

Select Committee Recommendations - *Anti-Corruption Integrity Commission Bill 2018*

Recommendation	Recommendation text	<i>Anti-corruption and Integrity Commission Bill 2018</i>
Recommendation 1	The Committee recommends that the ACT Government establish a standing ACT independent integrity body to investigate corruption in public administration and strengthen public confidence in government integrity.	92 Establishment of Anti-corruption and Integrity Commission
Recommendation 2	The Committee recommends that the ACT Government finalise the establishment of a standing ACT independent integrity body by the end of 2018.	2 Commencement
Recommendation 3	The Committee recommends that any proposed bill for the establishment of a standing ACT independent integrity body be referred to an ACT Legislative Assembly committee for inquiry and report.	Not in Bill – Achieved through motion
Recommendation 4	The Committee recommends that a standing ACT independent integrity body should have as its primary objective(s) to investigate, expose and prevent corruption and foster public confidence in the integrity of the ACT Government.	6 Objects of Act
Recommendation 5	The Committee recommends that a standing ACT independent integrity body should have the following functions: (a) investigation, referral and reporting; (b) corruption prevention (including research and risk mitigation); and (c) public education.	93 Functions of the commission

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<p>Recommendation 6</p>	<p>The Committee recommends that the corruption prevention function of a standing ACT independent integrity body should include communicating and disseminating (as it concerns research, risk mitigation and prevention) lessons learned from investigation outcomes.</p>	<p>93 Functions of the commission</p>
<p>Recommendation 7</p>	<p>The Committee recommends that the public education function of a standing ACT independent integrity body should be focused on upholding and modelling high levels of probity and ethics together with communicating the outcomes of investigations, facilitating transparency, and awareness of corruption issues.</p>	<p>93 Functions of the commission</p>
<p>Recommendation 8</p>	<p>The Committee recommends that the focus of a standing ACT independent integrity body should be on corruption and integrity connected with public administration.</p>	<p>7 What is corrupt conduct?</p>
<p>Recommendation 9</p>	<p>The Committee recommends that a standing ACT independent integrity body should be named as an Anti-Corruption and Integrity Commission (ACIC) to ensure consistency with theory and practice and to accurately reflect its objectives, functions and relationships with other integrity stakeholders.</p>	<p>92 Establishment of Anti-corruption and Integrity Commission</p>
<p>Recommendation 10</p>	<p>The Committee recommends that the substantive jurisdiction of an ACT Anti-Corruption and Integrity Commission should cover all public officials. Public officials is to include all persons receiving a salary, wages or other payment from the ACT Government Service, its statutory authorities, agencies or boards. This would include parties delivering contracted work or services on behalf of government.</p>	<p>9 Meaning of public authority 10 Meaning of public official</p>

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<p>Recommendation 11</p>	<p>The Committee recommends that in investigating possible wrongdoing or impropriety on the part of a public official in exercising their official functions that the substantive jurisdiction of an ACT Anti-Corruption and Integrity Commission may extend to the conduct of third parties, i.e., where the third parties’ conduct would give rise to (or could give rise to) wrongdoing.</p>	<p>7 What is corrupt conduct?</p>
<p>Recommendation 12</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) should have oversight over policing officers funded to deliver services by and to the ACT taxpayer and community.</p>	<p>10 Meaning of public official</p>
<p>Recommendation 13</p>	<p>The Committee recommends, as it concerns ACT Policing, that the enabling legislation for an ACT Anti-Corruption and Integrity Commission (ACIC), together with a Memorandum of Understanding with the Australian Commission for Law Enforcement Integrity (ACLEI), must:</p> <ul style="list-style-type: none"> (a) provide for the ACLEI to refer corruption matters relating to ACT Policing to the ACT ACIC; (b) provide for the ACT ACIC to operate cooperatively with ACLEI and other agencies, including those in other jurisdictions for joint investigations and information sharing; (c) establish an appropriate framework for inter-agency coordination; and (d) establish an appropriate framework for information sharing to enable the exchange of relevant intelligence and documentation when an investigation is commenced. 	<p>65 Commission may refer matters (a) 154 Intergovernmental arrangements (d) 155 Interjurisdictional arrangements (a), (b), (c)</p>

