

Queensland Integrity Commissioner

Annual Report 2014-15

The Integrity Commissioner is an independent officer of the Parliament who advises senior Queensland public officials on ethics or integrity issues

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The Honourable Peter Wellington MP
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Ms Di Farmer MP
Chair
Finance and Administration Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Speaker

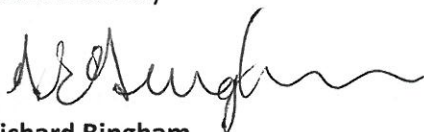
Dear Ms Farmer

I am pleased to provide you with the Annual Report of the Integrity Commissioner for the 12 months ending 30 June 2015. It is the first such report that I have prepared, and covers the period since my appointment on 1 July 2014.

It is the sixth report under the provisions of s. 85 of the *Integrity Act 2009*, and complies with the provisions of that section.

Previous Annual Reports were provided to the Premier as required by the provisions of the *Public Sector Ethics Act 1994*. Since 1 January 2010, when the *Integrity Act 2009* came into force, the Integrity Commissioner has been an officer of the Parliament.

Yours sincerely



Richard Bingham
Queensland Integrity Commissioner

16 July 2015

About this report

This Annual Report provides information about the Integrity Commissioner's financial and non-financial performance for 2014-15. It has been prepared in accordance with the *Financial Accountability Act 2009* and the *Financial and Performance Management Standard 2009*.

This report has been prepared for the Speaker and the Finance and Administration Committee for tabling in the Legislative Assembly.

The Queensland Government is committed to providing accessible services to Queenslanders from all cultural and linguistically diverse backgrounds. If you have difficulty understanding the Annual Report, you can contact us on 07 3003 2888 and we will arrange an interpreter to effectively interpret the report to you.

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1. The 2014-15 year in review

This section summarises significant developments in the past year. Further detail is provided in relevant sections of this report.

Strategic review

Chapter 6 of the *Integrity Act 2009* deals with strategic reviews of the Integrity Commissioner's functions. Section 86(2) says the first review under this section 'must be conducted within 4 years of the commencement of this section'. The Act, including s. 86, commenced on 1 January 2010.

Section 86 of the Act requires that a review of the office should be completed within four years of the commencement of that section i.e. by 1 January 2014. The review was therefore required to be conducted by 31 December 2013.

The first review initially was deferred as a result of the then government's wish to deal with its Open Government agenda, and because of the changeover in Integrity Commissioners at 1 July 2014.

However, by letter dated 24 November 2014 the then Premier, Hon. Campbell Newman MP, advised me that the government proposed to commence the review, and sought my views on the terms of reference and the proposed reviewer. I responded on 27 November 2014 agreeing to both.

On 11 December 2014, the Governor in Council appointed Professor Peter Coaldrake to conduct the review. The practical commencement of the review was deferred until after the State election held on 31 January 2015.

Section 86(8) requires that the review should include a review of the commissioner's performance of the functions to assess whether they are being performed economically, effectively and efficiently.

Under the arrangements agreed with Professor Coaldrake, the review was due to be finalised by 30 June 2015, and its final report is required to be tabled within three sitting days of its receipt by the Premier. In accordance with the requirements of s. 88(2) of the Act, I took the opportunity to comment on Professor Coaldrake's proposed report, and I indicated my broad agreement with its content.

Requests from designated persons – chapter 3 part 2 of the Integrity Act 2009

I held 85 individual meetings with Ministers, Assistant Ministers, Directors-General and others to explain the role of the Integrity Commissioner and to emphasise my availability to provide advice under the Act.

I responded to 73 requests for advice from designated persons, and in respect of lobbying matters. This compares with an annual average of 74.4 such requests over the past five years.

Advice is provided in accordance with a very strict confidentiality provision in the Act. However, in my view there is a public interest in ensuring that the public has confidence in the advice provided by the Integrity Commissioner. It is difficult for the public to have this confidence if they are made aware that advice has been given, and that the advice supports a particular course of action taken by the designated person, but the detail of the advice is not then fully disclosed.

Meetings with MPs on interests issues – chapter 3 part 3 of the Integrity Act 2009

I held six such meetings with members in 2014-15. Three resulted in the need for a request for advice to be put in writing.

Whilst to some extent the Integrity Commissioner's function of meeting with members to discuss interests issues may be seen to overlap with the duties of the Clerk of the Parliament in his capacity as the Registrar of Members' Interests, this has not so far proven to be problematic.

Regulation of lobbying – chapter 4 of the Integrity Act 2009

There has been a decrease in the activity associated with the office's regulation of lobbying over the past year, largely because:

- a better understanding of the system by lobbyists has reduced the number of incorrect and unnecessary entries in the registers; and
- the maturation of the system has led to a change in business model for many lobbyists, who have responded by offering services as consultants with little actual lobbying contact.

My view is that the existing lobbying regulatory regime has now bedded down, leading to a reduction in the number of queries coming into the office.

I am not aware at this time whether the government proposes to make any changes to the scope of the regime to include in-house or industry lobbyists. In my view the current regime should be reassessed having regard to this issue. The matter was considered by the strategic review of this office, and I expect that in due course it will be considered by government in this context.

Declarations of interest

I have continued to receive and review declarations of interests from certain statutory office holders, Directors-General and others, as required under the Integrity Act and other policy requirements.

