Chaos or Coherence?

Strengths, Opportunities and Challenges for Australia's Integrity Systems

National Integrity Systems Assessment (NISA)

Final Report

December 2005

Griffith UNIVERSITY

TRANSPARENCY INTERNATIONAL AUSTRALIA

Affiliate of Transparency International the coalition against corruption

Australian Research Council

Linkage Project

National Integrity Systems Assessment (NISA)

An **Australian Research Council-funded Linkage Project** conducted by
Key Centre for Ethics Law Justice & Governance, Griffith University and
Transparency International Australia

Final Report: December 2005

Lead Author Dr A J Brown, *Griffith University*

Team Leader Prof Charles Sampford, *Griffith University*

Contributing Authors and Researchers
Dallas Adair, *Griffith University*
Geoff Baker, *Qld Department of Local Government*
Carmel Connors, *Griffith University*
Dr George Gilligan, *Monash University*
Prof Brian Head, *Griffith University*
Associate Professor David Kimber, *RMIT University*
Dr Megan Kimber, *Qld University of Technology*
Joel Lucas, *KPMG Forensic*
Scott MacNeill, *Griffith University*
Prof Noel Preston, *UnitingCare / Griffith University*
Peter Roberts, *Charles Sturt University*
Dr Arthur Shacklock, *Griffith University*
Dr Rodney Smith, *University of Sydney*
Dr John Uhr, *Australian National University*
John Warburton, *Warringah Council*

Further information on this project can be found at:
www.griffith.edu.au/centre/kceljag/nisa
www.transparency.org.au
www.transparency.org

Published by

Transparency International Australia
PO Box 41 Blackburn South
Victoria 3130 Australia

Key Centre for Ethics, Law, Justice and Governance
Nathan Campus
Griffith University
Brisbane
Qld 4111

ISBN 1 920952 53 5

10. The Capacity of Australia's Integrity Systems

10.1 Overview

The second theme of the assessment moves beyond the evidence of how integrity systems are performing, to examine evidence of gaps or deficiencies in the basic resources — 'capacities' — which the system needs to function. One of the most common conclusions of many conventional governance assessment approaches (see chapter 1, Table 1) is that the jurisdiction or sector *appears* to possess the necessary institutional ingredients of a 'model' integrity system, but that these institutions either do not exist or are incapable of functioning properly in practice.

Even with the best intentions, governments may pass laws or establish institutions related to integrity, but not know how to guarantee them the necessary financial resources or legal powers to have an impact. Even well-resourced institutions may fail if their strategies are not well-grounded in key elements of existing bureaucratic, business or public culture, or because their staff do not possess the necessary skills. All these problems raise issues of capacity — from institutional capacity in terms of 'core' and 'distributed' institutions, to broader social or community capacity in understanding and support for integrity processes. The many key capacities in integrity systems include:

- Legal capacity. Are integrity institutions properly constituted, and do integrity institutions and practitioners have the formal powers or jurisdiction they need to fulfil their tasks?
- Financial capacity. Are the budgets of integrity institutions right for their tasks, and is the right share of financial resources across society and within organisations being devoted to integrity functions?
- Human resource capacity. Are sufficient numbers of employees dedicated to integrity functions either in core institutions or distributed among organisations?
- Skills, education and training. Do integrity practitioners or staff in general have the right professional training and background to discharge their important roles?
- Political/community will. Do senior political and business officeholders possess, or are they sufficiently empowered by the community to find, the will to provide genuine leadership in integrity matters?
- Community capacity. Is there sufficient broader social or community understanding and support for integrity processes?
- Balance. Are financial, human, legal and management resources being adequately shared between the different positive and negative strategies in the integrity system, such as effective leadership training as against criminal investigations?

The NISA project did not seek to exhaustively audit all these areas. The studies in Part II, existing literature and supplementary analysis were used to identify a number of significant strengths, opportunities and challenges in key areas of financial, legal and human resource capacity. While issues relating to the public sector are dealt with in more depth, later issues in this chapter also extend to the business sector.

10.2 Current strengths and opportunities

Financial accountability

The first of five key areas of strength in Australia's public sector integrity systems is the cornerstone role played by formal processes of financial accountability. These processes are key integrity strategies distributed throughout the public sector, whose core institutions — Auditors-General and public audit agencies — have also expanded their roles since the 1980s to include positive, holistic evaluation methodologies in the form of performance audit capacities. This process has been led by the NSW and Commonwealth Auditors-General (Barrett 2004; Coghill 2004), and is now well established, even if some states, e.g. Queensland (chapter 3), are yet to take up this opportunity to the same extent.

