



Queensland Integrity Commissioner

Annual Report 2021-22

Encouraging confidence in public office and public institutions

About this Report

This Annual Report has been prepared for the Speaker and the Economics and Governance Committee for tabling in the Legislative Assembly.

The report provides information about the performance of the Queensland Integrity Commissioner's functions for 2021-22 and has been prepared in accordance with section 85 of the *Integrity Act 2009*.

This is not an annual report under the *Financial Accountability Act 2009*. Under that Act, the Integrity Commissioner is taken to be part of the Department of the Premier and Cabinet (DPC). The staff of the office of the Integrity Commissioner are employed by the Public Service Commission (PSC). Annual reporting requirements under the *Financial Accountability Act 2009* relating to the Integrity Commissioner and staff of the Integrity Commissioner are met in the annual reports of DPC and the PSC.

Additional annual reporting requirements have been published on the Queensland Government Open Data portal at www.data.qld.gov.au. This includes information about consultancies and overseas travel, if relevant.

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1. Letter to the Speaker

9 September 2022

The Honourable Curtis Pitt MP
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Dear Speaker

I am pleased to provide you with the Queensland Integrity Commissioner Annual Report 2021-22.

This is the thirteenth report provided pursuant to section 85 of the *Integrity Act 2009*. Previous annual reports were provided to the Premier as required by the *Public Sector Ethics Act 1994*.

I confirm the Annual Report complies with section 85 of the *Integrity Act 2009*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A D Keyes', with a long horizontal flourish extending to the right.

A D Keyes
Acting Integrity Commissioner

2. Acknowledgement of Country

The Queensland Integrity Commissioner and staff wish to acknowledge the Aboriginal peoples and Torres Strait Islander peoples, the Traditional Owners and Custodians of the Country on which we live and work.

We recognise and appreciate their deep and continuing relationship to the land, waters and seas of Queensland and the Torres Straits.

We thank them for protecting our Queensland lands, coastline, and its ecosystems since time immemorial.

We recognise and value their stories, culture, history, and diversity.

We wish to pay our respects to First Nations peoples, to their culture, to their Elders, past, present and emerging.

3. Welcome and overview

This Annual Report covers the 2021-22 financial year and marks Dr Nikola Stepanov's fifth and final full year as the Queensland Integrity Commissioner (QIC).

This financial year saw a continuation of public interest in ethics and integrity issues and the regulation of lobbying matters. However, there was a decline in the number of requests received for advice from designated persons, with numbers returning almost to the levels recorded under Dr Stepanov's predecessors.

Advice on ethics, integrity and interest issues

With respect to advice on ethics and integrity issues under chapter 3 of the *Integrity Act 2009* (the Act), the QIC received 110 requests for advice from designated persons. Of those 100 requests:

- 30 were from Ministers or Assistant Ministers;
- 10 were from other members of the Legislative Assembly;
- 12 were from statutory office holders;
- 18 were from Directors-General and other chief executives;
- 21 were from senior executives or senior officers;
- 10 were from ministerial staff members;
- 4 were from other persons nominated by a Minister or Assistant Minister; and
- 5 were from former designated persons.

Of the 110 requests for advice received, 70 were responded to with formal written advice and 14 with oral advice (a total of 84).

The 70 written advices provided included six to current or former designated persons in relation to post-separation obligations.

Apart from the 84 advices provided, 10 requests for advice were out of scope, 12 were dealt with by preliminary opinion only and four were withdrawn.

The QIC held 14 meetings with members of the Legislative Assembly under chapter 3, part 3 of the Act. In eight cases, formal written advice was sought after the meeting.

The QIC also held 29 meetings with other designated persons.

Regulation of lobbying activity

With respect to the regulation of lobbying activities under chapter 4 of the Act, the register of lobbyists contained 129 registered entities and 305 listed persons as at 30 June 2022. During 2021-22, the office experienced continued heightened activity relating to the lobbying function including administration of the lobbyists register.

