

Governing for integrity

A blueprint for reform

Australia's Second National Integrity System Assessment DRAFT REPORT – OVERVIEW

A strong system of **public integrity and accountability** is vital to Australia's future.

Governing for Integrity presents key results and draft recommendations from Australia's second **national integrity system assessment** – Transparency International's collaborative, multi-stakeholder approach for evaluating institutions and processes for upholding public integrity and controlling corruption.

Led by Griffith University with project partners Transparency International Australia, state integrity agencies and expert collaborators nationwide, this 2-year assessment has been

- supported by the **Australian Research Council**
- recommended by the **Senate Select Committee on a National Integrity Commission** as a key input for reaching a 'conclusive' view on reform
- identified by Government as one of the bases for reform of the National Integrity Framework under Australia's second **Open Government Partnership** plan.

This **draft report** is open for feedback until **10 May 2019**. Its **25 recommendations** cover:

Australia's anti-corruption priorities in context
Our main official corruption challenges
Preventing corruption
Political integrity
Valuing whistleblowing, civil society and the media
Enforcing integrity violations
Ensuring integrity agency accountability
Creating a 'system': strong coherence, coordination and resources

This **overview** presents key recommendations relating to

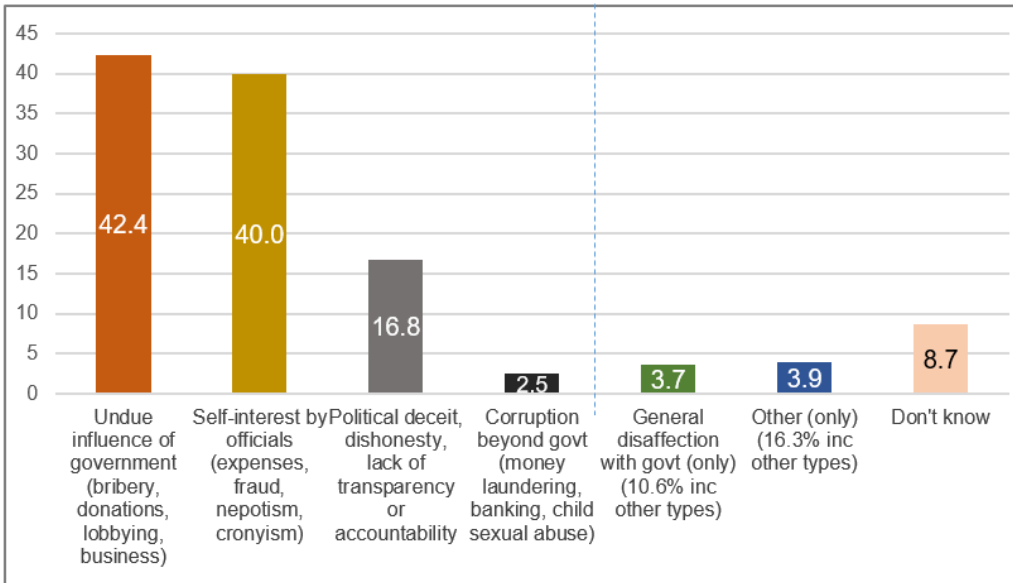
- **A National Integrity Commission**
- **Broader political integrity reform, and**
- **Resources**

For the full draft report: www.griffith.edu.au/anticorruption

For Australia, the need to act is clear. Our research confirms that trust in public institutions is under unprecedented pressure – much of it driven by **concern about corruption**. Up to a third of all variation in Australian citizens’ trust and confidence is owed to the level of corruption they perceive among elected officials. Fortunately, trust in government also *rises* when citizens assess government to be doing a **good job** in fighting corruption.

Figure 4.1. Types of corruption perceived by Australian citizens

B4. 'What kind of corruption do you think is the main problem in government – please tell me the kind of actions or behaviour you have in mind?' (n=1,932)



Griffith University & TI Australia, Global Corruption Barometer Australia, May-June 2018 (n=2,218). Note: Columns add to more than 100 per cent, as respondents could nominate more than one kind.

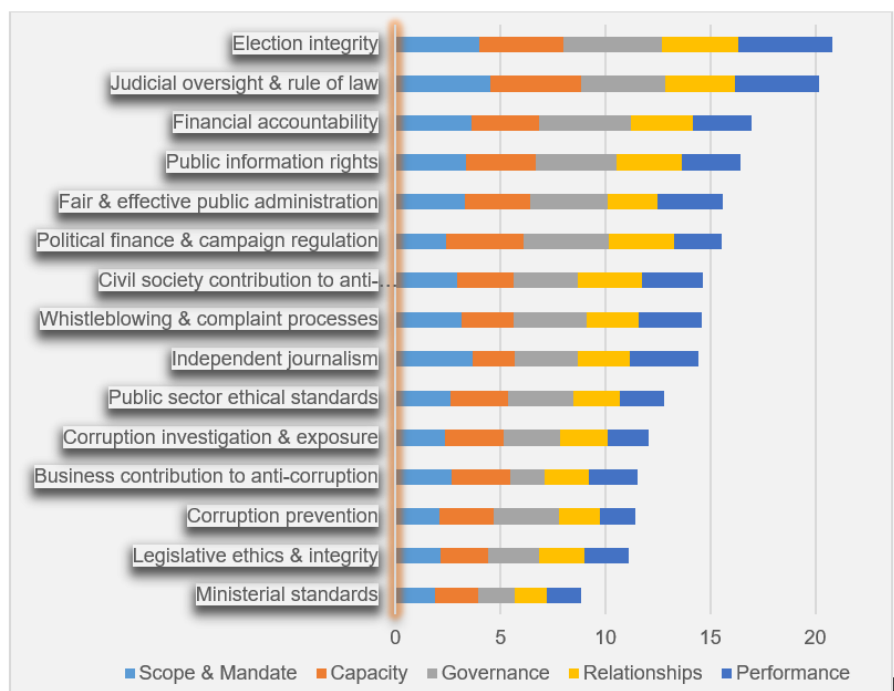
What is strong, and what is weak?