Nevertheless as emphasised in chapter 5, dealing with the Commonwealth government's integrity systems, in all jurisdictions strong financial accountability processes play a key role. This is not least because they permeate the entire sector — with no institution or officeholder beyond their reach — even when other integrity strategies remain patchy, fragmented, or limited in their application to groups of agencies or to elected leaders. As well as being an important area of capacity in their own right, this fact highlights that financial accountability processes also provide some of the major 'glue' holding basic elements of the integrity system together.

Comprehensive legislated ethics and enforcement frameworks

The second area of strong capacity lies in the introduction by most governments of more comprehensive legislated ethics regimes, including both positive (i.e. ethical standard-setting) and enforcement dimensions. As chapter 7 showed, this trend is also highly relevant to developments in the business sector. Current ethics regimes, developed in the 1990s period of 'new public management', emphasise devolution of responsibility for values-based governance to individual agencies and their management. The assessment has confirmed the pivotal importance of the overarching legislative framework within which this occurs, providing requirements and incentives for ethical standard-setting processes to be set in train, including minimum standards and frameworks of enforceability through codes of conduct adapted to agencies' individual missions and circumstances. This 'positive ethics' approach needs to clarify how the organisation's key ethics are to be institutionalised in practice.

Table 10 below summarises the ethics and related obligations present in Australian public sector management legislation, as cornerstones of this positive approach. Confirming the discussion in chapter 4, it highlights that NSW is now the only Australian government to have no statutory framework of minimum ethics standards applying generally to its public officers. Further, chapter 5 pointed to the partial nature of the Commonwealth system, which provides a strong framework in relation to the approximately 130,000 public officers within agencies managed under the *Public Service Act 1999*, but not the similar number lying outside such agencies, and not a variety of senior officeholders including statutory officers, members of parliament and ministers.

Table 10. Comparison of Ethics and Related Obligations for Public Officials (NSW Ombudsman 2004)

	ACT	CTH	NSW	NT	QLD	SA	TAS	VIC	WA
Statements of values/ principles	✓	✓	-	✓	✓	✓	✓	✓	✓
Standards of behaviour	✓	✓	-	✓	✓	✓	✓	✓	-
Standard of decision-making	✓	✓	-	✓	✓	-	✓	✓	-
Standard of advice	-	✓	-	✓	✓	✓	✓	-	-
Standard of performance	✓	✓	-	✓	✓	✓	✓	✓	✓
Standard of service	✓	✓		✓	✓	✓		✓	✓
Obligation to comply/uphold law / standards	✓	✓	-	✓	✓	✓	✓	✓	✓
Obligation to report conflicts / corruption/ waste	✓	✓	-	✓	✓	✓	✓	-	-
Use and disclosure of information	✓	✓	-	-	-	✓	✓	-	✓
Use of property/ resources	✓	✓	-	✓	✓	✓	✓	-	✓
Use of position/ powers	✓	✓	-	✓	✓	-	✓	-	-

ACT *Public Sector Management Act 1994*, Public Sector Management Standard 1 — *Ethics*
Cth *Public Service Act 1999*, *Public Service Regns 1999*, Public Service Commissioners Directions (Chapter 2) — *APS Values*
NT *Public Sector Employment and Management Act*, *Public Sector Employment and Management Regns*, CPE Instruction No. 13 — *Code of Conduct*
Qld *Public Service Act 1996*, *Public Sector Ethics Act 1994*, *Public Sector Ethics Regn* 1999
SA *Public Sector Management Act 1995*, *Public Sector Management Regns 1995* (ccl.5, 15), CPE Determination 9 — *Ethical Conduct, Code of Conduct*
Tas *State Service Act 2000*, *State Service Regulations 2001*, State Service Commissioner - Direction No. 2 & 14 — *State Service Principles, Gifts & Benefits*
Vic *Public Sector Mgt and Employment Act 1998*, CPE Directions — *Code of Conduct*
WA *Public Sector Mgt Act 1994*, Public Sector Standards Commissioner — *Code of Ethics 2002*

One of the clearest strengths of such frameworks is their comprehensiveness, providing a better overall articulation of the values and principles that should guide *all* public officers, irrespective of the specific nature of their role. Examples include, Queensland Queensland's *Public Sector Ethics Act 1994*, as mentioned in chapter 4. There are also other parallels that could not be covered in detail in this study such as Western Australia where an Office of Public Sector Ethics (OPSE) was established within the then WA Public Service Commission to commence major new standard setting and integrity building processes in 1992-94. The OPSE later became the Office of the Public Sector Standards Commissioner (Shacklock 1994). It is important that all jurisdictions, particularly NSW but also the Commonwealth, follow through and also take up this opportunity in full, as reflected in *recommendation 8 (statutory frameworks for organisational codes of conduct). Recommendations 19 and 20 (core integrity institutions*

in the business sector) identify the need for further investigations into how this approach is best applied in the business and civil society sectors.