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<p>Recommendation 14</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) have oversight over Members of the Legislative Assembly (MLAs), MLA staff, and Judicial Officers.</p>	<p>10 Meaning of public official</p>
<p>Recommendation 15</p>	<p>The Committee recommends, as it concerns Members of the Legislative Assembly (MLAs), MLA staff, and Judicial Officers, that the enabling legislation for an ACT Anti-Corruption and Integrity Commission (ACIC) must:</p> <ul style="list-style-type: none"> (a) ensure that judicial independence and parliamentary privilege is maintained; (b) have regard to the separation of powers; (c) with respect to parliamentary privilege, clearly define the boundaries between the powers of an ACT ACIC and parliamentary privilege; (d) include a legislated process to deal with items that might be subject to disputed claims of privilege; (e) make it clear that any code of conduct binding MLAs, MLA staff, and Judicial Officers augments and does not restrict the definition of corruption included in the Act; and (f) establish a process where conduct crosses over into other jurisdictions—that, an ACT ACIC shall first take the decision to proceed with an investigation. 	<p>7 What is corrupt conduct? (e) 29 Investigation by commission (f) 47 Parliamentary privilege not affected (a), (b), (c) 48 Independence of holders of judicial office (a), (b) 56 Investigator to consider privilege and secure document or thing (a), (c), (d) 57 Application to Supreme Court to determine parliamentary privilege generally (d) 58 Determination of privilege claim (d) 66 Directions to relevant authority (a), (b) 150 Exercise of commission powers—Assembly (a), (b) 155 Interjurisdictional arrangements (f)</p>
<p>Recommendation 16</p>	<p>The Committee recommends, as it concerns the ACT Legislative Assembly, that the enabling legislation for an ACT Anti-Corruption and Integrity Commission (ACIC) specify the requirement for a Memorandum of Understanding (MOU) between the statutory head of the ACIC and the Speaker of the ACT Legislative Assembly on the execution of a judicially approved search warrant on the premises of the Legislative Assembly.</p>	<p>150 Exercise of commission powers—Assembly</p>

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<p>Recommendation 17</p>	<p>The Committee recommends that the definition of ‘corrupt conduct’, as set out in Part 3 of the NSW <i>Independent Commission Against Corruption Act 1988</i>, should form the definition of ‘corrupt conduct’ in the enabling legislation of an ACT Anti-Corruption and Integrity Commission.</p>	<p>7 What is corrupt conduct? 8 General nature of corrupt conduct</p>
<p>Recommendation 18</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission’s (ACIC) scope of conduct be focused on investigating matters where they involve serious or systemic corruption. While the Committee believes that the focus should necessarily be on serious and systemic corruption, any legislation should not be drafted in a way that would unduly limit the scope of an ACT ACIC.</p>	<p>93 Functions of the commission</p>
<p>Recommendation 19</p>	<p>The Committee recommends that the terms ‘serious’ and ‘systemic’ should each be defined in an ACT Anti-Corruption and Integrity Commission’s enabling legislation—as follows:</p> <ul style="list-style-type: none"> (a) ‘serious corruption’ should be defined as corrupt conduct that is likely to threaten public confidence in the integrity of government; and (b) ‘systemic corruption’ should be defined as it is in the Australian Commission for Law Enforcement Integrity (ACLEI) statute—that is, as a pattern of corrupt conduct. 	<p>Dictionary</p>

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<p>Recommendation 20</p>	<p>The Committee recommends that the ACT Government take advice as to whether the concept of ‘corrupt conduct’ adopted in the enabling legislation of an ACT Anti-Corruption and Integrity Commission is reflected in the terms of offences under the <i>Criminal Code 2002</i>. If it is not reflected, the Committee recommends that the Code should be amended so that it defines in statute the new standard or offence of ‘corrupt conduct’.</p>	<p>Not in Bill – Requires Government to seek advice</p>
<p>Recommendation 21</p>	<p>The Committee recommends that an investigation threshold of ‘reasonable suspicion’ (as per the Victorian <i>Independent Broad-based Anti-corruption Commission Act 2011</i>) of the occurrence of corrupt conduct be required for an ACT Anti-Corruption and Integrity Commission to commence an investigation.</p>	<p>29 Investigation by commission</p>
<p>Recommendation 22</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission have the power to conduct preliminary investigations that do not include the use of coercive authority.</p>	<p>17 Commission may conduct preliminary inquiry</p>
<p>Recommendation 23</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) must be visible, accessible and a contact point for:</p> <ul style="list-style-type: none"> (a) citizens and public servants to make complaints and report corruption concerns; (b) referrals from within government (ACT Public Service); (c) referrals from other integrity stakeholders/bodies; and (d) referrals from other designated stakeholders. 	<p>11 Complaints about possible corrupt conduct 151 Cooperation with other entities (c) 153 Public authority may refer matter to commission (b), (c), (d)</p>