I have not pursued previous proposals to expand the role of the Integrity Commissioner in reviewing these declarations, with a view to identifying possible conflicts of interest. In the absence of specific knowledge about the competing public duties of individual office-holders, the Integrity Commissioner is unlikely to be able to add significant value to the integrity performance of government in this way.

Contribution to public awareness and understanding of ethics or integrity issues

As noted above, I held 85 individual meetings with Ministers, Assistant Ministers, Directors-General and others to explain the role of the Integrity Commissioner, and to emphasise my availability to provide advice under the Act.

I expect the office's upgraded website to become available online in the very near future.

2. Requests from designated persons – chapter 3 part 2 of the *Integrity Act 2009*

My comments on the performance of this function are necessarily expressed in a generalised and unspecific manner. This is dictated by the requirement in s. 85(3) of the Integrity Act that the annual report 'must not disclose information likely to identify a specific request for the Integrity Commissioner's advice on an ethics or integrity issue, including information likely to identify' anyone requesting advice or about who advice was requested.

Numbers of requests for advice

The number of requests for advice from designated persons continues at a comparable level to recent years.

During the year, I held 85 individual meetings with Ministers, Assistant Ministers, Directors-General and others to explain the role of the Integrity Commissioner and to emphasise my availability to provide advice under the Act.

Seventy-three requests for advice were received in 2014-15. The following table summarises the number of requests for advice received from designated persons since the office was established. It also includes formal advice given about lobbying matters since the commencement of the Act:

Year	Number of requests received		
	Designated persons	Lobbying advice	TOTAL
2000-01	14	NA	14
2001-02	25	NA	25
2002-03	24	NA	24
2003-04	21	NA	21
2004-05	31	NA	31
2005-06	30	NA	30
2006-07	39	NA	39
2007-08	40	NA	40
2008-09	29	NA	29
2009-10	57	13	70
2010-11	40	25	65
2011-12	67	14	81
2012-13	68	23	91
2013-14	41	24	65
2014-15	60	13	73

Time taken to respond to requests

In 2014-15, approximately 90% of responses were provided by the close of the next business day following receipt of the request. Over the period since 2009-10, the two principal reasons for responses taking more than three business days were:

- the request involved complex issues requiring detailed research; and
- a designated person had not provided the required authority from their chief executive.

Further detail on the timeframes within which advice has been provided over the period since 2009-10 appears in the following table:

Year	Total	Same business day	Next business day	Within 2 business days	Within 3 business days	More than 3 business days
2014-15	60	22 (36.7%)	32 (53.4%)	2 (3.3%)	2 (3.3%)	2 (3.3%)
2013-14	38	10	13	9	2	4
2012-13	59	24	19	9	3	4
2011-12	59	18	27	9	2	3
2010-11	37	13	15	2	1	6
2009-10	53	19	16	5	2	11
TOTAL	306	106	121	36	12	30
		(34.6%)	(39.9%)	(11.8%)	(3.9%)	(9.8%)

Sources of requests

The following table indicates in general terms the source of each request for advice received in 2014-15:

Premier and other Ministers	19
Assistant Ministers	2
Other MPs	13
Directors-General	7
Other designated persons	19
DESIGNATED PERSONS	60
Lobbying – formal advice	13
FORMAL ADVICE 2014-15	73

Issues considered

Most requests for advice concerned conflicts of interest of various kinds, some of which are detailed below. There was also a significant number of requests for advice about restrictions that apply when people cease to hold their public sector positions and move to other, private, employment.

The conflicts issues included:

- conflicts of interest about post-separation employment
- conflicts of interest arising from the interests of relatives
- conflicts of interest arising from share holdings
- conflicts of interest of staff
- conflicts of interest arising from a member's constituency interests.

The requests for advice about lobbying issues are not necessarily 'advice on ethics or integrity issues' of the kind specified in part 2, chapter 3 of the Act, although a few were. Some requests were not from designated persons, but from people concerned with lobbying.

I am also asked occasionally to provide advice about other matters, such as proposed amendments to legislation or policies. Again, this is not 'advice' of the kind specified in the Act, but an opinion.

Confidentiality of advice

The Act imposes a high level of secrecy on the work of the Integrity Commissioner in providing advice to designated persons. It also provides for 'authorised disclosures' in various circumstances detailed in ss. 25 to 39. The Integrity Commissioner may not make public the name of a designated person who has sought advice or the advice that was given. However the person who has been given advice may disclose it to anyone, and may make it public.

In his final annual report,¹ my predecessor commented on the issue of disclosure of advice which he had given, and the possibility that it may not be disclosed in a way that reflects the advice accurately. He concluded that, in view of the strict secrecy provisions in the Act,² the ultimate sanction available to the Integrity Commissioner if this occurs is to decline to provide further advice to a person.

I agree with this position. The Act needs to strike a balance between competing policy aims, namely that of transparency on the one hand and encouraging people to seek advice to deal with problems before they arise on the other. It clearly places a high priority on the latter, and in my view this is one of its principal strengths.

¹ See Integrity Commissioner *Annual Report 2013-2014*, pp 18-19.

² See especially ss.24 and 7(2) of the *Integrity Act 2009*.

However, there is a public interest in ensuring that the public has confidence in the advice provided by the Integrity Commissioner. It is difficult for the public to have this confidence if they are made aware that advice has been given, and that the advice supports a particular course of action taken by the designated person, but the detail of the advice is not then fully disclosed.