Paralleling the extension of these 'positive' ethics frameworks, a matching strength of current public integrity legislative regimes is the extension of more comprehensive compliance (or investigation and enforcement) frameworks. Again, the particular strength of some regimes is their comprehensiveness — in some jurisdictions (e.g. NSW, Queensland) *all* public officials are now covered by statutory definitions of corruption or official misconduct, irrespective of their particular role, as well as subject to the associated jurisdiction of one or more investigative agencies (e.g. the NSW ICAC, and Queensland Crime & Corruption Commission). This contrasts with 'traditional' but fragmented models in which ombudsman's offices can investigate administrative wrongdoing by appointed officials, but not elected ones; any other forms of ethical breach and any breach by elected officials must effectively transgress criminal thresholds to be independently investigated or actioned. Part of the strength of a more comprehensive legislated framework is that, just as the positive values of integrity are defined and promoted, applicable definitions of wrongdoing are not restricted to criminal behaviour but take public service values, duty and trust (or breach thereof) as more comprehensive points of reference for independent review and action.

The single most important opportunity for building on these strengths lies in the Commonwealth public sector. In June 2004 the Commonwealth Government announced it would establish a new 'independent national anti-corruption body' (Ruddock & Ellis 2004; see Brown & Head 2004, 2005; Brown 2005). As discussed in chapter 5, there are signs that such an injection of anti-corruption capacity is overdue. In recent years, the Commonwealth has also suffered signs of a lack of comprehensiveness in its enforcement capacities, typified by the anomalous policy definition of 'corruption' as a subset of 'fraud', discussed in chapters 5 and 9. The creation of any new Commonwealth anti-corruption body would certainly be the most significant reform to the framework of the Commonwealth's core integrity institutions in over 20 years.

There are also signs, however, that the opportunity to develop a more comprehensive ethics and anti-corruption regime will not be maximised. Although the June 2004 announcement was apparently intended to bring the Commonwealth into line with the states with more comprehensive anti-corruption jurisdictions (NSW, Queensland, Western Australia), the detail of the announcement, confirmed by the Prime Minister's office in response to the draft NISA report, was that the new agency's jurisdiction would be limited to two law enforcement agencies: the Australian Federal Police and Australian Crime Commission. This proposal has some similarity to a recommendation by the Australian Law Reform Commission that oversight of these agencies be transferred from the Commonwealth Ombudsman to a National Integrity & Investigations Commission (ALRC 1996), but even that recommendation had broader potential.

Even if 'law enforcement' were the only area of Commonwealth activity in which more anti-corruption capacity is needed, there would be little logic in excluding many *other* Commonwealth agencies with major compliance and law enforcement powers — including the Australian Customs Office, Australian Taxation Office, Australian Security & Investments Commission, and Department of Immigration. In fact, there is a larger argument that to represent a serious injection of capacity and meet national best practice,

a more comprehensive approach and general jurisdiction are needed to ensure that capacity for independent anti-corruption investigation is boosted across the whole Commonwealth sector rather than in select fragments (Brown 2005). A preferable approach is detailed in *recommendation 1*.

Financial and human resources in core investigation agencies

A third area of strength lies in the operational capacities of many of the core integrity institutions on which the effective working of public integrity systems relies. As noted above, some Australian jurisdictions possess not only a comprehensive legislative approach to ethics and enforcement, but have also sought to ensure core investigation agencies have the basic financial and human resources to perform their tasks.

A key question for the assessment was whether a minimum level of adequate resourcing could be identified across the nation to help establish whether all governments were meeting this expectation. This question has been complicated by the fact that the configuration of core integrity institutions in each jurisdiction is different, as noted in chapter 2 (Table 4). However in 2003-2004, the importance of the question was underlined by public debate over the difference between those integrity systems that had continued to rely on a general-purpose ombudsman as the main or sole investigations agency since their inception in the 1970s (Commonwealth, Victoria, Tasmania) and those that had added anti-corruption commissions of the type mentioned above (NSW in 1988 and 1997, Western Australia in 1989, and Queensland in 1990). This debate centred on organised crime and police corruption scandals in Victoria, and whether the Victorian Ombudsman had sufficient capacity to handle such matters — a debate linked to the Commonwealth announcement in the last section (Brown & Head 2004; 2005). The Victorian government's response in 2004 was to create the new Office of Police Integrity (OPI) as an organisation with its own statutory basis and considerable new resources, but within the existing ombudsman's office and headed by the existing Ombudsman.