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<p>Recommendation 24</p>	<p>The Committee recommends that complaints/referrals as received by an ACT Anti-Corruption and Integrity Commission (ACIC) are to be triaged using set criteria—such as: dismiss/refer/investigate. The triage criteria as detailed in the Victorian <i>Independent Broad-based Anti-Corruption Commission Act 2011</i> are a useful reference point.</p>	<p>16 Commission to decide on next steps 17 Commission may conduct preliminary inquiry 18 Commission may dismiss certain matters 65 Commission may refer matters</p>
<p>Recommendation 25</p>	<p>The Committee recommends that confidentiality requirements are to apply to all complaints and referrals as received by an ACT Anti-Corruption and Integrity Commission (ACIC) until such time as the Commission decides to conduct public hearings or report.</p>	<p>147 Secrecy</p>
<p>Recommendation 26</p>	<p>The Committee recommends that mandatory reporting should apply within the ACT Public Service—such that Directors-General (and equivalents) have a duty to notify an ACT Anti-Corruption and Integrity Commission of any information or allegation that raises a corruption issue in his or her agency. Further, these requirements for mandatory reporting should be accompanied by the development of guidelines to assist those to whom mandatory reporting provisions apply.</p>	<p>12 Duty of principal officer of public authority to tell commission about corrupt conduct</p>
<p>Recommendation 27</p>	<p>The Committee recommends that where Directors-General (and equivalents) knowingly or wilfully fail to comply with an ACT Anti-Corruption and Integrity Commission’s duty to notify it of any information or allegation that raises a corruption issue in their agency, penalties should apply.</p>	<p>12 Duty of principal officer of public authority to tell commission about corrupt conduct</p>

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<p>Recommendation 28</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) should be empowered to take steps to protect the safety of anyone providing assistance to it or anyone consequently at risk. Appropriate provisions should be put in place to ensure protection of complainants or persons making reports, for example, protection from reprisals and victimisation. The Committee considers that these protections would be consistent with protections in other legislation.</p>	<p>Division 3.3 Protections for complainants and reporters</p>
<p>Recommendation 29</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) as informed by its purpose, should have a role in fostering public confidence in an integrity context and bring an authoritative leadership, organising and coordinating focus to the ACT public sector and parliamentary integrity framework.</p>	<p>6 Objects of Act 29 Investigation by commission 93 Functions of the commission</p>

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<p align="center">Recommendation 30</p>	<p>The Committee recommends, as it concerns relationships with other integrity stakeholders, that an ACT Anti-Corruption and Integrity Commission’s (ACIC) enabling legislation, at a minimum, should:</p> <ul style="list-style-type: none"> (a) provide for the ACIC to operate cooperatively with other integrity agencies, including those in other jurisdictions—for joint investigations or information sharing with these jurisdictions; (b) provide an appropriate framework for inter-agency coordination; (c) detail information sharing provisions to enable the exchange of relevant intelligence and documentation when an investigation is commenced; (d) provide for appropriate referral mechanisms which allow the ACIC to refer matters to other bodies, that fall outside its jurisdiction and scope of conduct; (e) provide the ACIC, in referring matters to other integrity stakeholders, with power to give directions and guidance with regard to the conduct of the matter and to require the agency to provide a report as to the investigation undertaken and its results; (f) include, where the ACIC refers a complaint or report concerning an MLA to the Commissioner for Standards to specify that the Commissioner be obligated (as opposed to compelled) to provide a report as to the outcome of the referral. The ACIC will be able to report publicly that it has made such a referral and this will leave the onus on the ACT Legislative Assembly to explain what has happened to the referral; and (g) include, where the ACIC refers a complaint or report concerning a member of the Judiciary to the Judicial Council, to specify that the Judicial Council be obligated (as opposed to compelled) to provide a report as to the outcome of the referral. The ACIC will be able to report publicly that it has made such a referral and this will leave the onus on the Judicial Council to explain what has happened to the referral. 	<p>16 Commission to decide on next steps 17 Commission may conduct preliminary inquiry 65 Commission may refer matters (d) 66 Directions to relevant authority (e), (f), (g) 67 Report to commission (e) 151 Cooperation with other entities (a), (b) 152 Cooperation with commission (a), (b) 153 Public authority may refer matter to commission (b) 154 Information sharing (c) 155 Interjurisdictional arrangements (a)</p>
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<p>Recommendation 31</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission have own motion powers for the purposes of investigating, exposing and preventing corruption and fostering public confidence in the integrity of the ACT Government.</p>	<p>13 Own initiative investigations</p>
<p>Recommendation 32</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission have powers to:</p> <ul style="list-style-type: none"> (a) require attendance by witnesses and compel answers to questions; (b) apply for warrants to search properties and seize evidence; and (c) apply for warrants to engage in covert tactics—including: listening devices and optical surveillance. 	<p>30 Power to obtain information 31 Power to obtain documents etc 81 Issue of search warrant 82 Powers under warrant Part 1.3 <i>Crimes (Surveillance Devices) Act 2010</i> (c)</p>