Raising public awareness of ethics or integrity issues

In relation to the public awareness functions of the QIC, the office remains committed to raising public awareness of ethics and integrity issues.

To that end, the QIC provided 15 information sessions to statutory boards and other public sector entities, attended six professional education events (such as seminars and conferences) and participated in 46 committee meetings and events.

Strategic review

In light of the substantial expansion of the scope of the QIC's functions since the Act was introduced, and the heightened level of activity during Dr Stepanov's tenure, it was timely that the five-yearly strategic review of the QIC's functions was undertaken by Mr Kevin Yearbury during the reporting year. Mr Yearbury reported on 30 September 2021, and the Ethics and Governance Committee of the Legislative Assembly (EGC) reported on its inquiry into the strategic review on 3 June 2022.

On 28 June 2022, Professor Peter Coaldrake delivered to Government the final report on his review of culture and accountability in the Queensland public sector. It included recommendations affecting the QIC's governance and functions.

At 30 June 2022, the recommendations of the Yearbury and Coaldrake reviews and the EGC report were being considered by Government.

4. About the Queensland Integrity Commissioner

Establishment

The QIC is an independent officer of the Queensland Parliament reporting to the Economics and Governance Committee of the Legislative Assembly.

The office of Integrity Commissioner was initially established in 1999 under the *Public Sector Ethics Act 1994*. The *Integrity Act 2009* transferred and updated the provisions of the *Public Sector Ethics Act 1994* concerning the QIC, with expanded responsibilities.

The Integrity Act 2009

The purpose of the Act is to encourage confidence in public institutions by:

- helping Ministers, members of the Legislative Assembly, and others to deal appropriately with ethics or integrity issues; and
- regulating contact between lobbyists and State or local government representatives, and contact between lobbyists and key representatives for the Opposition, so that lobbying is conducted in accordance with public expectations of transparency and integrity.

Vision

Encouraging confidence in public office and public institutions.

Purpose

The QIC has four functions under the Act:

- to give written advice to current and former designated persons about ethics and integrity issues;

- to meet with and give written or oral advice to Members of the Legislative Assembly about interests issues;
- to keep the lobbyists register and have responsibility for the registration of lobbyists; and
- to raise public awareness of ethics and integrity issues by contributing to public discussion of these issues.

Values

Challenge

Value integrity by contributing to research in the area of integrity. Challenge misconceptions and myths around ethics and integrity.

Engage

Value integrity by promoting integrity. Engage with the public and public officials to raise awareness about ethics and integrity, and the role of the QIC.

Lead

Value integrity by projecting integrity. Show leadership by developing and promoting good practice standards for ethics and integrity.

Resolve

Value integrity by embedding integrity. Support and assist designated persons to resolve ethics and integrity issues in the public interest.

Strategic Plan 2021-24

Access the QIC's strategic plan 2021-24 to learn more about the QIC's role and functions, vision and purpose, objectives and strategies, performance measures, and strategic risks and opportunities: <https://www.integrity.qld.gov.au/publications/strategic-plans.aspx>

5. Activity dashboard



Ethics, integrity, and interests advice

Who can seek advice? More than 10,000 persons are 'designated persons' and are therefore able to seek advice from the Integrity Commissioner



110

Formal requests for ethics and integrity or interest issues advice from designated persons



70

Formal written advices issued



21

Formal written advices issued within one business day of request



14

Meeting with Members of the Legislative Assembly under chapter 3 part 3 of the *Integrity Act 2009*

Lobbying regulation



129

Registered entities



305

Registered listed persons



31

Enquiries about lobbying



1518

Lobbying contact with government representatives

Public awareness function



15

Information sessions run state-wide



6

Professional education events



46

Committee meetings and other events

General information



91

Enquiries from non-designated persons (members of the public)



148

Media enquiries

Staff



5

Commissioner 1 FTE
Permanent staff 4 FTE

Budget



1M

Original budget \$1.087M
Actual budget \$1.029M

6. Advice on ethics, integrity, and interests issues

This section deals with the advice functions of the QIC as set out in chapter 3 (Advice on ethics or integrity issues) and chapter 3A (Managing conflicts of interest) of the Act. Sections 7(1)(a) and 7(1)(b) of the Act detail these functions.