I agree with the principle that disclosure of advice should only occur if the recipient chooses to do so. However, if the fact of advice having been given is made public, then in my view the relevant advice should be disclosed in full. Indeed I seek to prepare advice on the basis that in each case it could be released as a public document.

3. Meetings with MPs on interests issues – Chapter 3 Part 3 of the *Integrity Act 2009*

Meetings held with members

The Integrity Act provides that members of the Legislative Assembly may request a meeting with the Integrity Commissioner relating to their declarations of interest on behalf of themselves or a related person, and particularly as to whether any conflicts of interest might arise.

The Act provides that advice may be given orally in these meetings. However, whilst I have discussed issues with members, it has been my practice to inform them that I would only provide them with formal advice in writing. I have done so to ensure there can be no doubt about the facts upon which the advice is provided, or the nature of the advice that is given.

I held six such meetings with members in 2014-15. Three resulted in the need for a request for advice to be put in writing.

Meetings with members are subject to the same confidentiality obligations as apply in relation to the provision of advice to designated persons, and hence any comment which I make about them must be general in nature. As with designated person advice, most meetings with members concerned conflicts of interest of various kinds.

Registers of interests

Under chapter 4, part 2A of the *Parliament of Queensland Act 2001*, members are obliged to lodge statements of interests with the Clerk of the Parliament, who for this purpose is designated as Registrar of Members' Interests. The statements are required to cover the interests of members and 'related persons', who are spouses and dependents of members.

It is necessarily the case that the Registrar will provide advice to members as they fulfil their statement of interests responsibilities.

Whilst to some extent the Registrar's duties in this respect may be seen to overlap with the Integrity Commissioner's function of meeting with members to discuss interests issues, this has not so far proven to be problematic. As a matter of practicality I have agreed with the Registrar that he will provide advice to members about what needs to be included in the registers, and I will provide advice about any conflict of interest issues arising from those interests.

4. Regulation of lobbying – chapter 4 of the *Integrity Act 2009*

The lobbying regime established by the Integrity Act is now fully operational, with an amended Lobbyists Code of Conduct having commenced operation from 12 September 2013. I believe that the regime is well understood, and the relevant lobbyists have amended their practices to accommodate it.

In summary, the existing lobbying regulatory regime has now bedded down, and this has led to a reduction in the number of queries coming into my office.

Registration of lobbyists

The Integrity Commissioner became responsible for the Lobbyists Register on 1 January 2010, when the Act came into force. At that point, there were 65 registered entities, with 188 registered lobbyists having 695 clients. As at 30 June 2015, the Register contained the names of 158 registered entities, 312 registered lobbyists and 1,644 clients.

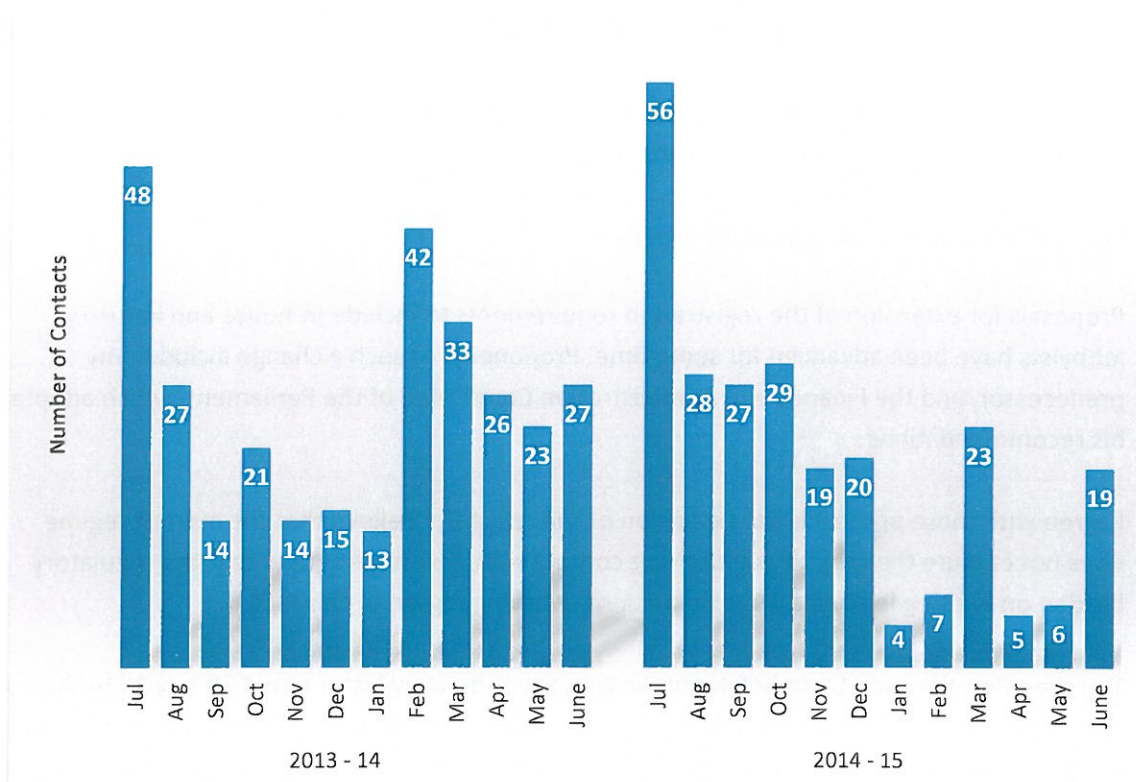
This table shows the way the registration figures have changed.