To better compare the overall resourcing of such core institutions, given their different configurations and significant variations in the size of the jurisdictions involved, we supplemented the insights in chapters 3-5 with a comparison of staffing and financial resourcing, calculated as a ratio of total public sector staffing and total public expenditure in each jurisdiction over a 14 year period (see Brown & Head 2004):

- Figure 15a opposite compares the staffing of all federal and state ombudsman's offices, showing the Commonwealth Ombudsman as the best resourced until recent expansions in the NSW Ombudsman's office (see chapter 4), and the Victorian Ombudsman's recent jump from low to high after the 2004 expansion;
- However, Figure 15b shows a different picture when all the bodies listed in Table 4 are considered (not including crime commissions, including the crime commission components of the Queensland and WA commissions). While NSW has the most core agencies, even their combined staffing leaves them in mid-field, and the relatively low staffing of Victoria's Auditor-General returns that state to the bottom of the graph even with the Ombudsman's expansion; and
- In Figure 15c, a different composite measure is used of relative staffing *and* relative budget size (a direct average of staffing and budget ratios) to allow for outsourcing and more expensive forms of operation. This produces another different picture again,

suggesting that proportionally to its financial responsibilities, the Commonwealth now has the least well-resourced group of agencies, and that the three states with stand-alone anti-corruption bodies (NSW, WA, Qld) indeed devote significantly more resources overall.