More than 10,000 people fall under the advisory functions of the office. That is, they fall within the following definition of ‘designated person’ under section 12 of the Act:

- a Member of the Legislative Assembly;
- a statutory office holder;
- a chief executive of a department of government or public service office;
- a senior executive or senior officer;
- a chief executive of, or senior officer equivalent employed in, a government entity nominated by the Minister responsible for administering the entity;
- a ministerial staff member who gives, or a person engaged to give, advice to a Minister;
- an assistant minister staff member who gives, or a person engaged to give, advice to an Assistant Minister; and
- a person, or a person within a class of person, nominated by a Minister or Assistant Minister.

The number of potential advisees has increased over time as nominations of designated persons have been made under section 12(1)(e) and (h) of the Act. However, some nominations have been made by reference to unquantifiable classes.

In providing advice, the QIC must consider any relevant standards or codes. The range of such materials is diverse and prone to amendments and updates. Keeping abreast of changes to the relevant standards and codes is a time consuming but necessary activity.

To maintain a high quality of service, including consistency of advice relating to standards and codes, the QIC routinely undertakes research into particular areas of best practice; develops and updates materials that set out the process, tests and factors relied on when providing advice; and publishes these materials on the QIC website.

This approach serves to enhance trust in public officials and public authorities by ensuring that standards and codes are known and universally applied, and aims to reduce any public perceptions of unfairness, discrimination, favouritism or bias. The materials also serve as a useful point of reference for advisees if they wish to understand more about best practice standards.

The QIC provides advice under chapter 3, parts 2 and 3 of the Act.

Under chapter 3, part 2 of the Act, the QIC provides formal written advice to current or former ‘designated persons’ on ethics or integrity issues. Requests for advice are made under section 15 of the Act and must be in writing. The QIC must provide advice in writing.

Chapter 3, part 3 of the Act allows members of the Legislative Assembly to request a meeting with the QIC to discuss interest issues. The QIC can provide oral or written advice.

Members can seek a meeting and advice when and as often as required including by remote communication.

