing the Commission's use of telephone interception powers, in his capacity as ACT Ombudsman and Inspector of the ACT Integrity Commission, in his role as Commonwealth Ombudsman, he has a role of overseeing Commonwealth agencies use of telephone interception powers. However, this is not currently the role of overseeing state agencies use of those powers which are the responsibility of state inspectors. The arrangements for oversight of state and territory agencies use of powers were being considered by the Commonwealth. If the ACT Ombudsman were to become responsible for overseeing the ACT Integrity Commission's powers, additional funding would be required.<sup>19</sup>

---

<sup>14</sup> Responses to comments on bills, [https://www.parliament.act.gov.au/\\_data/assets/pdf\\_file/0006/2158026/Response-Integrity-Commission-Amendment-Bill-2022-No-2-Telecommunications-Interception-and-Access-Act.pdf](https://www.parliament.act.gov.au/_data/assets/pdf_file/0006/2158026/Response-Integrity-Commission-Amendment-Bill-2022-No-2-Telecommunications-Interception-and-Access-Act.pdf), pp1- 2.

<sup>15</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), *Scrutiny Report 25*, 31 January 2023, p 26.

<sup>16</sup> ACT Integrity Commission, *Submission 2*, p 1.

<sup>17</sup> ACT Integrity Commission, *Submission 2*, p 2.

<sup>18</sup> ACT Integrity Commission, *Submission 2*, p 3.

<sup>19</sup> ACT Ombudsman, *Submission 1*, pp 1-2.

## 4. Review of ACT Integrity Commission Act 2018

### Review background

- 4.1. The *Integrity Commission Act 2018* includes a requirement for the ACT Government to conduct a review of the Act after its first three years of operations and every five years after the first review.<sup>20</sup>
- 4.2. On 12 January 2023, the ACT Chief Minister announced the review would be led by Mr Ian Govey, former Chief Executive Officer of the Australian Government Solicitor, and that the will examine a range of matters including changes proposed by the Integrity Commission in its annual reports since 2019.<sup>21</sup> The review is broader than the issue of telephone interception powers that are the subject of the bill being considered for the inquiry. The report was released on 30 November 2023.
- 4.3. As part of the Review, a series of discussion papers (including in relation to telephone interception powers) were developed to consider amendments proposed by the Commission and views of stakeholders were sought.<sup>22</sup>
- 4.4. Discussion paper 'Integrity Commission Powers' outlined the key benefits of providing the Commission with telephone interception powers and the legislative framework associated with these powers.<sup>23</sup> To be granted powers the Commission would need to be prescribed under Commonwealth Legislation as a 'criminal law enforcement agency' (CLEA) or a 'eligible authority' (EA) under the TIA Act.<sup>24</sup> If granted the powers, the Commission would need to apply for warrants to a judge of a court created by the Commonwealth Parliament.<sup>25</sup>
- 4.5. The discussion paper provided the following tables explaining the CLEA and EA powers and jurisdictional comparisons:

---

<sup>20</sup> *Integrity Commission Act 2018*, section 303.

<sup>21</sup> Mr Andrew Barr MLA, ACT Chief Minister 'Review of the ACT's Integrity Commission Act 2018', *Media Release*, 12 January 2023.

<sup>22</sup> ACT Government - Chief Minister, Treasury and Economic Development Directorate, [Review of the ACT's Integrity Commission Act 2018 - Chief Minister, Treasury and Economic Development Directorate](#) (accessed 10 October 2023)

<sup>23</sup> Review of the ACT's Integrity Commission Act 2018, *Integrity Commission Powers*, [Integrity Commission Powers Discussion Paper \(act.gov.au\)](#) p 5 (accessed 16 October 2023)

<sup>24</sup> Review of the ACT's Integrity Commission Act 2018, *Integrity Commission Powers*, [Integrity Commission Powers Discussion Paper \(act.gov.au\)](#) p 5 (accessed 16 October 2023)

<sup>25</sup> Review of the ACT's Integrity Commission Act 2018, *Integrity Commission Powers*, [Integrity Commission Powers Discussion Paper \(act.gov.au\)](#) p 6 (accessed 16 October 2023)

Table 1 – Breakdown of CLEA and EA powers<sup>26</sup>:

TIA powers	CLEA	EA
Telecommunication Interception (warrant required)	No	Yes
Access to information obtained via interception by other agencies	No	Yes
Access to stored communications (warrant required)	Yes	No
Access to telecommunication data (call records and account information)	Yes	No
Request provider to preserve stored communications	Yes	No