Figure 15a. All Ombudsman - Staffing Ratios 1990-2005

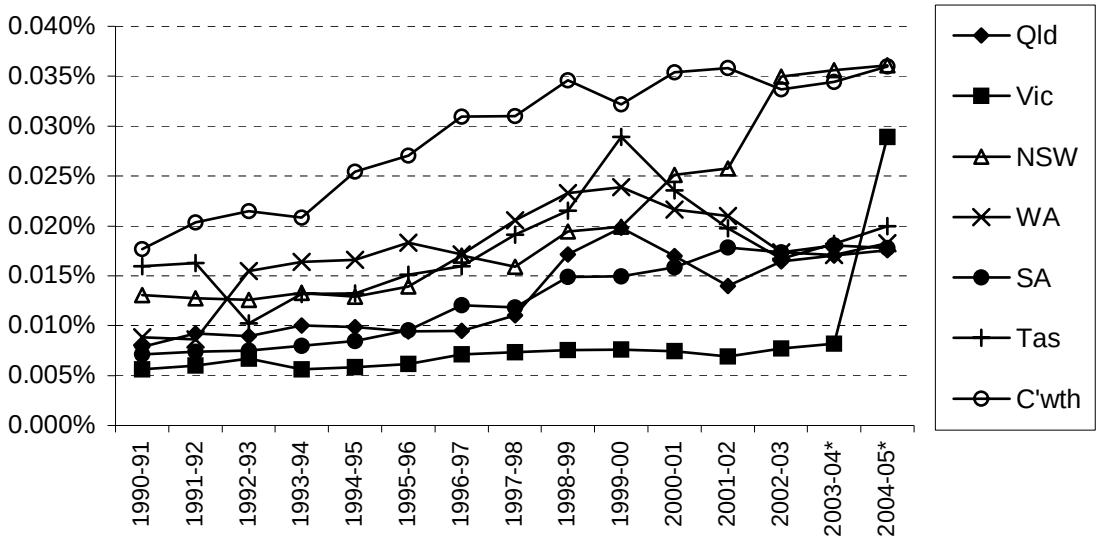
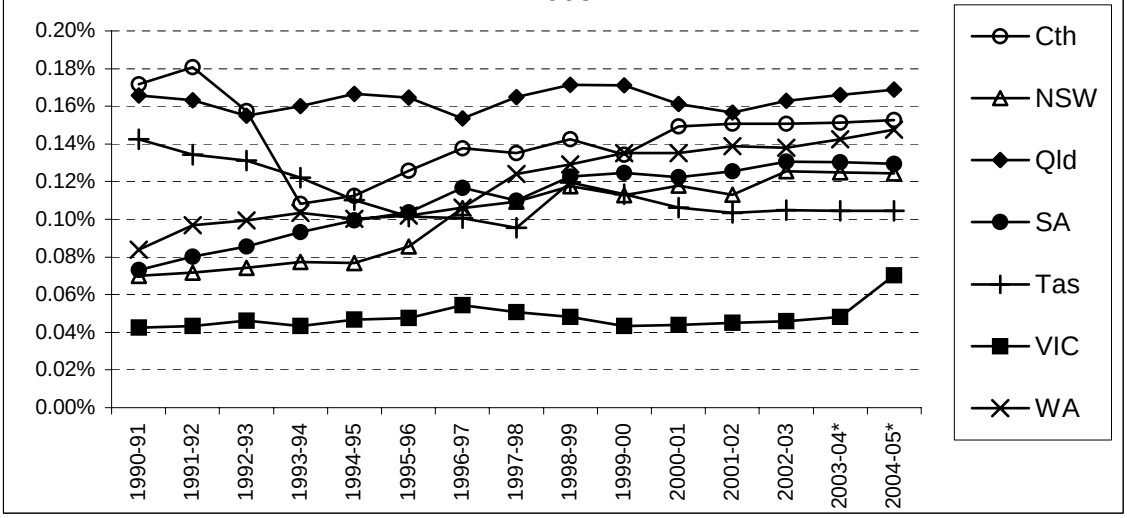
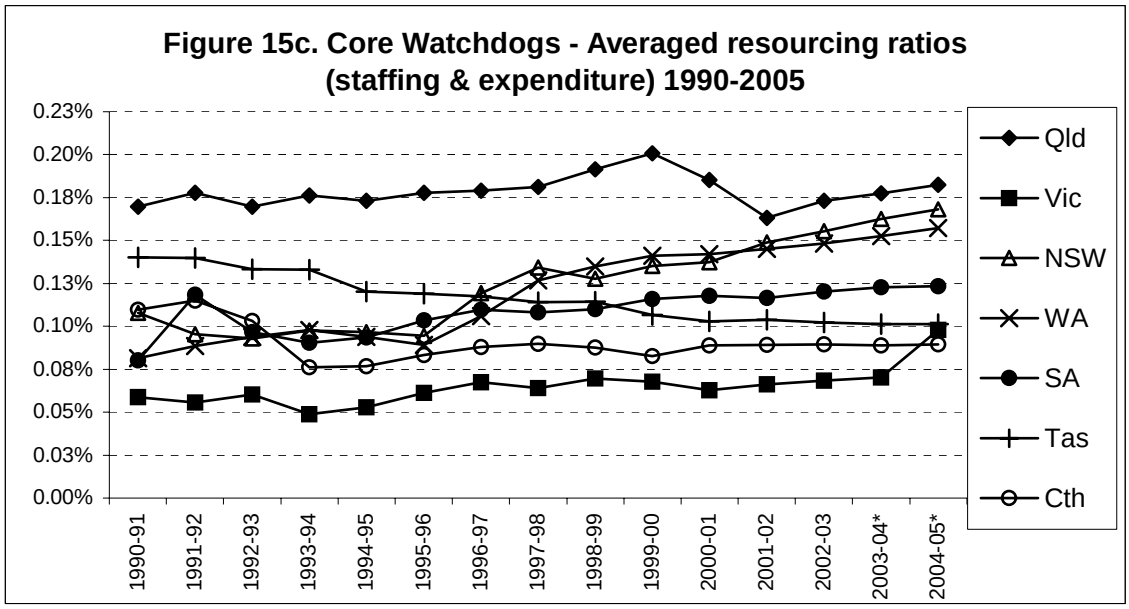


Figure 15b. Core watchdog agencies - staffing ratios 1990-2005





The great variation in the resourcing levels of different governments, sometimes clearly quite independently of the number of institutions they possess, suggests that historical accident alone may be the best explanation for resourcing levels. Although basic financial and staffing capacity is clearly present in some jurisdictions, this variability lends weight to claims that resourcing has a limited rational basis and is too exposed to the winds of political change (see Parker 1978:285; Rayner 2003:27; chapter 4). One factor is that resources can depend on when agencies acquired their functions, with older organisations continuing to be limited by the budget formulae that prevailed at the time of their establishment, even though different formulae would lead to significantly higher resources if they were abolished and re-established today.

