

Ref: A7873057

Mr Philip Donato MP
Chair
Committee on the Ombudsman, the Law Enforcement Conduct
Commission and Crime Commission
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Dear Mr Donato

Thank you for the supplementary questions, following the Office of the Public Service Commissioner (OPSC) appearance at the public hearing on 21 March 2025. The OPSC's responses are as follows:

Question 1

How did the recent amendments to the *Government Sector Employment Act 2013* (the Act) expand or reduce any functions relating to the objective to 'promote and maintain integrity, impartiality, accountability and leadership across the government sector', as contained in section 10(a) of the Act?

- a. How will the structural changes impact the independence of your role?

Answer

The Government Sector Employment and Other Legislation Amendment Act 2024 (2024 Amendment Act) made no change to the Commissioner's principal objective under section 10(a) of the Act 'to promote and maintain integrity, impartiality, accountability and leadership across the government sector'.

- a. The 2024 Amendment Act did not impact the Commissioner's independence. The Commissioner continues to be an independent statutory office holder, and the Act continues to provide that the Commissioner is not subject to the control and direction of the Premier in the exercise of the Commissioner's functions.

However, the structures in place to support the Commissioner in the exercise of their functions have changed. The Public Service Commission (PSC) was abolished and the OPSC was established within the Premier's Department. Financial delegations have been finalised for the Commissioner. Employment delegations are yet to be finalised.

Question 2

To what extent are you now involved in the public sector workforce planning, following the transfer of this responsibility to the Premier's Department?

Answer

While the Act no longer assigns to the Commissioner specific responsibility for workforce planning, several of the Commissioner's principal objectives and functions, including equity and diversity and recruitment and selection processes, are considerations for agencies in planning their workforces. The OPSC will continue to work closely with the Premier's Department and the sector in shaping the sector's future workforce.

Question 3

At the public hearing, you noted that there were approximately 130 staff employed at the Public Service Commission before it was restructured (Transcript, p 36).

- a. Can you please provide a more detailed breakdown of all PSC staff movements following the restructure, including the 63 who moved to the Premier's Department or the Cabinet Office?
- b. What roles are being performed by the 16 staff assigned to the Office of the Public Service Commissioner?

Answer

- a. In January 2025, my office received information from the Premier's Department on the impact of the changes on former PSC staff. The figures referenced at the Committee hearing were based on information I received at that time and is as follows:
 - 3 senior executive roles were deleted and impacted staff had their employment terminated and received compensation
 - 3 non-executive staff accepted voluntary redundancy
 - 21 staff were referred to the Workforce Mobility Placement Program (Mobility) and were assigned to roles in other parts of the sector
 - 24 staff were either on long term leave, resigned before they were referred to Mobility, returned to their home agencies if they were on secondment or had their temporary contracts ended
 - approximately 63 remaining staff were assigned to roles in either the Premier's Department or The Cabinet Office, with the majority being assigned to the Workforce Planning Branch in the Premier's Department.
- b.

Role	Grade
Director, Policy and Programs	Senior Executive Band 1
Principal Advisor, Equity and Diversity	Clerk Grade 11/12
Senior Advisor, Equity and Diversity	Clerk Grade 9/10
Advisor, Equity and Diversity	Clerk Grade 7/8
Principal Advisor, Integrity and Ethics	Clerk Grade 11/12
Senior Advisor, Integrity and Ethics	Clerk Grade 9/10
Advisor, Integrity and Ethics	Clerk Grade 7/8
Principal Advisor, Government Sector Employment Rules and Merit	Clerk Grade 11/12
Senior Advisor, Government Sector Employment Rules and Merit	Clerk Grade 9/10
Advisor, Government Sector Employment Rules and Merit	Clerk Grade 7/8
Project Support Officer	Clerk Grade 5/6
Director, Legal Services	Senior Executive Band 1
Principal Lawyer, Legal Services	Legal Officer, Grade 6
Senior Lawyer, Legal Services	Legal Officer, Grade 4
Executive Officer	Clerk Grade 11/12
Senior Executive Assistant	Clerk Grade 9/10

Question 4

What measures are in place to ensure the continuity and effectiveness of key initiatives and programs?

- a. How will the People Matter Employee Survey (PMES) be managed going forward?

Answer

The OPSC's programs of work are aligned to the Commissioner's statutory functions. The work of the OPSC is guided by a 3-year strategic plan (copy enclosed). Both the Policy and Programs team and the Legal Services team have an annual business plan that aligns with the strategic plan.

- a. The Premier's Department is now responsible for managing the PMES and consults with the OPSC in designing survey questions relevant to the OPSC's work, e.g. integrity, and equity and diversity.

Question 5

During the hearing you told the Committee that the inquiry powers under section 83 of the Act and the Public Interest Disclosures Scheme are 'two separate statutory powers' that 'can coexist very neatly' (Transcript, p 39)

- a. When you consider an allegation under section 83, does your preliminary assessment include considering whether the matter should be referred to another integrity agency under the PID Act?
- b. If so, how do you distinguish between matters pertaining to 'serious wrongdoing' or 'maladministration' (under the PID Act) and 'matter[s] relating to the administration or management of a government sector agency' (under the GSE Act)?
- c. Please provide the Committee with the draft of the new Guideline under this section

Answer

- a. If the Commissioner receives an allegation that may merit inquiry under section 83, the matter is reviewed and a preliminary assessment undertaken, having regard to the *Guideline: Inquiries into the administration and management of government sector agencies* published on the PSC website. This includes determining whether the allegation is a PID, and if so, how it should be dealt with, including whether it should be referred to an integrity agency under the PID Act.
- b. Whether a matter pertains to 'serious wrongdoing' or 'serious maladministration' for the purposes of the PID Act depends on the application of the PID Act to the individual facts and circumstances. Where the allegation meets the requirements for a PID, it must be dealt with in accordance with the PID Act.

Whether a matter relates to the 'administration or management of a government sector agency' for the purposes of section 83 of the GSE Act depends on the individual facts and circumstances. The Commissioner is not obliged to conduct an inquiry into every matter raised with them that may concern the administration or management of a government sector agency, nor would this be feasible or appropriate. However, as the Guideline notes, referral of an allegation as a PID does not preclude the Commissioner from conducting a concurrent inquiry under section 83 on broader questions of culture, policy, procedure and practices related to the administration or management of an agency or agencies.

- c. I enclose a copy of the new Guideline, which has recently been finalised. The OPSC is currently arranging for the Guideline to be published on the PSC website.

Yours sincerely



Kathrina Lo
Public Service Commissioner

Date: 28 April 2025