Date	Registered entities	Registered lobbyists	Clients (Current and previous combined)
01/01/2010	65	188	695
30/06/2010	97	225	1,332
30/06/2011	134	350	2,815
30/06/2012	154	374	2,700
30/06/2013	159	379	2,835
30/06/2014	153	315	1,757
30/06/2015	158	312	1,644

The numbers of registered entities, registered lobbyists and clients have remained largely consistent over the last 12 months, although there have been some changes in the names registered.

Extent of lobbying activity

The following graph demonstrates the number of contacts recorded in the lobbyist contact logs administered by the office in 2013-14 and 2014-15:



This graph demonstrates that the number of lobbying contacts with senior government representatives recorded by lobbyists has dropped in recent months.

I consider that this trend is due to several factors. A better understanding of the system by lobbyists has reduced the number of incorrect and unnecessary entries; the State election period brought about a reduction in activity; and the resultant change of government caused some reorganisation among the lobbying identities, especially those who were seen as politically aligned.

Anecdotally, there has also been some change in Ministers' attitudes to meeting with lobbyists. I understand that some Ministers have been refusing to meet with them, preferring to deal directly with their clients. This has led to a change in practice for many lobbyists, who have responded by offering services as consultants with little actual lobbying contact.

In the past year, my office has not systematically compared lobbying activity as reported by lobbyists with other sources such as Ministerial diary extracts and agency records of contact with lobbyists. The commencement of my term of office, followed by the pre-election period, meant that the timing was not optimum. However, I have requested agencies to provide registers for June 2015, and the analysis process will take place early in the 2015-16 year.

I have included local government councils in this request for information.

Requests and meetings concerning lobbying

Over the past year I received and responded to 13 requests for advice about lobbying. Some of these requests were from designated persons, and some of them raised integrity issues.

I met with two lobbyists during the year to discuss the operation of the lobbying regime, and with five local government organisations for the same purpose.

Scope of the Queensland regulatory regime

Proposals for extension of the registration requirements to include in-house and industry lobbyists have been advanced for some time. Proponents of such a change included my predecessor, and the Finance and Administration Committee of the Parliament, which adopted his recommendations.

I agree with those proposals for expansion of the register. I believe that the current regime does not capture the majority of lobbying contact with government, and that the regulatory burden on existing lobbyists is disproportionate having regard to this fact.

The then Premier, Hon Campbell Newman MP, advised me by letter dated 28 July 2014 that the government of the day considered that such a change would involve a fundamental change to the scope of the Act and would impact on a range of businesses, industry associations and peak bodies, and that it was of the view that the Act currently strikes the right balance between openness and accountability and the Government's objective to minimise the regulatory burden.

I am not aware whether the current government proposes to make any changes to the scope or operation of the lobbying regulations to include in-house and industry lobbyists at this time. However, I am aware that the issue has been addressed in the strategic review of this office, and I expect that it will be considered by government in this context.

Developments in New South Wales

Amendments to the *Lobbying of Government Officials Act 2014* (NSW) commenced on 1 December 2014. The amendments implemented the NSW government's response to the Independent Commission Against Corruption's 2010 report *Investigation into corruption risks involved in lobbying*.

The amendments replaced the previous administrative regime for regulating lobbying activities with a legislative scheme that established the NSW Electoral Commission as a new independent regulator of lobbying. The NSW Electoral Commission now maintains and enforces the Register of Lobbyists and the *Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014*, which also took effect on 1 December 2014.

The prescribed *NSW Lobbyists Code of Conduct* is closely based on the previous administrative code, but it imposes a set of ethical obligations on all organisations seeking to influence government policy and decision-making. The previous code only applied to third party lobbyists (i.e. as in Queensland, professional lobbyists who are in the business of representing the interests of another person or body).

The new arrangements in NSW also include a new enforcement mechanism, the Lobbyist Watch List, to be published by the Electoral Commission on the same website as the Lobbyists Register. The Electoral Commission may determine that the names and other identifying details of any organisation seeking to influence government policy and decision-making (i.e. not only third party lobbyists) should be published on the watch list because of a contravention of legislation or the lobbyist code. The watch list operates alongside the sanction of removal from the register of a third party lobbyist for contravention of legislation or the lobbyist code.

Conclusions

Against this background, the benefits of the current lobbying regime in Queensland may be perceived as limited. The regime has effectively reduced the extent of lobbying undertaken by registered lobbyists, but it does not capture a significant percentage of the lobbying activity undertaken by others who are not required to be registered.

Companies and individuals seeking to influence government can avoid the need for transparency inherent in the lobbyist register by undertaking their contact with government in different ways, for example by using parties who fall within an exemption (such as their own employees, industry groups or lawyers).

There is little doubt that the current Queensland regime provides greater transparency about who is seeking to influence government than would be the case if it did not exist. However, the introduction of the new arrangements in New South Wales suggests that it would be timely to reassess the extent of the Queensland regime.