Overall, this assessment points to three important opportunities. First, it confirms that the Commonwealth government should take the opportunity of a new institutional reform to inject a significant amount of new resources into its core institutional capacity. This underscores the case for a body with a sufficiently general jurisdiction to warrant such an injection, rather than a smaller body with the lower staffing that more restricted jurisdictions and functions would entail (see *recommendation 1*).

Second, this analysis confirms the importance of a further, more comprehensive and official effort to benchmark the resources needed for effective integrity investigation and oversight. While those jurisdictions with standing anti-corruption commissions also appear to afford the most overall resources, the correlation is not necessarily direct. It clearly remains more important for government to get resources right overall, provided that all key functions are covered, than have a new agency for every function. In NSW, multiple bodies may not necessarily make for the strongest resources or optimum configuration.

To support the development of optimum frameworks and introduce some more coherent policy to current *ad hoc* decisions, it is important that governments now turn their attention, for the first time on a national basis, to effective benchmarks for the resourcing of these core integrity functions. Suitable benchmarks will be found with further policy and econometric work undertaken through an appropriate public review process and married with a standardised approach to understanding agency caseloads as discussed in

chapter 9. *Recommendation 17* addresses this need, suggesting one sensible vehicle for such a review being a one-off joint public inquiry by the Productivity Commission and Australian Law Reform Commission with the participation of state treasuries and law reform commissions.

The third opportunity relates to the potential for a more coordinated strategy of skills and career development for current and prospective staff in the integrity system. The growth in number and overall size of core integrity institutions over the last 20 years, combined with the expansion of distributed institutions and programs, highlights the strategic significance of the careers of those who serve in and move between such institutions. Not only are administrative and anti-corruption investigations complex and delicate by nature, but increasingly the positive problem-solving and management roles of integrity practitioners are being recognised. Interdisciplinary postgraduate or vocational training in key areas of integrity practice is currently limited. The clear opportunity for a higher education-based strategy to grow and consolidate the relevant skills is reflected in *Recommendation 13 (professional development for integrity practitioners*).

Corporatisation and contracting out

A fourth area of strength for some jurisdictions, and opportunity for others, is the development of positive strategies for ensuring integrity and accountability in the delivery of public services, notwithstanding changes in the structure of delivery through corporatisation and contracting-out. Contracting-out also poses identifiable integrity risks in the private sector, due to increased agency risks and lengthened supply chains (chapter 7). Despite increased efficiency and responsiveness, corporatised and out-sourced services since the late 1980s have been characterised by significant accountability ‘gaps’. However, the only real reason why public integrity oversight often still stops at the point of contracting-out is an outdated formulation of integrity agency jurisdiction based on the legal character of the organisation as a commercial entity, rather than the public nature of its services. In relation to corporatised entities such as government-owned corporations (GOCs), there should, in fact, be no doubt that when it comes to the ‘fundamental choice’ needed on questions of governance, accountability and ethical behaviour, ‘we must treat GOCs as if they were public entities’ (Bottomley 2003). Increasingly, there is little reason to differentiate between the basic integrity standards and strategies needing to be employed by public and private service providers (see e.g. Demack 2003:12).

The solution adopted by some jurisdictions (e.g. NSW) is to extend core public integrity institutions’ jurisdictions to include discretion to investigate complaints into publicly-funded services regardless of provider. While other responses exist, including industry-specific integrity mechanisms (e.g. industry ombudsman’s offices), these responses do not provide universal coverage of contracted services and particularly where industry-controlled such responses can appear compromised. Such mechanisms also do not typically extend to programs funded by government grants, rather than contract. The importance of extending this approach as the standard practice throughout the integrity systems is reflected in *recommendation 4 (jurisdiction over corporatised, contracted & grant-funded services*).

Devolved governance and distributed integrity capacity

The final area relates to opportunities for developing the human and financial resources devoted by organisations in general to setting and maintaining high integrity standards. As discussed above, the capacities required for distributed integrity institutions and strategies to be effective are not simply 'core' audit and investigation capacities, but ethical leadership and problem-solving capacities embedded in the normal management systems of organisations. These capacities are obviously vital in all organisations, whether in the government, business or civil society sectors.

Comprehensive legislative frameworks of the kind discussed above is one strength of many present systems, but a variety of issues surround how effectively these frameworks currently play out at organisational levels. While there is positive evidence that the Commonwealth government's approach is translating into real systems at least in respect of 'APS' agencies (chapter 5, APSC 2004), in some jurisdictions there are continuing doubts as to real levels of awareness and commitment towards agency codes of conduct (e.g. chapter 3). Considerably more research is needed into the level of financial and human resources placed behind processes of ethical standard-setting, education, prevention and the institutionalisation of integrity, as against the more expensive and reactive processes involved in the investigation and remediation of integrity breaches (see *recommendation* 2). In many sectors, there is also need for more effective coordination between 'core' and 'distributed' institutions, a significant issue of coherence discussed further in chapter 11 (see *recommendation 9*: *relations between organisations and core integrity agencies*).