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<p>Recommendation 33</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission’s (ACIC) enabling legislation must contain mechanisms to ensure procedural fairness and to guard against its investigative and coercive powers being abused. This should include safeguards to avoid any unwarranted violation of personal rights of a person under investigation; and placing reasonable limits on the circumstances in which such powers can be exercised. This should include:</p> <ul style="list-style-type: none"> (a) requiring that when witnesses are summonsed that they be given notice of the subject matter that will be discussed (provided it does not unduly prejudice the investigation); (b) ensuring that warrants that are issued for an ACIC investigation are issued by the Courts rather than the Commission itself; (c) any action to engage in covert tactics should be subject to obtaining a warrant through a judicial officer; (d) as it concerns engaging in a controlled operation—that detailed and prescriptive criteria should be included in any legislation which permits the ACIC to engage in these activities and that punitive measures should also be in place to protect against unauthorised controlled operations in connection with an ACIC’s work; (e) evidence gathered about unrelated third parties should form no part of an ACIC’s investigation (unless it is relevant to the investigation); (f) that evidence given by a suspect under compulsion cannot be used against that suspect in any subsequent prosecutions; and (g) if proceedings are proceedings for an indictable offence, an ACIC must, to the extent it thinks it is necessary to do so, ensure that the accused’s right to a fair trial is not prejudiced. 	<ul style="list-style-type: none"> 36 Commission may apply for arrest warrant (b) 37 Content of notice to appear (a) 46 Privilege as regards information, documents etc (f) 49 Concurrent court proceedings (g) 81 Issue of search warrant (b) 147 Secrecy (e) Part 1.2 <i>Crimes (Controlled Operations) Act 2008</i> (d) Part 1.3 <i>Crimes (Surveillance Devices) Act 2010</i> (b), (c)
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Recommendation 34	The Committee recommends that an ACT Anti-Corruption and Integrity Commission’s enabling legislation must provide that the protections afforded by legal professional privilege and privilege against self-incrimination respectively are waived in circumstances where the Commission uses its power to compel the production or giving of evidence.	46 Privilege as regards information, documents etc
Recommendation 35	The Committee recommends that an ACT Anti-Corruption and Integrity Commission is not bound by the rules of evidence and can inform itself on any matter in such a manner as it sees fit.	45 Evidence and procedure
Recommendation 36	The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) should not have the power: (a) to engage in integrity testing; and (b) arm its officers.	155 Interjurisdictional arrangements
Recommendation 37	The Committee recommends, to ensure consistency with the powers of the Australian Commission for Law Enforcement Integrity (ACLEI), where it concerns conduct of ACT Policing officers, that an ACT Anti-Corruption and Integrity Commission have the power to engage in integrity testing.	155 Interjurisdictional arrangements
Recommendation 38	The Committee recommends that an ACT Anti-Corruption and Integrity Commission have the power to make findings of fact that corruption has occurred and that such a finding is not to be taken as a finding of guilt.	59 Findings, opinions and recommendations

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Recommendation 39	The Committee recommends that an ACT Anti-Corruption and Integrity Commission’s enabling legislation must explicitly restrict the Commission from reaching formal determinations of law, including findings of criminal guilt, as this would usurp the judicial role and violate the separation of powers.	59 Findings, opinions and recommendations
Recommendation 40	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission institute an Exoneration Protocol that can be accessed in circumstances where an individual is subsequently exonerated or cleared of any personal corruption—after a finding of corruption. The Protocol amongst other things should include:</p> <ul style="list-style-type: none"> (a) a mechanism for public acknowledgement of the exoneration or clearance of any person if corruption is not found after the person’s reputation has been attacked publicly; and (b) the development of guidelines to govern such a process. 	157 Reputational repair protocol
Recommendation 41	The Committee recommends that an ACT Anti-Corruption and Integrity Commission should not have powers to make disciplinary decisions nor manage a mediation program.	59 Findings, opinions and recommendations
Recommendation 42	The Committee recommends that where an ACT Anti-Corruption and Integrity Commission refers a complaint or report to an integrity counterpart it should be informed (where applicable) of the outcome of any disciplinary proceedings.	67 Report to commission