5. Declarations of interests

The Integrity Act provides in s. 72C that various statutory offices must provide a copy of their declarations of interest to the Integrity Commissioner. Chief executives are required by s. 101 of the *Public Service Act 2008* similarly to provide copies of their declarations of interest to the Integrity Commissioner.

Section 85(2) of the Act requires me to provide details of compliance by statutory office holders and chief executives of departments with the respective requirements of s. 72C of the Act and s. 101 of the *Public Service Act* to give the Integrity Commissioner statements and written advice.

I can report that, as at 30 June 2015, all statutory office holders and chief executives had complied with these requirements.

No Act indicates what happens with those declarations once made, though the *Public Records Act 2002* requires that they be retained by the Integrity Commissioner.

My predecessor has previously suggested that the Integrity Commissioner should examine declarations of interest to identify possible conflicts of interest arising from them.³ I understand that this suggestion was considered in 2011-12, but a proposed amendment to legislation then being considered was not proceeded with.

My predecessor raised the matter again with the Department of Premier and Cabinet in March 2014, but did not hear anything further in response before his retirement on 30 June 2014. I have also heard nothing further since that time.

I acknowledge that the suggestion may have a beneficial effect in drawing interests matters to the attention of a relevant officeholder. However, it raises two issues:

- a conflict of interest by its nature involves more than one competing interest. An office-holder's declaration only gives half the picture and it may not be helpful (or may even be misleading) to consider an interest without the surrounding context of the competing interest; and
- there are different regimes regarding declaration requirements depending on the office which is involved. They seem to be based on who should be the principal recipient of a disclosure, i.e. who it is most important to inform of a person's interests. This raises the issue of who should conduct any such examination of declarations.

Possibilities include:

- the Integrity Commissioner
- in the case of Members of Parliament, the Clerk of the Assembly. The traditional accommodation is that the Clerk advises about what should go in the register, and the Integrity Commissioner advises about the implications of those interests

³ See Integrity Commissioner *Annual Report 2011-2012*, p10.

- in the case of Directors General, the relevant Minister
- for Senior Executive Service members, the relevant Director General.

Having considered the nature of the declarations which my office receives, I am not persuaded that there is likely to be any significant enhancement of the integrity performance of government if my office were to assume a more substantial role in questioning or scrutinising the declarations.

Nonetheless, in my view the disparate obligations about lodging declarations of interests draw attention to the desirability of rationalising the disclosure regimes across all offices.

I consider also that there is a case to be made for the publication of all declarations provided to the Integrity Commissioner, and/or other office holders. A general obligation of this nature would expand on and mirror that applying to Members of Parliament, and would ensure that when a topical issue arises, the public can themselves understand the nature of any possible competing interest held by a government representative.

However, the privacy and recruitment implications of such a change would require close consideration.

6. Contribution to public awareness and understanding of ethics or integrity issues

One of the functions of the Integrity Commissioner set out in s. 7 of the Integrity Act is to raise public awareness of ethics or integrity issues by contributing to public discussion of those issues relevant to the Commissioner's functions.

Meetings and workshops

Under the Ministerial Code of Conduct⁴ I am required to meet at least once in each year with each Minister to discuss their compliance with the code. Over the past year I met personally with each Minister and Assistant Minister in the Newman and Palaszczuk governments (often with the relevant Chief of Staff) for this purpose. At these meetings, I also took the opportunity to explain the role of the Integrity Commissioner and to emphasise my availability to provide advice to designated persons.

I also held introductory meetings with each Director-General, and with many statutory office holders.

In total I held 85 such meetings with Ministers, Assistant Ministers, Directors-General and others.

I also had meetings and attended workshops or conferences with several organisations in relation to both integrity and lobbying matters. In particular, I had five meetings with specific local government bodies in relation to lobbying.

Website

Perhaps the most basic way in which the Integrity Commissioner may contribute to the relevant public discussion is by making information available to anyone who is interested through the website, www.integrity.qld.gov.au.

This site was opened on 6 April 2001, and updated in the first half of 2010. At that time, much of the material that was on the site was rewritten, to reflect changes that were brought about in part by the enactment of the Act. It also acquired a completely new section, dealing with lobbyists.

Over the past year my office has reviewed the operation of the website, and I expect an upgraded website to become available in the very near future. This will include presenting all

⁴ Ministerial Handbook published by the Department of Premier and Cabinet, p.63, Appendix 1, *Ministerial Code of Conduct*, available at <http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/assets/ministerial-handbook.pdf>, viewed on 17 June 2015.

existing information in more easily accessible formats, together with publication of the office's policies and business plan.

The Lobbyists Register is now published on the site and is searchable for registered entities, employed lobbyists and organisations that employ lobbyists to lobby for them. An earlier upgrade for this part of the website allows lobbyists to alter their own entries on the register. There is also a section recording all lobbying contacts by lobbyists.

The website includes papers and presentations by Integrity Commissioners past and present, and the most recent annual reports.

Date range	No. Visits to website (year)	No. visits to website (monthly average)	No. page views (year)	No. page views (monthly average)
1 July 2013 – 30 June 2014	7,626	635.5	23,000	1,916
1 July 2014 – 30 June 2015	7,859	654.9	22,804	1,900

Presentations and submissions

On 19 March 2015 I addressed the new members of the recently elected Legislative Assembly about the role of my office, and my availability to provide advice to them as designated persons. This formed a part of the induction program for the members, run by the Clerk of the Parliament.