Meetings with members of the Legislative Assembly

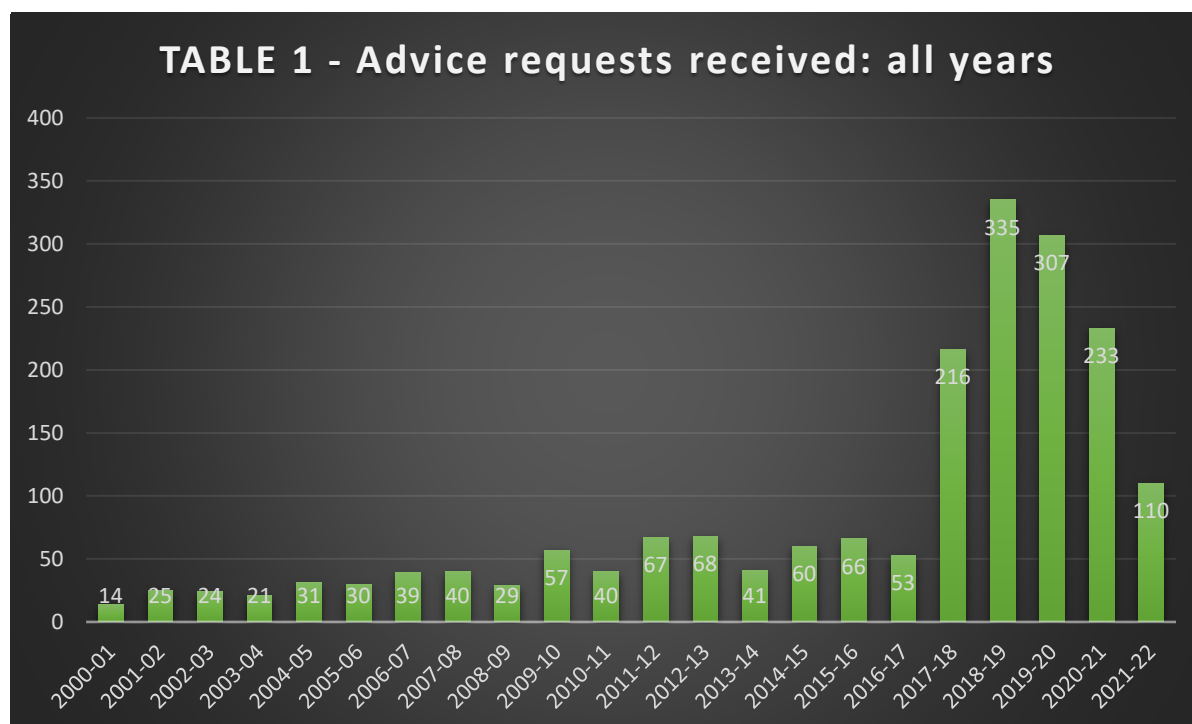
During the 2021-22 financial year, the QIC had 14 meetings with members under section 22 of the Act. All these meetings included the provision of oral advice by the QIC even if the advice of the QIC was that no further action was required. A written record was made by the QIC of each meeting.

Where relevant, the QIC also provided written advice following a meeting, for example, if the member requested the advice also be in writing or if the matter was substantive or complex. The QIC provided written advice on eight occasions following a meeting with a member and this is included in the total number below.

Number and sources of advice requests

During the 2021-22 financial year, the QIC received 110 requests for advice including oral requests for advice by members of the Legislative Assembly.

This represented a significant downturn in requests for advice received in comparison to the previous two years as shown below in Table 1. However, the number remains much higher than historical rates:



Persons seeking advice from the QIC were primarily members of the Legislative Assembly, who sought advice on 40 occasions, including:

- 30 requests from Ministers or Assistant Ministers; and
- 10 from other members.

Of the remaining requests for advice received, ministerial staff sought advice on 10 occasions, statutory officer holders on 12 occasions, and chief executive officers on 18 occasions.

In addition, 21 requests for advice were received from senior executives or senior officers, and five requests from former designated persons.

Nature of advice requests

Of requests for advice received, the main sub-categories of issues, per class of designated persons, were:

- Members of the Legislative Assembly most commonly sought advice about developing conflict of interest management plans to manage perceived conflicts arising from interests issues such as memberships of community groups, pecuniary interests, and related party arrangements.
- Statutory officer holders mainly sought advice about duty-on-duty conflicts and perceived conflicts arising from related party arrangements such as employment and shareholdings (i.e. work or pecuniary interests of adult children or a spouse).
- Directors-General and other chief executive officers generally sought advice about managing conflicts of interest in relation to past and current professional acquaintances; duty-on-duty conflicts arising due to ongoing private business arrangements; and perceived conflicts arising due to pecuniary interests.
- Ministerial staff, senior executives and senior officers most commonly sought advice about conflicts of interest arising due to related party arrangements.

Response times

Advices are prioritised on the basis of risk to the public interest and not dealt with on a ‘first-come, first-served’ basis.

It is common that the work of the QIC involves prioritising urgent matters as they arise, and which must be dealt with appropriately before a meeting in which a relevant decision will be made.

Urgent matters, that is, those matters involving a substantial public interest issue, and which require an urgent response, are generally dealt with on the same day they are received. In addition, other high priority matters are routinely assessed and also dealt with on the same day, or within three working days.