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<p>Recommendation 43</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission should have the power to take action for, and where applicable take action against any contempt of the Commission (subject to parliamentary privilege).</p>	<p>51 Contempt of commission</p>
<p>Recommendation 44</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission should not have the power to take action against a person for an act or omission where it is established that there was a reasonable explanation for the act or omission concerned.</p>	<p>51 Contempt of commission</p>
<p>Recommendation 45</p>	<p>The Committee recommends than an ACT Anti-Corruption and Integrity Commission be empowered to refer suspected instances of criminality to appropriate authorities, subject to existing legal restrictions against reliance on derivative evidence by those authorities.</p>	<p>65 Commission may refer matters 69 Brief of evidence</p>
<p>Recommendation 46</p>	<p>The Committee recommends that sufficient resources need to be provided to the ACT Office of the Director of Public Prosecutions to manage any increase in workload that may arise in connection with referrals from an ACT Anti-Corruption and Integrity Commission.</p>	<p>Not in Bill – Budget consideration</p>

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<p>Recommendation 47</p>	<p>The Committee recommends that enabling legislation for an ACT Anti-Corruption and Integrity Commission include provisions that:</p> <ul style="list-style-type: none"> (a) will regulate the manner in which evidence is gathered and shared with other agencies so as to improve the prospects of that material being used in subsequent prosecutions and to minimise any risk that such evidence will be misused; and (b) set out a mechanism for timely communication between the Commission and the ACT Director of Public Prosecutions to assist in pursuing matters of mutual interest. 	<p>45 Evidence and procedure</p>
<p>Recommendation 48</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) should have the power to publicly report the findings that result from any investigation, including findings of serious and systemic corruption and their relevant factual foundations. The power to report should include:</p> <ul style="list-style-type: none"> (a) powers to report and bring to the attention of the Assembly and the public findings and recommendations in relation to specific investigations; (b) a statutory power of ‘follow-up’—the ability to report publicly on the Government’s compliance (or lack thereof) with past reports and recommendations; (c) power to make a special (confidential) report to the designated Assembly oversight committee—where the statutory head of the ACIC considers that the disclosure of the information in a report to the Assembly would, on balance be contrary to the public interest; and (d) power to decline to report a matter which, in the opinion of the statutory head of the ACIC, should remain confidential. 	<p>60 Reports on investigations (a), (c), (d) 61 Public interest considerations (c), (d) 62 Delivery and tabling of reports (a) 63 Confidential reports to be given to relevant committee (c) 64 Content of reports (a) 68 Further action by commission (b)</p>

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Recommendation 49	The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) be provided with exceptions to public disclosure in the form of reporting where disclosure, based on a public interest test, would compromise an ongoing investigation, place an individual in danger, or prejudice an upcoming judicial proceeding.	61 Public interest considerations
Recommendation 50	The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) have the power to deal with vexatious complainants. This power should take the form of the statutory head of the ACIC having discretion to not proceed where there are reasonable grounds to believe that a complaint is vexatious.	18 Commission may dismiss certain matters
Recommendation 51	The Committee recommends that an ACT Anti-Corruption and Integrity Commission have the power to impose appropriate penalties on those complainants, who knowingly or wilfully make false or misleading claims or complaints.	11 Complaints about possible corrupt conduct
Recommendation 52	The Committee recommends that an ACT Anti-Corruption and Integrity Commission (ACIC) should not be limited as to the timeframes around which former actions can be assessed; but is of the opinion that the operational focus of an ACT ACIC should largely be prospective and focused on current matters.	18 Commission may dismiss certain matters
Recommendation 53	The Committee recommends that an ACT Anti-Corruption and Integrity Commission’s enabling legislation refer to examinations (public and private) as opposed to hearings (public and private) to reinforce the investigatory proceeding that applies.	32 Commission may conduct examination

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<p>Recommendation 54</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission should have the power to hold public examinations. The decision on whether to hold public or private examinations should be informed by a public interest test.</p>	<p>33 Examination may be private</p>
<p>Recommendation 55</p>	<p>The Committee recommends that when determining whether a public or private examination should be held, the following should be considered by an ACT Anti-Corruption and Integrity Commission in making that decision:</p> <ul style="list-style-type: none"> (a) the benefit of exposing to the public, and making it aware, of corrupt conduct; (b) the seriousness of the allegation or complaint being investigated; (c) any risk of undue prejudice to a person's reputation (including prejudice that might arise from not holding an examination); and (d) whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned. 	<p>33 Examination may be private</p>
<p>Recommendation 56</p>	<p>The Committee recommends that the statutory head of an ACT Anti-Corruption and Integrity Commission, as it concerns a decision to hold a public examination be subject to a statutory requirement to ‘sign a statement explaining why the public interest outweighs the potential for prejudice or privacy infringements’, provide a copy to the person to be the subject of the examination, and give that person the opportunity to ‘make representations as to why the statement may be incorrect’.</p>	<p>33 Examination may be private</p>

