

OUR REFERENCE NUMBER: A2013/00104



2 June 2016

The Hon. Nick Goiran MLC  
Chairman  
Joint Standing Committee on the Corruption and Crime Commission  
Parliament House  
Perth WA 6000

Dear Mr Goiran

### **Submission to the Joint Standing Committee Inquiry**

Thank you for inviting me to make a submission to the Joint Standing Committee on the Corruption and Crime Commission's ('the Committee') inquiry into the efficiency and timeliness of the current appointment process for Commissioners and Parliamentary Inspectors of the Corruption and Crime Commission in Western Australia.

I am pleased to make a submission.

As it stands, I am the only person to have been appointed the Independent Commissioner Against Corruption ('ICAC') in South Australia. In those circumstances I do not think it appropriate that I express a view as to the advantages or disadvantages of the appointment process. Rather, I will confine my submission to an outline of the process for appointment of the ICAC and the annual reviewer.

The position is somewhat unique in South Australia in that the ICAC does not preside over a commission. Rather, the ICAC himself or herself is the holder of the office in which statutory functions are invested. The ICAC may engage or second staff to assist in the discharge of those statutory functions. The ICAC and his or her staff are regarded as a law enforcement body.<sup>1</sup>

The ICAC is appointed by the Governor.<sup>2</sup>

Before an appointment can be made, the Attorney-General must ensure that the position is advertised in a newspaper or newspapers circulating in each State or Territory.<sup>3</sup>

The Attorney-General must, upon identifying a suitable candidate, refer the proposed appointment to the Statutory Officers Committee, established pursuant to section 15G of the *Parliamentary Committees Act 1991*.

<sup>1</sup> *Independent Commissioner Against Corruption Act 2012*, section 52.

<sup>2</sup> *Ibid*, section 8(1).

<sup>3</sup> *Ibid*, section 8(4).

Having referred the proposed appointment to the Committee, the appointment cannot be made unless:

- 1) *the appointment has been approved by the Committee; or*
- 2) *the Committee has not, within 7 days of the referral, or such longer period as is allowed by the Attorney-General, notified the Attorney-General in writing that it does not approve the appointment.*<sup>4</sup>

I note that membership of the Statutory Officers Committee will soon change with the introduction of an amendment to section 15G of the *Parliamentary Committees Act 1991*. That amendment, which is to be found within the *Judicial Conduct Commissioner Act 2015*, will provide that a Minister of the Crown is ineligible for appointment to the Committee. The amendment will come into effect when proclaimed.

In South Australia the ICAC does not have a Parliamentary Inspector. Rather, the ICAC and the Office for Public Integrity are subject to an annual review of their operations. That annual review is conducted by a person appointed by the Attorney-General.<sup>5</sup> To be eligible for appointment as the annual reviewer, the appointee must be a person who would be eligible for appointment as the ICAC.

Since the ICAC and the OPI commenced in September 2013, annual reviews have been conducted by the Hon. Kevin Duggan AM QC.

I trust this submission is of use to the Committee and I wish the Committee well in its inquiry.

Yours faithfully



The Hon. Bruce Lander QC  
**INDEPENDENT COMMISSIONER AGAINST CORRUPTION**

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<sup>4</sup> Ibid, section 8(5).

<sup>5</sup> Ibid, section 46(1).