In addition to these recommendations, a major opportunity exists to better institutionalise ethical leadership capacities in the everyday management of organisations, by formally embedding these in the career structure of managers through recruitment and appointment processes. While statutory integrity frameworks are often strong, as are senior managers' willingness to institutionalise high standards, these basic management processes often do little to help organisations 'walk the talk'. Even in the public sector, there are no minimum integrity training prerequisites for promotion to management levels. If governments, regulators and organisational leaders are serious about ensuring that integrity is core business in organisations, it is time that the governance of public agencies and suitably-sized businesses and civil society organisations required staff to have satisfactorily completed up-to-date, accredited training in integrity, accountability and ethics institutionalisation as a prerequisite for appointment to middle and senior management levels. *Recommendation 12 (minimum integrity education and training standards*) recognises that making such training a formal prerequisite, rather than simply a competitive advantage, is one of the few effective ways for organisations to ensure a heightened integrity capacity and clarity about the standards against which managers can and will be held accountable.

Finally, chapter 6 identified a particular structural deficiency in distributed integrity capacity in the public sector in the area of local and regional governance. Local government has traditionally been under-resourced in Australia, constraining the extent to which local democratic systems have been able to realise high standards of integrity. Until recently, local government integrity has been chiefly dependent on the same accountability requirements as state government agencies, notwithstanding the ill-fitting

nature of this regime for an elected, general-purpose sphere of government in its own right, with individual governments usually much smaller in size and capacity than most state agencies. The growth of federal and state regional programs for which local government provides institutional support, but for which responsibility is often blurred, exacerbates systemic integrity risks at local and regional levels. There is an important opportunity for Commonwealth and state governments to fund a comprehensive review, collaboratively with local government, of the most effective framework for building and delivering integrity system capacity at the local and regional levels, recognising the growing responsibilities of local government in the Australian federal system and increasing complexity of regional-level institutions (see *recommendation 15*: *regional integrity resource-sharing and capacity-building*).

12. Recommendations

The 21 recommendations introduced in chapters 9-11 are intended for all Australian governments, the business community, the general public and civil society groups concerned to ensure continual improvement in Australia's integrity systems. The recommendations are not exhaustive. Rather than detailing every possible reform, they present a mixture of priorities and overarching principles for development of effective integrity systems as a whole. They reflect conclusions typically applicable throughout Australia, but in some cases relate more strongly to a particular identified jurisdiction.

Table 13 summarises the areas of the recommendations, their relationship with the assessment themes above, and the sectors/jurisdictions to which they most relate. As explained in chapter 1, the recommendations form three groups:

Recommendations 1-7 relate to core integrity institutions, i.e. bodies established wholly or largely to ensure proper discharge of power by organisations and their officeholders. As outlined in the preceding chapters, these relate primarily to the public sector.

Recommendations 8-15 relate to distributed integrity institutions, i.e. organisational strategies devoted to setting and maintaining integrity standards within the organisations through which most power is exercised. Recommendations 8-13 apply across all sectors, while recommendations 14 and 15 raise public sector issues.

Recommendations 16-21 relate to education, evaluation and research. Recommendations 16-19 reflect the need for further investment in community and official knowledge about integrity systems, and the last two emphasise the need for further research into capacity and coherence issues in the non-government society sectors.

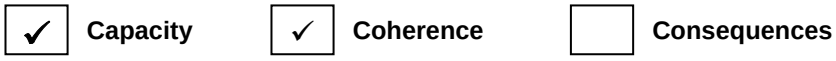
12.1 Integrity from the top: core institutions

Recommendation 1. Commonwealth integrity & anti-corruption commission

That the Commonwealth Government's proposed new independent statutory authority be tasked as a comprehensive lead agency for investigation and prevention of official corruption, criminal activity and serious misconduct involving Commonwealth officials, based on the following principles:

1. *That the agency's jurisdiction not be limited to select agencies but include all Commonwealth officials from secretaries or equivalent down, including employees of Commonwealth-owned corporations, and any other persons involved or implicated in wrongdoing affecting the integrity of Commonwealth operations;*
2. *That the agency be made (i) an ex officio member of the Commonwealth Governance Review Council or other integrity coordination body created pursuant to recommendation 2, or failing that the existing Administrative Review Council, and (ii) subject to parliamentary oversight by a suitable parliamentary standing committee, preferably the same committee responsible for oversighting other core Commonwealth integrity agencies (see recommendation 3);*

