

## Response to ABF article from ACLEI Commissioner, Jaala Hinchliffe

I take my role as an independent statutory officer very seriously and reject any claim that I would exercise my powers and functions in a way that is partisan or biased. My role and priorities as Integrity Commissioner are clearly set out in the LEIC Act – to investigate serious and systemic corrupt conduct within designated law enforcement agencies. One of the key goals of such investigations is to identify whether criminal offences have been committed and in those cases to refer evidence to the CDPP. Where there is insufficient evidence to support a criminal prosecution, but I am satisfied to an administrative standard that a person has engaged in corrupt conduct, I am able to make findings of corruption in relation to that conduct.

In undertaking my role I bring to bear my experience as both a criminal lawyer with the CDPP and in administrative law as the Deputy Commonwealth Ombudsman, and I rely on the expertise of ACLEI's investigators and legal team.

Since taking on the position of Integrity Commissioner, I have moved to institute a range of changes within ACLEI to ensure we are focusing our resources on our main objectives. It is especially important as a small agency that we are directing our limited resources towards the task of investigating serious and systemic corruption. These changes build on the work that was undertaken by the former Integrity Commissioner in relation to reviewing the backlog of investigations which ACLEI was investigating. We have established an Assessments Board and an Operations Board, both of which are discussed in ACLEI's 2019-20 Annual Report. Another important part of my role is to ensure that there is transparency about ACLEI's investigations – and to that end, since commencing as IC I have provided 8 final investigation reports to the Attorney-General and have published details of 5 reports (including one which the former Integrity Commissioner provided to the Attorney-General in January 2020).

As I said in the Annual Report:

"We have committed significant resources to reduce the backlog of 54 reports in the first half of 2020 and will continue to do so in the next financial year. These reports are an important mechanism by which I explain the investigation we have undertaken and our findings. I am of the view that these reports have value whether or not we find corruption in our investigation as an investigation that finds that an allegation of corruption is not made out provides assurance to parliament, agencies and the public. I remain committed to publishing my reports, with suitable reductions and due consideration of the public interest test set out in the LEIC Act."

ACLEI investigators have many investigative tools at their disposal in conducting an investigation. Many of these could be considered 'traditional' law enforcement powers. The hearing power in the LEIC Act is a more unique power. I am conscious that it is a significant coercive power which impacts on a person's rights, particularly the right to not incriminate oneself. As a result, the LEIC Act provides a protection to people that the evidence they provide in a hearing is not admissible against them in criminal or civil proceeding except in relation to false or misleading information provided in the hearing. From a more practical perspective, coercive hearings are also more resource intensive than other methods of investigation. As a result, before using these powers I will consider whether there is another way that we could obtain the information we require without using the coercive power. In every case, I obtain advice on the investigative strategy including my investigative team and legal team.

This is not to say that hearings are not an important part of ACLEI's investigative toolkit. They are and are used as such, including, but are not limited to, where the use of the power and the

protections that flow from the hearing power enables a witness to provide their evidence or where a hearing is used to obtain information from a hostile or unwilling witness.

Once a decision has been made to conduct a hearing, the LEIC Act sets out a public interest test to be applied in deciding whether the hearing should be in private or in public. I will apply that test each time I make a decision to conduct a hearing.

In relation to Operation Angove, the former Integrity Commissioner decided to postpone proposed public hearings in October 2019. He did not reschedule those hearings, although he did undertake a further private hearing in December 2019. When I commenced in February 2020, I requested briefings from my investigators in relation to the progress of the investigation. I also requested advice on whether further hearings were required. I was provided advice by my investigators that the investigation had progressed significantly and that further hearings were not required to provide information to the investigation. After considering that advice, I decided that no further hearings were necessary to further the investigation.

In September 2020, I release a reporting setting out the investigation that was undertaken in relation to the three corruption issues that were investigated in Operation Angove. This report reflects the investigation that was commenced and significantly advanced by the former Integrity Commissioner and completed by me. In considering what material to include in the public report, I had regard to the public interest test set out in section 209 of the LEIC Act. I decided that it was not in the public interest to publish the names of specific people who had been part of the investigation.

Your other questions relate to an ongoing investigation and as a result I am limited in what it would be appropriate to say. As a general observation, decisions about the investigative strategy for each investigation are made throughout the investigation and are based on the evidence available to ACLEI and the advice of my team. Where there are other mechanisms by which information necessary to progress the investigation can be obtained, it is important that these other avenues are exhausted before the more significant step of instigating coercive hearings is taken.