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<p>Recommendation 57</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission be required to conduct its examinations, especially those open to the public, in accordance with Lord Justice Salmon’s principles of fair procedure for public inquiries.</p>	<p>37 Content of notice to appear 38 Right of appearance 39 Right of representation 40 Examination and cross-examination 45 Evidence and procedure</p>
<p>Recommendation 58</p>	<p>The Committee recommends that the statutory head of an ACT Anti-Corruption and Integrity Commission be designated as an Officer of the Assembly.</p>	<p>94 Officer of the Legislative Assembly— commissioner</p>
<p>Recommendation 59</p>	<p>The Committee recommends, as it concerns an ACT Anti-Corruption and Integrity Commission’s (ACIC) relationship with the ACT Legislative Assembly, that it be pursuant to the Officer of the Assembly framework and include the following requirements:</p> <ul style="list-style-type: none"> (a) the ACIC to be overseen by, and required to report to, an Assembly standing committee. The standing committee to be a committee established pursuant to Standing Order 215 (not Standing Order 16850). The Committee to be chaired by a nongovernment member, its membership to be representative of the Assembly and the secretary to the Committee should not be a statutory office holder; (b) involvement by the Assembly (a combination of the Assembly as a whole and the relevant Assembly standing committee) in the appointment and dismissal of the statutory head of the ACIC; and (c) involvement by the Assembly (a combination of the Assembly as a whole and the relevant Assembly standing committee) in the approval of the budget for the ACIC. 	<p>94 Officer of the Legislative Assembly— commissioner 100 Oath or affirmation of office—commissioner (b) 101 Disclosure of interests—commissioner (b) 102 Commissioner must avoid conflict of interest (b) 103 Resignation—commissioner (b) 104 Retirement—commissioner (b) 105 Suspension of commissioner (b) 106 Relevant Assembly committee to consider suspension of commissioner (b) 107 Ending of suspension of commissioner (b) 108 Ending appointment of commissioner (b) 109 Leave of absence—commissioner (b) 117 Oversight of commission by committee (a) Dictionary</p>

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<p>Recommendation 60</p>	<p>The Committee recommends that the appointment of an Integrity Commissioner for an ACT Anti-Corruption and Integrity Commission should comply with the following requirements:</p> <ul style="list-style-type: none"> (a) a single Commissioner model; (b) appointment as an independent statutory officer; (c) appointment for a fixed term between 5–7 years non-renewable; (d) appointment by the ACT Legislative Assembly—pursuant to the Officer of the Assembly framework; (e) to be qualified for appointment as Commissioner the person must be a former Judge of a Supreme Court or the Federal or High Court, or be a legal practitioner of not less than ten years standing; (f) no age restriction should apply; and (g) the Commissioner must not be a former or current Member of the Legislative Assembly, or any other Australian Parliament. 	<p>94 Officer of the Legislative Assembly—commissioner (d) 95 Independence (b) 96 Appointment of commissioner 98 Eligibility for appointment as commissioner (e), (g) 99 Term of appointment of commissioner (c)</p>
<p>Recommendation 61</p>	<p>The Committee recommends that the following additional requirements should be applied as it concerns the appointment of an Integrity Commissioner for an ACT Anti-Corruption and Integrity Commission:</p> <ul style="list-style-type: none"> (a) the Commissioner to have a legislative duty to avoid actual or perceived conflicts of interest. A legislative direction may be appropriate for consequences to follow if the existence of a conflict of interest (real or perceived) is established; (b) that the appointee not have (or had) any political affiliations; and (c) appointments to the position should not be permitted from the ranks of existing ACT Government public servants or those who have been public servants in the ACT Public Service for a period of 10 years previously. 	<p>98 Eligibility for appointment as commissioner (b), (c) 102 Commissioner must avoid conflict of interest</p>