On 3 November 2014, I made a submission to the Senate Legal and Constitutional Affairs Committee concerning the *Freedom of Information Amendment (New Arrangements) Bill 2014* (Commonwealth), which was referred to the committee for inquiry and report by 25 November 2014. Amongst other things, that legislation seeks to disband the Office of the Australian Information Commissioner (**OIAC**).

I expressed the view that the OIAC model which integrates privacy and FOI issues is best practice, and that this integration will be lost under the arrangements proposed by the Bill. I noted also that in my view most right to information systems across the country are not working as effectively as they might, both in terms of meeting their broad objectives and in terms of efficiency.

7. The Integrity Act 2009 - other administrative matters

Meetings with Parliamentary Committee

I met with the Parliament's Finance and Administration Committee, which has oversight jurisdiction of the Integrity Commissioner, for a personal introductory meeting shortly after taking up my position. I appeared before the Committee at Estimates hearings on 15 July 2014, and in a public briefing in fulfilment of the Committee's statutory oversight function held on 26 November 2014.

The Hansard record of these meetings has been tabled in the Parliament.

The Integrity Commissioner's declarations

In accordance with s. 80 of the Integrity Act I have provided the Speaker with my own declaration of interests and with a declaration covering a related person (my wife) along with several amendments.

The Integrity Committee

Since 2001, an informal meeting has been convened occasionally of what is known as the Integrity Committee. Apart from the Integrity Commissioner, those invited to attend are the Chair of the Crime and Corruption Commission, the Auditor-General, the Ombudsman, the Information Commissioner and the Commission Chief Executive of the Public Service Commission.

There were two meetings of the group in 2014-2015, held on 22 August 2014, and 14 May 2015.

Staffing support

Over the period 25 August 2014 – 17 October 2014 I took leave which had been arranged prior to my taking up the position of Integrity Commissioner. My predecessor, Dr David Solomon AM, was appointed as Acting Integrity Commissioner during this period, and I record my appreciation to him for acting in the role for this time.

The Integrity Commissioner has the support of a full-time Executive Coordinator. The position has been filled for the past 10 years by Mrs Mattea Slinger. I am grateful for her extremely capable support.

In January 2010, two additional positions were created within the office to maintain the Lobbyists Register and other matters concerning lobbying. Deborah Clark-Dickson is the Principal Policy Officer (Lobbying). Craig Hunter is the Research Support Officer (Lobbying) and was responsible for upgrading the office's website.

The competence and dedication of Deborah and Craig has ensured that the Lobbyists Register is kept accurate and up-to-date. Most requests for registration are dealt with within two days.

Workload of the Integrity Commissioner

Before the commencement of Act on 1 January 2010, the position of Integrity Commissioner was filled on the basis of two days work per week. This was increased to full-time when the office first became responsible for the lobbying function on 1 January 2010; and on 1 July 2010 it was reduced to the equivalent of four days per week.⁵

Since my appointment I have continued the four days a week arrangement.

However, as a result of the reduction in lobbying responsibilities outlined above, I have suggested to the strategic review that consideration should be given to the desirability of the office reverting to the original two days per week arrangement. If the jurisdiction of the role is changed as a consequence of the outcome of the strategic review, that suggestion would need to be reassessed.

⁵ See Queensland Integrity Commissioner, *Annual Report 2009-2010*, p 13.

8. Compliance disclosures

The Code of Conduct for the Queensland Public Service, approved by the Premier for adoption, if appropriate, by public service agencies, is the Code to which the Integrity Commissioner and staff adhere.

A copy of the Records Retention and Disposal Schedule (QDAN 629 v.3) developed for the Queensland Integrity Commissioner and approved by the Queensland State Archivist on 29 November 2010 is available on the Queensland State Archives website, www.archives.qld.gov.au.

No consultants were used.

No public interest disclosures under the *Whistleblowers Protection Act 1994* or the *Public Interest Disclosure Act 2010* were received by the office.

Right to Information

During 2013-14, one request was received concerning a lobbying matter, and my office's decision not to release the requested information was appealed by the applicant to the Information Commissioner. The Commissioner advised me that, following consultations, the applicant agreed not to pursue access to certain categories of information, comprising:

- lobbyist client identities
- information concerning those clients' issues/affairs/projects and outcomes
- Ministerial and Integrity Commissioner staff names and contact particulars.

On 28 July 2014 I advised the Commissioner that in these circumstances I had no objection to release of the information. On 3 September 2014 the Commissioner advised that my preparedness to release the information appeared to resolve all outstanding issues.

No information may be provided about the Integrity Commissioner's activities under chapter 3 of the Act – see schedule 1 – “Documents to which this Act does not apply” - of the *Right to Information Act 2009*. Section 6 of that schedule says –

6 Documents received or created by integrity commissioner for *Integrity Act 2009*, ch 3

A document created, or received, by the Queensland Integrity Commissioner for the *Integrity Act 2009*, chapter 3.

This Annual Report, the Privacy Plan and Statement of Affairs of the Integrity Commissioner are available on the website, www.integrity.qld.gov.au.