Overall, during the 2021-22 financial year:

- 21 (30 %) of formal written advices were given within one business day of being requested
- 22 (31 %) of formal written advices were given within two to three business days
- 15 (21%) of formal written advices were given within four to five business days
- 5 (7 %) of formal written advices were given within six to nine business days, and
- 7 (10 %) of formal written advices were given after 10 or more business days

The seven matters dealt with in 10 or more business days generally related to private interest matters such as post separation advice requests or very complex matters that required further inquiries to be made.

For matters where the QIC did not provide formal advice, generally the advisee was informed within one to two days of the request being received.

7. Regulation of lobbying activity

Section 7(1)(c) of the Act states that it is a function of the QIC to keep the lobbyists register and have responsibility for the registration of lobbyists.

The regulatory system provided for by chapter 4 of the Act is based on a requirement that a government representative, or an Opposition representative, must not knowingly permit an entity that is not a

registered lobbyist to carry out lobbying activity for a third party client with the government representative or Opposition representative.

Code of Conduct

Lobbyists are required to comply with a Lobbyists Code of Conduct which codifies the ethical obligations and responsibilities of lobbyists seeking to influence government policy and decision making, whilst representing the interests of third party clients for fee or other reward.

Ethical lobbying is widely regarded to be a legitimate activity as part of the contest of ideas in the democratic process. Lobbyists can assist individuals and organisations to communicate their views to government and opposition representatives on matters of public interest.

However, there are also inherent risks associated with the commercialised aspects of lobbying. Lobbyists are often former politicians, ministerial staff or senior government representatives and are perceived by members of the public to have personal influence over key decision makers, often because of their pre-existing political associations and ties, or past public sector employment roles.

Further, understanding what is and what is not ‘lobbying activity’ as defined under the Act can be problematic, and will ultimately be determined by reference to the facts of each particular case.

To assist interested parties and the public generally a question-and-answer fact sheet has been developed and made available on the QIC website, which outlines the QIC’s interpretations of lobbying activity. The fact sheet is updated from time to time as required and can be accessed via:

<https://www.integrity.qld.gov.au/lobbyists/lobbying-questions-answers.aspx> The QIC has also developed a framework, with reference to the relevant sections of the Act, that the QIC relies on when determining whether:

- the conduct of a person or entity might warrant removal from the Lobbyists Register;
- the conduct of a person or entity might warrant the QIC’s refusal to register an entity or list a person; or
- the conduct of a person or entity might warrant a referral by the QIC to an investigative agency such as the Crime and Corruption Commission.

Number of requests for advice about lobbying

The QIC provided formal advice on six occasions regarding post-separation restraints on lobbying, and requests for advice of this nature commonly occurred in conjunction with the provision of general advice regarding post-separation obligations. Due to the inherent nexus between the two areas of post-separation obligations and restrictions on lobbying activity, more information about the provision of post-separation advice is detailed below.

Post-separation restraints

Post-separation restraints exist to promote transparency and accountability, and to prevent former senior government representatives from taking personal advantage of special relationships or confidential information acquired through their former positions.

Section 70 of the Act prohibits a ‘former senior government representative’, which includes a former ministerial staff member, from carrying out ‘related lobbying activity’ for a ‘third party client’ within two years of their separation from Queensland public sector employment.

‘Related lobbying activity’ refers to matters in which the former senior government representative has had ‘official dealings’ in the two years prior to separation. While not defined in the Act, the QIC considers that official dealings would include even formal attendance at briefings or receiving confidential analysis on a particular matter.

There is also an obligation imposed under section 71(2) of the Act to the effect that current ministerial and government employees must not meet with any ‘former senior government representative’ in circumstances that would give rise to a breach of the post separation restraints, including with respect to lobbying.