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<p>Recommendation 62</p>	<p>The Committee recommends that the enabling legislation for an ACT Anti-Corruption and Integrity Commission should provide for the appointment of an acting commissioner to act as Commissioner during any period for which there is no person appointed as commissioner or the Commissioner is absent from, or unable to discharge, official duties. A consultative process with the ACT Legislative Assembly pursuant to the Officer of the Assembly framework should be used with regard to proposals for acting arrangements.</p>	<p>96 Appointment of commissioner 97 Acting commissioner</p>
<p>Recommendation 63</p>	<p>The Committee recommends that the enabling legislation for an ACT Anti-Corruption and Integrity Commission should provide for the suspension and removal of the Commissioner. The process should comply with the following requirements:</p> <ul style="list-style-type: none"> (a) suspension and removal of the Commissioner to be pursuant to the Officer of the Assembly framework; (b) be in accordance with specified criteria—including: for misbehaviour; for physical or mental incapacity, if the incapacity substantially affects the exercise of the Commissioner’s functions; if the Commissioner becomes bankrupt or personally insolvent; or if the Commissioner has been guilty of corrupt conduct; and (c) the procedures for either suspension or removal of the Commissioner should ensure procedural fairness. 	<p>105 Suspension of commissioner 106 Relevant Assembly committee to consider suspension of commissioner 107 Ending of suspension of commissioner 108 Ending appointment of commissioner</p>
<p>Recommendation 64</p>	<p>The Committee recommends that funding arrangements for an ACT Anti-Corruption and Integrity Commission (ACIC) should be pursuant to the Officer of the Assembly framework.</p>	<p>94 Officer of the Legislative Assembly—commissioner</p>

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<p align="center">Recommendation 65</p>	<p>The Committee recommends that the accountability and oversight regime for an ACT Anti-Corruption and Integrity Commission (ACIC) must include:</p> <ul style="list-style-type: none"> (a) oversight by a relevant Assembly standing committee—broad oversight role and broad mandate to ‘monitor and report’ on the performance and functions of an ACIC; (b) oversight by an inspector/inspectorate type mechanism—to receive and investigate complaints concerning any aspect of an ACIC’s operations or any conduct of its officers; and (c) oversight of the ACIC’s exceptional powers⁸⁵⁷—in the form of monitoring, review and report. 	<p>Part 7 Oversight of commission 117 Oversight of commission by committee 120 Functions of inspector (b), (c) 125 Review of commission’s performance (c)</p>
<p align="center">Recommendation 66</p>	<p>The Committee recommends that a part-time Inspector be appointed to:</p> <ul style="list-style-type: none"> (a) provide oversight as it concerns complaints relating to any aspect of an ACT Anti-Corruption and Integrity Commission’s (ACIC) operations or any conduct of its officers; and (b) to conduct a review of the operations (in the form of monitoring, review and report) of an ACT ACIC at a minimum every 12 months. 	<p>Part 7 Oversight of commission 119 Appointment of Inspector 120 Functions of inspector 125 Review of commission’s performance (b)</p>

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<p>Recommendation 67</p>	<p>The Committee recommends that the eligibility criteria, and process for appointment, and dismissal, of a part-time Inspector for an ACT Anti-Corruption and Integrity Commission (ACIC) should mirror that which applies for the ACIC’s Integrity Commissioner.</p>	<p>Part 7 Oversight of commission 119 Appointment of Inspector 122 Acting inspector 123 Eligibility for appointment as inspector 124 Term of appointment of inspector 132 Oath or affirmation of office—inspector 133 Disclosure of interests—inspector 134 Inspector must avoid conflict of interest 135 Resignation—inspector 136 Retirement—inspector 137 Suspension of inspector—generally 138 Relevant Assembly committee to consider suspension of inspector 139 Ending of suspension of inspector 140 Ending of appointment of inspector 141 Leave of absence—inspector</p>
<p>Recommendation 68</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission should be subject to annual reporting requirements as per the <i>Annual Report (Government Agencies) Act 2004</i>. In addition, the annual report should contain, amongst other things, detailed information as it concerns matters referred and investigated by the ACIC during the reporting period. The reporting requirements as detailed in section 76 of the <i>Independent Commission Against Corruption Act 1988</i> (NSW) are instructive.</p>	<p>118 Annual reports of commission</p>