3. *That the jurisdiction of the agency also include Commonwealth parliamentarians and ministers provided that, if recommendation 6 is taken up and an effective parliamentary and ministerial integrity system established, the agency's jurisdiction is only triggered by a request of the Parliamentary Integrity Commissioner, presiding officer of either House, or where in the opinion of the agency head an important matter of public interest would otherwise go uninvestigated;*
4. *That the agency be charged with a statutory responsibility to promote integrity and accountability as well as investigate wrongdoing, and be given a commensurate positive title rather than one defined by crime, misconduct or corruption;*
5. *That the agency be empowered and required to:*
   (i) undertake inquiries of its own motion as well as receive and investigate complaints from whatever source;
   (ii) exercise concurrent jurisdiction and participate in a statutorily-based investigations clearing house with other federal investigative agencies including the Commonwealth Ombudsman and Australian Federal Police; and
   (iii) share all relevant information with other Commonwealth and state integrity institutions, and conduct cooperative investigations with them including delegating its own investigatory powers, when in either its or their opinion their own jurisdiction is also involved;
6. *That the Commonwealth review its operational definitions of corruption to include internal fraud and any other offences or types of serious misconduct with the potential to seriously affect public integrity, and revise its reporting, monitoring and prevention policies accordingly.*



See pages 58 66, 68.

Recommendation 2. Governance review councils

That each Australian government establish, by constitution or statute, a governance review council or similarly titled body to:

(i) Promote policy coherence and operational coordination in the ongoing work of the jurisdiction's main core integrity institutions;

(ii) Coordinate research, evaluation and monitoring of the implementation of ethics, accountability and administrative review legislation, including the balance between different aspects of integrity systems (e.g. education, prevention and enforcement);

(iii) Report to the public on the 'state of integrity' in the jurisdiction;

(iv) Ensure operational cooperation and consistency in public awareness, outreach, complaint-handling, workplace education, prevention, advice and investigation activities, including greater sharing of information between integrity bodies;

(v) Foster cooperation between public sector integrity bodies, sector-specific or industry-specific integrity bodies and like integrity bodies in the private sector (e.g. industry ombudsman's offices);

(vi) Provide ongoing advice to government and the public on institutional and law reforms needed to maintain and develop the jurisdiction's integrity regime; and

(vii) Sponsor comparative research, evaluation and policy discussion regarding integrity mechanisms in other jurisdictions, nationally and internationally.

The council should have a permanent secretariat to hold occasional public reviews and compile complex reports, and have a membership including the heads of all the jurisdiction's core integrity institutions (Ombudsman, Auditor-General, anti-corruption commissioner, public service head, parliamentary standards commissioner, etc), expert and community representation, and an independent chair.

☑ **Capacity** ☑ **Coherence** ☑ **Consequences**

See pages 52, 61, 70, 87, 89.

Recommendation 3. Standing parliamentary & public oversight mechanisms

That all Australian parliaments establish (or where necessary, rationalise) a system of independent public oversight for all of their core integrity institutions, consisting of:

(i) a standing multi-party parliamentary committee, supported by staff; and

(ii) either a standing public advisory committee, or failing that, an extensive program of public participation when conducting annual or three-yearly parliamentary reviews.

☑ **Capacity** ☑ **Coherence** ☑ **Consequences**

See pages 56, 83.

Recommendation 4. Jurisdiction over corporatised, contracted & grant-funded services

That all governments review the traditional legislative methods for defining the jurisdictions of integrity institutions, away from characterisations of decision-makers or service-providers as 'public', 'private', 'commercial' or 'corporatised' and towards increased discretion for integrity bodies to investigate and/or hear any relevant matter involving any decisions or services flowing from an allocation of public funds.

☑ **Capacity** ☑ **Coherence** ☐ **Consequences**

See page 69.

Recommendation 5. Access to administrative justice

That all governments join in a national review of the current availability of substantive administrative law remedies to citizens aggrieved by official decisions, recognising:

(i) Partial, and often complete lack of protection for basic civil and political rights in Australia's Constitutions and other fundamental laws, and the extent to which this continues to constrain the operation of administrative law;

(ii) Continuing increases in the cost of legal services and continuing comparative lack of legal aid support for administrative as against criminal and family matters;