The QIC was asked to provide formal advice on post separation obligations, including to persons prior to their separating from their role in government or ministerial service, on six occasions. These requests are included in the overall number of advice requests and accounted for 8.6 percent of all advice requests received. Formal written advice was provided on each of the six occasions, and these advices were usually of a limited and general nature.

In determining whether to provide advice, the QIC is cognisant of the fact that the definition of post-separation obligations in the Act encompasses a very broad range of obligations including any obligation under an Act, contract of employment, directive, policy or code of conduct, that applies to the person because the person was (but is no longer) a designated person and relates to contact with a government representative or Opposition representative. Further, post-separation obligations include those arising from the private legal instruments entered into between the person and the government, and the person and their new employer.

There are also post-separation restraints that apply to lobbying activity.

As a general proposition, the QIC will provide detailed advice about post-separation restraints as they relate to lobbying activities, based on a specific set of facts. However, the specific application of the various standards relating to post-separation obligations arising from private legal instruments entered into between a person and their government employer, or the person and their new employer (if relevant) are essentially legal questions about a person’s personal obligations and are to be resolved by reference to established legal principles. The QIC is not able to provide advice on such matters.

8. Raising public awareness of ethics and integrity matters

One of the QIC’s functions is to raise public awareness of ethics or integrity issues by contributing to public discussion about the QIC’s functions, and by raising public awareness of ethics and integrity issues more generally.

Ethics and integrity issues are entwined in a broad range of matters concerning government structure, practices and policies, and the QIC’s contributions to enhancing awareness is critical.

Throughout 2021-22, the QIC was involved with 67 interactions including delivering 15 information sessions to statutory boards and other public sector entities; providing six professional education events (seminars, conferences etc.), and participating in 46 committee meetings facilitated by the QIC, as well as other meetings and events attended by the QIC.

9. Compliance obligations

This section details the QIC's compliance obligations including obligations under the Ministerial Code of Conduct and the Act.

Declarations of interests

Section 40E (previously section 72C) of the Act provides that various statutory office holders must provide a copy of their declarations of interests to the QIC. Similarly, section 101 of the *Public Service Act 2008* provides that chief executives must provide a copy of their declarations of interests to the QIC.

Further, section 85(2) of the *Integrity Act 2009* requires the QIC to provide details of compliance with those requirements by statutory office holders and chief executives.

Factual matters that engage a statutory office holder or chief executive's obligations under those provisions are uniquely within the knowledge of the officer, and the QIC is not in a position to verify the facts declared by the officer. However, based on the declarations that have been provided as at 30 June 2022, the QIC has no reason to believe that any statutory office holder or chief executive has not complied with the requirements.

Right to information and information privacy

The QIC received no properly made access applications under the *Right to Information Act 2009* or the *Information Privacy Act 2009* in 2021-22. The QIC received two consultations (pursuant to s 37 of the *Right to Information Act 2009*) in relation to access applications to other agencies.

The QIC did not collect any application fees or processing charges.

No public interest disclosures under the *Public Interest Disclosure Act 2010* were received by the QIC.

10. Administration and governance arrangements

This section provides general information about governance, as well as information about staffing, resourcing, risk management, and information systems.

Governance and administration arrangements generally

Good governance structures are important, particularly where independence is valued.

Under the current arrangements, the Public Service Commission (PSC) is responsible for the financial, operational, and administrative performance of the office supporting the QIC, including the provision and management of human resources. In undertaking those responsibilities, the PSC in turn is supported by the Department of the Premier and Cabinet (DPC) in relation to information technology services and a range of other support services. Accordingly, the QIC does not control its own budget.

As recent review reports have noted, the arrangements place the QIC in a position of inherent vulnerability that is not consistent with its functions as an independent officer of Parliament.

Issues in the governance and administration structure that were highlighted in the Yearbury and Coaldrake reviews are now under consideration by Government.

Staffing and resources

Four permanent fulltime equivalent (FTE) positions exist to support the performance of the QIC's functions.