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<p>Recommendation 69</p>	<p>The Committee recommends that the enabling legislation of an ACT Anti-Corruption and Integrity Commission must be reviewed every five years after commencement of the Act. The Report on the Review should be presented to the ACT Legislative Assembly within three months after the Review has started and be referred to the relevant Assembly oversight committee for inquiry and report.</p>	<p>159 Review of Act</p>
<p>Recommendation 70</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission’s specialised investigative capability services should be purchased from a state-based anticorruption body; and that an arrangement is in place that provides for these services on an as-needed basis.</p>	<p>111 Commission consultants and contractors</p>
<p>Recommendation 71</p>	<p>The Committee recommends that the statutory head of an ACT Anti-Corruption and Integrity Commission be permitted to engage persons on terms and conditions the statutory head sees fit. In any determination of the terms and conditions on which staff could be engaged, it would be appropriate for the statutory head to have regard to the general terms and conditions of employees of the ACT Public Service (ACTPS).</p>	<p>110 Employing staff of the commission 111 Commission consultants and contractors</p>
<p>Recommendation 72</p>	<p>The Committee recommends that an ACT Anti-Corruption and Integrity Commission’s (ACIC) enabling legislation should include a provision recognising that the staff assisting the statutory head of the Commission are not subject to the direction of any person other than the statutory head, or a person authorised by the statutory head in relation to matters dealing with investigative functions and duties performed pursuant to the ACIC’s enabling legislation.</p>	<p>114 Officer of commission not subject to direction from others</p>

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<p>Recommendation 73</p>	<p>The Committee recommends that appointments to senior management positions within an ACT Anti-Corruption and Integrity Commission should not be permitted from the ranks of existing ACT Public Service (ACTPS) employees or those who have been public servants in the ACTPS for a period of 10 years previously. Further, appointment terms for these positions should be for fixed terms (with the possibility of extension).</p>	<p>112 Eligibility for appointment as officer of commission</p>
<p>Recommendation 74</p>	<p>The Committee recommends that the following employment provisions and special conditions should apply to staff working for an ACT Anti-Corruption and Integrity Commission (ACIC):</p> <ul style="list-style-type: none"> (a) staff to have a legislative duty to avoid actual or perceived conflicts of interest. A legislative direction may be appropriate for consequences to follow if the existence of a conflict of interest (real or perceived) is established; (b) staff not to have (or had) any political affiliations; (c) former AFP or ACT Policing police officers are not eligible for appointment to positions within an ACT ACIC; (d) staff to be subject to certain confidentiality requirements. Current or former staff members must not record, divulge or communicate any information acquired in the course of carrying out their duties, except in the performance of those duties; and (e) eligibility for employment to be subject to security clearance/assessments. 	<p>110 Employing staff of the commission (a) 112 Eligibility for appointment as officer of commission (b), (c) 113 Conflict of interest—consultants and contractors (a) 147 Secrecy (d)</p>
<p>Recommendation 75</p>	<p>The Committee recommends that further work be undertaken to identify appropriate exemptions for an ACT Anti-Corruption and Integrity Commission from the operation of the <i>Privacy Act 1988</i>.</p>	<p>Part 1.5 <i>Information Privacy Act 2014</i></p>

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Recommendation 76	The Committee recommends that an ACT Anti-Corruption and Integrity Commission be required, in consultation with the Office of the Privacy Commissioner, to develop and publish information handling guidelines.	149 Information handling guidelines
Recommendation 77	The Committee recommends that further work be undertaken to identify appropriate exemptions for an ACT Anti-Corruption and Integrity Commission (ACIC) from the operation of the <i>Freedom of Information Act 1989</i> .	Part 1.4 <i>Freedom of Information Act 2016</i>
Recommendation 78	<p>The Committee recommends that the ACT Government appoint an independent person to conduct a statutory review of the <i>Public Interest Disclosure Act 2012</i> (the PID Act). The Review, amongst other things, should consider:</p> <ul style="list-style-type: none"> (a) any potential conflict of interest (real or perceived) as it concerns decision makers and disclosure officers under the PID Act; (b) the findings of the Moss Review examining the operation of the <i>Commonwealth Public Interest Disclosure Act 2013</i> as it concerns the strengthening of that legislation to achieve the Act's integrity and accountability aims; (c) the matters raised in submission No. 3 (as detailed in paragraph 3.162) to the Inquiry as it concerns the PID Act; (d) application of the PID Act to any future ACT Anti-Corruption and Integrity Commission (ACIC)—in particular, its articulation with any protected disclosure provisions that may apply to any informants providing assistance to the ACIC or anyone consequently at risk; and (e) the suitability of an ACT ACIC for the purposes of receiving disclosures pursuant to the PID Act. 	Part 1.7 <i>Public Interest Disclosure Act 2012</i>

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Recommendation 79	The Committee recommends that the ACT Government appoint an independent reviewer to examine appointment terms for statutory officer holders in the ACT and make recommendations to strengthen integrity as it concerns appointment of these office holders.	151 Cooperation with other entities
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