

Principal functions of the Inspector

Question A: You have mentioned at paragraph 26 of the annual report that one of the Inspector's 'limitations' is its inability to conduct a merits review of matters considered by the Commission. In your opinion, is there scope for the Inspector to have a merits review function, or should its role be purely one of process and propriety?

Inspector's response to A: I used the word "limitations" in paragraph 25 of my 2011 Annual Report in the context of the Inspector's functions. I did not mean to suggest in paragraph 26 that I was of the view the Inspector should have a power to conduct a "merits review" of the opinions of the Commission as expressed in Reports to Parliament arising out of the Commission's investigations. I would see such a function as undermining the central role of the Commission in making such Reports to Parliament. It is also difficult to envisage how the Inspector could ever be in a position to conduct such a "merits review" not having carried out the relevant investigation or seen and heard the relevant witnesses give evidence.

Question B: At paragraph 56 of the annual report, you note that you have discussions with the Acting Commissioner concerning the question of timeliness and the allocation of resources to ensure a proper discharge of the Commission's statutory responsibility. In your experience, in what timeframe has the Commission usually conducted an inquiry? Is there an unsatisfactory turnover of complaint matters and, if so, is this a matter of limited resources, insufficient processes or both?

Inspector's response to B: The time taken by the Commission to conduct and complete an inquiry involving public hearings varies considerably depending on the nature of the inquiry and other factors, including, given the particular procedures adopted by the Commission, the timely discharge by Counsel Assisting of his/her functions, especially once the hearings have concluded. As to the time taken to deal with substantial complaints against the Commission, this is complicated by factors such as when, in relation to the matters complained of, the particular complaint was received by the Inspector. However, generally speaking, I think the process of obtaining a response from the Commission to such complaints once the Commission has been notified

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by the Inspector of particulars of the complaint, has been satisfactory in all the circumstances.

Advice from the Commonwealth Director of Public Prosecutions

Following from your 2010 Annual Report, in your 2011 Annual Report you have indicated that the advice from the Commonwealth Director of Public Prosecutions in relation to the relevance to an investigation of lawfully intercepted material gathered by the Police Integrity Commission is a matter solely for the Commission to determine, and that the issue of whether in the circumstances the Commission ought to have excised the offending material did not bear on whether an offence had been committed. At paragraph 142, you note that highly personal information of three individuals was published. You also note that this information was capable of causing each of them embarrassment and was potentially prejudicial to their interest and damaging to their integrity and reputations without justification. Further, at paragraph 146 you have noted that these individuals are left without remedy or protection under legislation or any other law.

Question C: Are there any recommendations you would make in relation to amendments to the legislation to rectify this lack of remedy and protection?

Inspector's response to C: As a result of receiving notice of this Question from the Committee, I forwarded to the Commonwealth Attorney-General a copy of the item, referred to above, from my Annual Report, and requested that the Attorney give consideration as to whether, in the light of my comments, it seemed to him an amendment to the TIA Act was desirable.

Publishing of Complaint Reports in the appendix of the Annual Report

Question D: Have you previously published Complaint Reports that uphold the decisions of the Commission?

Inspector's response to D: Each Annual Report includes a Section containing a reference to all complaints against the Commission received during the relevant period. Where a complaint is dismissed, as the majority have been, the fact that the complaint was dismissed and the grounds on which it was dismissed, are published in the Annual Report. Where I have taken the view, in dismissing such complaints,

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that the circumstances justify the preparation of a full and detailed Report explaining the facts and the reasons for the dismissal of the particular complaint, I have made and published a full Report: see, eg, the Complaint Reports dismissing two complaints by former NSW senior police officers in the Schedule to my 2009 Annual Report.

Question E: Have you considered the impact on the public's perception of the Commission of omitting to publish such Complaint Reports?

Inspector's response to E: See Inspector's response to D.