9. Financial statement

Office of the Integrity Commissioner Revenue and Expenditure for the year ended 30 June 2015

	2014/15	2013/14
Revenue from ordinary activities		
Output revenue	694,289	708,927
Total revenue from ordinary activities	694,289	708,927
Expenses from ordinary activities		
Employee Expenses		
Salaries and wages and related costs	436,124	395,772
Salary-related taxes	5,677	27,753
Superannuation	60,458	57,022
Other employee expenses	21,686	20,102
Total employee expenses	523,945	500,649
Supplies and services		
Building Services	62,715	68,858
Consumables	1,283	1,417
Corporate Technical Services SSP	88,000	88,020
Depreciation	649	973
External computer charge	1,259	
Minor plant and equipment		1,940
Other Administrative Expenses	1,146	23,676
Parking	9,120	9,196
Telecommunications costs	3,614	3,082
Travel costs	2,558	11,116
Total supplies and services	170,344	208,278
Total expenses from ordinary activities	694,289	708,927
Net Operating Result	-	-

The Office of the Integrity Commissioner is an independent entity created by Statute.

For reasons of economy and efficiency, funding and administrative support is received through the Public Service Commission. Corporate services and asset replacement have been provided through the Public Service Commission.

Appendix 1 - Who is the Queensland Integrity Commissioner?

Richard Bingham was appointed as Queensland's fourth Integrity Commissioner on 1 July 2014, for a three-year term.

Richard was previously the South Australian Ombudsman, having served for five years from 2009-14. Before that he was the inaugural chair of the Tasmanian Electoral Commission, and he was Secretary of the Tasmanian Department of Justice from 1994-2004.

He has a background in legal policy and law reform.



The position of Queensland Integrity Commissioner was established in 1999 by amendments to the *Public Sector Ethics Act 1994*. The Honourable Alan Demack AO, a former judge of the Supreme Court of Queensland, took office as the first Integrity Commissioner in August 2000, and retired on 30 June 2004.

He was succeeded by Mr Gary Crooke QC, who served a five-year term until 30 June 2009. Mr Crooke had a distinguished legal career that included serving as Senior Counsel assisting the Fitzgerald Inquiry, 1987-89 and Chairman of the National Crime Authority, 1999-2002.

In turn, Mr Crooke was succeeded by Dr David Solomon AM, who held office for a five-year term from 1 July 2009 to 30 June 2014.

Dr Solomon spent most of his working life in Canberra, writing about politics and the law, for such newspapers as *The Australian*, *The Australian Financial Review* and *The Canberra Times*. He moved to Brisbane in 1992 to chair the Electoral and Administrative Review Commission, and, when that Commission was wound up, began writing for *The Courier-Mail* as a Contributing Editor. He retired from full-time journalism at the end of 2005.

Dr Solomon was Chair of the Independent Panel appointed by the Bligh Government to review Queensland's Freedom of Information laws in 2007-08. He received the Centenary Medal in 2001, and was appointed a Member of the Order of Australia in 2006.

Appendix 2 - The roles and functions of the Integrity Commissioner

Adviser and regulator

The Integrity Commissioner has two main functions

- to provide advice (if asked) to Ministers, Members of Parliament, senior public servants and others on ethics or integrity issues; and
- to regulate contact between lobbyists and government and Opposition representatives, 'so that lobbying is conducted in accordance with public expectations of transparency and integrity' (*Integrity Act 2009*, s. 4).

The responsibilities and duties of the Integrity Commissioner are detailed in the Integrity Act. They were originally contained in the *Public Sector Ethics Act 1994*.

The functions of the Integrity Commissioner are set out in section 7 of the Integrity Act. They are:

- (a) to give written advice to a designated person on ethics or integrity issues;
- (b) to meet with, and give written or oral advice to, members of the Legislative Assembly;
- (c) to keep the lobbyists register and have responsibility for the registration of lobbyists;
- (d) to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the integrity commissioner's functions.

The integrity function

The Integrity Commissioner's role in providing advice on ethics or integrity matters, including conflict of interest issues, is limited. Advice may only be given when it is sought by a 'designated person'. The Act specifies who are or may be the 'designated persons' that the Integrity Commissioner may assist. Essentially they are Ministers, Members of Parliament (though Opposition MPs were only added by an amendment that came into effect in September 2009), statutory office holders, chief executives of government agencies, senior executive officers and senior officers, staffers of Ministers and Assistant Ministers and other people who may be nominated by a Minister or Assistant Minister.

There are more than 5,000 people who fit the description of a designated person. However senior executives, senior officers and senior officer equivalents, who together constitute the overwhelming majority of the designated persons, may only seek advice if they have the signed authority of their chief executive.

The term 'conflict of interest' is defined in the Integrity Act:

Conflict of interest issue, involving a person, is an issue about a conflict or possible conflict between a personal interest of the person and the person's official responsibilities.

The underlined words were added to the definition originally in the Public Sector Ethics Act to bring in the notion of a possible conflict, and to extend what were first described as 'official duties' to 'official responsibilities'.

Requests for advice on ethics or integrity issues must be in writing. The Integrity Commissioner must base the advice provided on relevant approved codes of conduct or approved ethical standards and such other standards as the Integrity Commissioner considers appropriate. The advice must be in writing. The Integrity Commissioner may only decline to provide advice if the Integrity Commissioner reasonably believes that not enough information has been provided in relation to the issue or that giving the advice would not be in keeping with the purpose of the Integrity Act.

Requests for advice, and the advice given, are confidential, and are not subject to disclosure under the *Right to Information Act 2009*. However a person who receives advice may disclose it.