Table 2 – Overview of State/ Territory Agencies and Designated Status

Jurisdiction/agency	CLEA	EA
Independent Commission Against Corruption (SA)	Yes	Yes
Independent Commission Against Corruption (NSW)	Yes	Yes
Independent Broad-Based Anti-Corruption Commission (IBAC) (VIC)	Yes	Yes
Corruption and Crime Commission (WA)	Yes	Yes
Crime and Corruption Commission (QLD)	Yes	Yes
Law Enforcement Conduct Commission (NSW)	Yes	Yes
Independent Commissioner Against Corruption (NT)	No	No
Integrity Commission (TAS)	No	No
Integrity Commission (ACT)	No	No

- 4.6. The discussion paper noted that the National Anti-Corruption Commission (which commenced on 1 July 2023<sup>27</sup>) will be designated both as a CLEA and EA, and that it is understood that the Northern Territory is currently seeking powers. A number of Commonwealth Agencies also have CLEA and EA powers.<sup>28</sup>
- 4.7. The review noted that the Chief Minister has written to the Commonwealth Attorney-General to seek a temporary declaration of the Commission as a CLEA through a legislative instrument and there is willingness to explore this, noting that the legislative instrument

<sup>26</sup> Review of the ACT's Integrity Commission Act 2018, *Integrity Commission Powers*, [Integrity Commission Powers Discussion Paper \(act.gov.au\)](#) p 7 (accessed 16 October 2023)

<sup>27</sup> Media Release, National Anti-Corruption Commission, *Fearless but fair: National Anti-Corruption Commission Commences*, 1 July 2023.

<sup>28</sup> Review of the ACT's Integrity Commission Act 2018, *Integrity Commission Powers*, [Integrity Commission Powers Discussion Paper \(act.gov.au\)](#) p 8 (accessed 16 October 2023)

would only be valid for 40 sitting days of the Commonwealth Parliament (but can be remade).<sup>29</sup>

## Options considered

- 4.8. In relation to telephone interception powers, the discussion papers put forward the following options:
- Option 1 – Seek Commonwealth legislation to provide the Integrity Commission the relevant powers as an EA and CLEA under the TIA Act
  - Option 2A – Designation as a CLEA but not an EA, and with no power to receive material intercepted by other agencies
  - Option 2B – Designation as a CLEA, and request amendment to the TIA Act to allow the Integrity Commission to receive material intercepted by other agencies but not conduct interception itself.
  - Option 3 – Do not seek designation as either a CLEA or EA<sup>30</sup>

## Views in submissions to the review

- 4.9. The Commission supported Option 1, enabling the Commission to intercept telecommunications and obtain stored communications and metadata (designated CLEA & EA). They noted that the current lack of such powers had a significant impact on their ability to investigate issues:

It is of particular importance to note that, the ability of police and the Commission to undertake joint investigations where (as would be likely) the combination of the use of TIA powers and the Commission's compulsory powers would have been useful, is not presently possible. There have already been three cases of very serious criminal conduct that have come under notice but where any useful contribution by the Commission has been foreclosed by the lack of availability of TIA.

The lack of access to TIA powers impacts not only on the ability of the Commission to exercise those powers directly in support of its investigations, but it also prevents other agencies who may, through the use of TIA powers, obtain information of relevance to the Commission, from disclosing that information to the Commission. This means that the Commission is prevented from receiving information that may be directly relevant to its statutory functions, including for example the detection of corrupt conduct that has not been identified through other means.<sup>31</sup>

- 4.10. They raised concerns with Option 2B noting that:

---

<sup>29</sup> A report by Ian Govey AM, *Report of the Independent Statutory Review of the ACT's Integrity Commission Act 2018*, p 103

<sup>30</sup> Review of the ACT's Integrity Commission Act 2018, *Integrity Commission Powers*, [Integrity Commission Powers Discussion Paper \(act.gov.au\)](#) pp 14-15 (accessed 16 October 2023)

<sup>31</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – ACT Integrity Commission*, [Submission from ACT Integrity Commission](#), pp 17-18 (accessed 17 October 2023)