During Dr Stepanov's annual leave, the role was filled by the Acting Integrity Commissioner, Mr Mark Glen.

No redundancy or retrenchment packages were paid during this period and no employees received an early retirement package.

Staff training and human rights

The PSC is the employer of staff who support the QIC and is responsible for the conduct, supervision, training, and performance of the staff.

The PSC requires new employees to complete the new starter induction program to ensure they are aware of expected obligations and workplace behaviours, and that their performance and behaviour must comply with the Code of Conduct under the *Public Sector Ethics Act 1994*. These expectations are incorporated by the PSC into the ongoing cycle of employees' performance and development.

The confidentiality provisions of the Act impose particular obligations on staff and others involved in the administration of the Act.

Employees can access the Act, the Code, and a range of supporting resources through the PSC's intranet.

The PSC requires that staff undertake online training to further understand:

- the functions of the Queensland Human Rights Commission;
- modern human rights law;
- human rights law in Queensland;
- responsibilities of public entities, courts, tribunals and Parliament; and
- human rights dispute resolution and compatibility with human rights.

Risk management

The Commission Chief Executive of the PSC is the accountable officer under the *Financial Accountability Act 2009* for the financial, operational, and administrative performance of the office supporting the QIC. However, the office is covered by the Department of the Premier and Cabinet's risk management framework—oversighted by an Audit and Risk Management Committee—which aligns with the Australian Standard AS/NZ ISO 31000:2018 on risk management principles and guidelines and includes appropriate governance arrangements and risk reporting and analysis.

A 'Risk Treatment Plan' was completed in 2021 and remains current.

Information systems and recordkeeping

The office uses information systems for corporate functions via administrative arrangements with the PSC and DPC described above.

The recordkeeping practices of the QIC and staff must adhere to Information Standard (Recordkeeping), Information Standard (Retention and Disposal of Public Records) and the *Public Records Act 2002*. HP Enterprise Content Manager is used to manage electronic and physical documents, and there are policies

and processes in place for recordkeeping, email management, retention and disposal of records, managing information on shared network drives and information security.

To address outstanding legacy filing issues, an experienced Information Support Officer was provided by the DPC, on a part-time basis, to undertake filing in accordance with the Records Retention and Disposal Schedule (see below). The QIC gratefully acknowledges assistance with this important body of work.

Further, the forensic reconciliation of a small volume of protected material was undertaken this year.

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 22 November 2013, is available on the Queensland State Archives website at: www.archives.qld.gov.au.

This Annual Report and previous reports from the QIC are available online at: www.integrity.qld.gov.au/publications/annual-reports.aspx.

11. Financial Statement

Queensland Integrity Commissioner Statement of Comprehensive Income

Year ended 30 June 2022

	2022	2021	2022		Note
	Actual	Actual	Original Budget	Budget Variances	Budget Variance
OPERATING RESULT	\$'000	\$'000	\$'000	\$'000	
Income from Continuing Operations					
Appropriation revenue	1,337	1,091	1,166	172	1
Grants and other contributions	-	-	-	-	
Total Income from Continuing Operations	1,337	1,091	1,166	172	
Expenses from Continuing Operations					
Employee expenses	949	725	822	127	1
Supplies and services	316	302	343	(27)	2
Grants and subsidies	-	-	-	-	
Depreciation and amortisation	1	1	1	(0)	
Total Expenses from Continuing Operations	1,266	1,029	1,166	100	
Operating Result for the Year	72	62	-	71	
OTHER COMPREHENSIVE INCOME	-	-	-	-	
TOTAL COMPREHENSIVE INCOME	72	62	-	71	

The accompanying notes form part of these statements.

Explanation of major budget variances

1. An increase in the employee expenses is primarily due to additional temporary FTE resources provided during the 2021-22 financial year and enterprise bargaining adjustments.
2. A decrease in supplies and services is primarily due to lower than anticipated domestic travel, and legal costs.