The Premier may ask for the Integrity Commissioner's advice involving any person who is or has been a designated person, other than a non-government MP. The Premier may also ask for advice on standard setting for ethics or integrity issues.

Others in leadership positions – the Leader of the Opposition, Ministers, Assistant Ministers and chief executives – may ask for the Integrity Commissioner's advice on an ethics or integrity issue involving a designated person for whom they have responsibility, as set out in ss. 17 – 20 of the Integrity Act.

Members of the Legislative Assembly may request a meeting with the Integrity Commissioner to discuss ethics or integrity issues arising from their declaration of interests in the Parliamentary register of members' interests or the register of related persons' interests. The Integrity Commissioner may give such advice either orally or in writing.

The lobbyists function

Since 2010 the Integrity Commissioner has been responsible for administering the regulation of lobbying activities under the Integrity Act. This involves the maintenance of the Lobbyists Register and approval of a code of conduct for lobbyists. The regulatory system is based on the requirement, in s. 71 of the Act, that 'government representatives' must not knowingly permit an entity that is not a registered lobbyist to carry out a lobbying activity for a third party client with the government representative.

'Government representative' is broadly defined. It includes the Premier, Ministers, Assistant Ministers and their respective staff members, chief executives and the staff of their departments, local government councillors and chief executives and staff of councils, the parliamentary staff, and the chief executives and staff of government owned corporations.

Since December 2012 the Act has also covered lobbying of the Leader and Deputy Leader of the Opposition and the Leader's staff.

'Lobbyist' is narrowly defined. While 'lobbying' has a meaning that would be accepted in many jurisdictions – 'contact with a government representative in an effort to influence State or local government decision making' (s. 42(1)) – an entity that lobbies is defined in a very restrictive way that excludes many of those who do in fact lobby government. According to the definitions in s. 41 of the Integrity Act:

A **lobbyist** is an entity that carries out a lobbying activity for a third party client or whose employees or contractors carry out a lobbying activity for a third party client.

A **third party client** is an entity that engages another entity to provide services constituting, or including, a lobbying activity for a fee or other reward that is agreed to before the other entity provides the service.

The section goes on to provide a series of exceptions. Those who are declared not to be lobbyists for the purposes of the Act include:

- non-profit entities
- entities constituted to represent the interests of their members
- entities lobbying on their own behalf
- entities that carry out lobbying that is 'occasional only and incidental to the provision of professional or technical services'.

The Integrity Commissioner maintains a register of lobbyists. To register, a lobbyist must provide:

- (a) the lobbyist's name and business registration particulars;
- (b) for each person (**listed person**) employed, contracted or otherwise engaged by the lobbyist to carry out a lobbying activity—
 - (i) the person's name and role; and
 - (ii) if the person is a former senior government representative, the date the person became a former senior government representative;
- (c) the name of each current client of the lobbyist;
- (d) the name of each client for which the lobbyist has carried out a lobbying activity within the 12 month period before the lobbyist most recently gave the integrity commissioner the particulars under this division or section 53;

These details are published in the register on the Integrity Commissioner's website.

Proposed "listed persons" (that is, lobbyists employed by lobbying entities) must provide a statutory declaration with details of any relevant criminal history, including any dishonesty offence with a conviction in the previous 10 years.

The requirement for 'former senior government representatives' to be identified on the register flows from the fact that the Act prohibits such people, for two years after they become 'former' senior government representatives, from any lobbying activity relating to their official dealings as a government representative in the two years before becoming a former senior government representative.

'Former senior government representative' is defined in a very broad manner to include, for example, anyone who had worked in the office of a Minister or Assistant Minister, as well as Ministers and Assistant Ministers, and senior public servants, down to senior executive level or equivalent.

Lobbyists are also prohibited by s. 69 of the Act from receiving a success fee for their efforts in lobbying government. If a lobbyist offended this prohibition, they would be liable not only to be fined but also to surrender the fee to the government.

Lobbyists are required to comply with a Lobbyists Code of Conduct, approved by the Integrity Commissioner, that is published on the website. The Lobbyists Code of Conduct was introduced in March 2010 and was largely based on an administrative code that was in force in 2009. The range of ethical requirements lobbyists are now required to meet was increased in the new code.

Significantly the Lobbyists Code of Conduct includes two important prerequisites to any lobbying activity, designed to make it easier for government and local government representatives to appreciate the nature of the lobbying activity to which they are being asked to respond.

First, when making an initial contact lobbyists have to make clear that they are on the lobbyist register, and the person conducting the lobbying is listed, who they are representing, the nature of the issue they wish to raise and the reasons for the approach.

Second, if the listed lobbyist is a former government representative, they must indicate when they became a former government representative and that the matter they wish to lobby about is not banned by the Act as a 'related lobbying activity'.

The Lobbyists Code of Conduct was amended in 2013, with effect from 1 May 2013, to require registered lobbyists to report details of their lobbying contacts with government and opposition representatives. The reports may be accessed by anyone on the Integrity Commissioner's website.

The public awareness function

The Integrity Commissioner is required:

to raise public awareness of ethics or integrity issues by contributing to public discussion of these issues relevant to the integrity commissioner's functions.

In performing this function, however, the Integrity Commissioner must not disclose information likely to identify a specific request for advice that has been received or information that could result in the identification of any person who sought advice or about whom advice was sought.