A joint investigation in which the AFP exercised its interception powers would be possible under this option. However, the AFP necessarily applies its own priorities to both the matters which it investigates and the timing and course of the investigation. These decisions will often be made ad hoc and, given the different functions and limited resources of each agency, will not always be a useful fit from the Commission's perspective. From a privacy perspective, of course, utilising the powers of the AFP entails the same intrusion that would be required were the Commission to undertake the task. Option (iii) is distinctly less useful than option (i) without any practical advantages and is not considered a viable option.<sup>32</sup>

- 4.11. They also said that the proposal to 'provide the Inspector of the Commission with an entitlement to be notified of any application for a telecommunications service warrant by a Commission Investigator and to appeal and make submissions at the hearing for a warrant' in the Integrity Commission Amendment Bill 2022 (No 2) should be considered. Such a model is like the public interest monitors in Queensland and Victoria but the Commission queried if it should be undertaken by the Inspector of the Commission as it could be in conflict with the Inspectors broader role.<sup>33</sup>
- 4.12. Legal Aid ACT told the review that the telephone interception powers for the Integrity Commission were reasonable, but there should be sufficient staffing, and that terms and conditions of the use of the powers be specified so that the governance and oversight is clear. They agreed that the ACT Ombudsman is well placed to be the inspector.<sup>34</sup>
- 4.13. ACT Policing supported the broadening of the Commission's surveillance powers to allow it to intercept telecommunications or access interceptions by another agency. They noted that the AFP has broad interception powers under the TIA Act, and that while the Commission can refer matters to the AFP, currently any intercepted communications cannot be shared with the Commission. They further noted that providing the Commission with interception powers can strengthen the Commission's investigations and promote public trust in the ACT Public Service.<sup>35</sup>
- 4.14. The Griffith/Narrabundah Community Association said that they considered Option 2B to be the most suitable option for the Commission, allowing it to receive material intercepted by other agencies and that additional oversight by the Inspector is sufficient.<sup>36</sup>
- 4.15. The Canberra Liberals noted the ACT does not have interception powers like most other States, emphasising the robust oversight mechanisms to be provided through the Inspector

---

<sup>32</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – ACT Integrity Commission*, [Submission from ACT Integrity Commission](#), pp 20-21 (accessed 17 October 2023)

<sup>33</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – ACT Integrity Commission*, [Submission from ACT Integrity Commission](#), pp 19 (accessed 17 October 2023)

<sup>34</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – Legal Aid ACT*, [Submission from Legal Aid \(act.gov.au\)](#), p 1 (accessed 17 October 2023)

<sup>35</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – ACT Policing*, [Submission from ACT Policing](#), p 4 (accessed 17 October 2023)

<sup>36</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – Griffith/Narrabundah Community Association*, [Submission from Griffith Narrabundah Community Association \(act.gov.au\)](#), Attachment B, p 1 (accessed 17 October 2023)



of the ACT Integrity Commission (if recognised as EA) and highlights the legislative safeguards for privacy in the TIA Act.<sup>37</sup>

- 4.16. The ACT Human Rights Commission raised concerns regarding the effectiveness and adequacy of safeguards to protect privacy. The sought further safeguards, and a public interest monitor to consider applications for warrants and on-disclosures.<sup>38</sup> They recommended a further option where the Commission is an EA (authorised to receive interception information) and a CLEA for purposes of storing information.<sup>39</sup>
- 4.17. The Inspector of the ACT Integrity Commission noted that if the ACT Ombudsman and Inspector were to become responsible for overseeing the Commission's use of telecommunications interception powers under the TIA Act, then additional funding would be required for these new activities.<sup>40</sup>

## Recommendations in the statutory review

- 4.18. In his report, tabled in the Assembly on 30 November 2023, Mr Govey made three recommendations:
- Recommendation 15 -The Review recommends that the ACT Government continue to engage with the Commonwealth with a view to having the Commission declared as a CLEA under the Telecommunication (Interception and Access Act) 1979 (Cth) on a temporary basis.
  - Recommendation 16 - The Review recommends that, in principle, the ACT Government should seek a declaration by the Commonwealth of the Commission as a CLEA on a permanent basis and as an eligible authority.
  - Recommendation 17 - The Review recommends that the Integrity Commission Act 2018 be amended to provide for the appointment of a Public Interest Monitor function to oversee the use of the telecommunications interception power before the Commission is declared to be an eligible authority.<sup>41</sup>
- 4.19. The reported noted that:

Prior to introducing any amendments to the TIA Act (Cth) to declare the Commission an EA, the Commonwealth Attorney-General would need to be satisfied that the ACT had enacted legislation that provides for the requisite conditions and obligations. As noted elsewhere in this report, the ACT Liberals introduced a Bill into the ACT

---

<sup>37</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – Canberra Liberals*, [Submission from Canberra Liberals \(act.gov.au\)](#), pp 1 - 3 (accessed 17 October 2023)

<sup>38</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – ACT Human Rights Commission*, [Review of the ACT's Integrity Commission Act 2018 - Chief Minister, Treasury and Economic Development Directorate](#), pp 10 -11 (accessed 17 October 2023)

<sup>39</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – ACT Human Rights Commission*, [Review of the ACT's Integrity Commission Act 2018 - Chief Minister, Treasury and Economic Development Directorate](#), p 8 (accessed 17 October 2023)

<sup>40</sup> Review of the ACT's Integrity Commission Act 2018, *Submission – Inspector of the ACT Integrity Commission*, [Submission from Inspector \(act.gov.au\)](#), pp 2 – 3 (accessed 17 October 2023)

<sup>41</sup> A report by Ian Govey AM, *Report of the Independent Statutory Review of the ACT's Integrity Commission Act 2018*, P 98.

Legislative Assembly which seeks to provide these preconditions. Legislative pre-requirements do not apply for declaration as a CLEA, as the powers and compliance scheme are contained within the TIA Act and do not rely on a State enacting concurrent laws.<sup>42</sup>

- 4.20. The review went on to note that in order to meet the requirements of the TIA Act in becoming an EA, an appropriate entity would be needed as the inspector of the Commission's intercepted records prior to the Commonwealth Government considering making changes to the TIA act to declare the Commission as an EA.<sup>43</sup>
- 4.21. The review also noted recurrent costs associated with interception costs and that to have the Commission declared as an EA (such as setting up service agreements, upgrading IT infrastructure, additional staff and appointing a Public Interest Monitor. The report noted the cost would be less if the Commission was declared a CLEA on a permanent basis.<sup>44</sup>
- 4.22. The review concluded that:
- in principle, declaration of the Commission as an EA and CLEA under the TIA Act (Cth) would be appropriate given the role and function of the Commission and that the Government should engage with the Commonwealth Government with the aim of having the TIA Act (Cth) amended to include the Commission within these categories.<sup>45</sup>

## 5. Conclusion

- 5.1. The Committee has made one recommendation in its *Inquiry into the Integrity Commission Amendment Bill 2022 (No 2)*.
- 5.2. In light of the evidence provided in submissions to the inquiry, and the findings of the report by Mr Govey in reviewing the ACT Integrity Commission ACT, it is the view of the Committee that the intent of the *Integrity Commission Amendment Bill 2022 (No 2)* is supported with the addition of a public interest monitor. The Committee notes that there are a range of further reforms considered by the review which will be considered by the Government and are likely to result in other legislative changes. Given this, the appropriate legislative process is for the overall intent of the bill (i.e., the Commission accessing telephone interception powers) to address through the overall response to the statutory review.

---

<sup>42</sup> A report by Ian Govey AM, *Report of the Independent Statutory Review of the ACT's Integrity Commission Act 2018*, P 103.

<sup>43</sup> A report by Ian Govey AM, *Report of the Independent Statutory Review of the ACT's Integrity Commission Act 2018*, P 104.

<sup>44</sup> A report by Ian Govey AM, *Report of the Independent Statutory Review of the ACT's Integrity Commission Act 2018*, P 107.

<sup>45</sup> A report by Ian Govey AM, *Report of the Independent Statutory Review of the ACT's Integrity Commission Act 2018*, P 108.

### Recommendation 1

The Committee recommends that the ACT Government should accept and implement recommendations 15, 16 and 17 of the review of the ACT Integrity Commission by Mr Ian Govey AM as part of its overall legislative response to the full findings and recommendations of the review. Doing this will mean that it will no longer be necessary to pass the *Integrity Commission Amendment Bill 2022 (No 2)* as the intent of that bill will be effectively met.

- 5.3. The Committee would like to thank all those who participated in this inquiry including those who made submissions.

Peter Cain MLA  
Chair  
March 2024

## Appendix A: Submissions

No.	Submission by	Received	Published
1	ACT Ombudsman	25/11/2022	07/12/2022
2	ACT Integrity Commission	28/11/2022	07/12/2022