Preliminary National Integrity Survey results from our expert and government respondents for all functions in the **Commonwealth integrity system** show the variation in strength and performance between the different integrity functions across the system.

The assessment (including interviews and surveys) focused on five themes:

- scope & mandate
- capacity
- governance
- relationships (policy coherence, operational cooperation, and social accountability), and
- perceived performance.

Figure 2.10. State of the Commonwealth integrity system, by integrity function -- strongest to weakest (National Integrity Survey, experts & government, n=66)



Key recommendations – A National Integrity Commission

Many draft recommendations identify what a **national integrity or anti-corruption commission** should look like. The assessment **strongly supports** such a reform – and points to key issues for how it should be achieved.

Despite political consensus that reform is needed, however, options vary significantly. **Appendix 1** updates the comparison provided by a previous paper [A National Integrity Commission: Options for Australia](#) (August 2018) summarizing how the latest proposals compare on key issues – including:

- Commitments made by the **Labor Opposition** (January 2018)
- **National Integrity Commission** and **National Integrity (Parliamentary Standards) Bills 2018** introduced by Independent MP Cathy McGowan AO, and an almost identical Greens proposal (November 2018), and
- The Commonwealth Government's **Commonwealth Integrity Commission** proposal (December 2018).

Recommendation 1: National integrity and anti-corruption plan

Recommendation 2: A truly 'national' integrity commission

Recommendation 3: A modern, national definition of corrupt conduct

Both Government and Opposition proposals for a **Commonwealth / National Integrity Commission** focus only on updating anti-corruption mechanisms *within* the federal public sector much as if it was simply a State government.

Reform needs to take a wider approach, including dealing with cross-sectoral issues and national coordination and cooperation. And a modernized broad, definition of corruption is needed – covering **not only criminal**, but disciplinary or administrative misconduct, and **applying equally** across all government agencies and functions (unlike the Government's Commonwealth Integrity Commission proposal).

Recommendation 4: 'Undue influence' as a new corruption marker

Recommendation 5: Comprehensive mandatory reporting

As part of this, the definition of '**undue influence**' as a new marker of corrupt and corruptive conduct needs to be developed. And all corrupt or corruptive conduct must be **reported in real time** by all public agency heads, and all public officials either to agency heads or directly to the anti-corruption agency – again unlike the Government's Commonwealth Integrity Commission proposal.

Recommendation 17: Effective law enforcement support

Recommendation 18: Reform of public hearing powers

All anti-corruption agencies should have **non-delegated, fully independent powers** to conduct public hearings, based on agency heads' assessment of the public interest. But rather than copying existing ones or avoiding them altogether, these powers need **review** to resolve controversy over when they should be available, without undermining traditional rights and the role of criminal courts.

At the same time, more effective support is needed from the **criminal justice system**, to ensure higher priority and skills are given to handling criminal corruption matters.

See also Resources, below

Key recommendations – broader political integrity reform

The report also report argues a **comprehensive reform blueprint**, informed by best practice, is the best way to ensure “a federal ICAC” is designed to achieve its purpose along with other priority reforms.

The advantage of assessing the system is to not presume that one single institution can fix everything, like a ‘silver bullet’, but rather to strengthen the system as a whole.

Recommendation 6: Strengthened corruption prevention mandates

Recommendation 7: Resources for prevention

Recommendation 8: A comprehensive corruption prevention framework

A clear prevention mandate and defined role for coordination of prevention focused activities is needed in each jurisdiction. Current approaches are at best **ad hoc, patchy and inconsistent**.

This mandate needs to be embedded in legislative and policy frameworks. Developments in NSW and the framework proposed by the *National Integrity Commission Bill 2018* provide a way forward.

Recommendation 9: National political donations and finance reform

Recommendation 10: Lobbying and access

Recommendation 12: Parliamentary and ministerial codes of conduct

Political integrity regimes in Australia are in disarray, with occasional islands of best practice and innovation, but many languishing areas, especially at Commonwealth level.

A **high level, national inquiry** (royal commission) is needed to drive reform of political donations and finance – engaging the community to develop consistent principles and rules for all governments, including:

- **the lowest realistic caps on political donations and campaign expenditure**
- **low, consistent and universal disclosure thresholds** and
- **real-time disclosure** (still only found in two Australian jurisdictions).

Parliaments must legislate to **eliminate undue influence by vested interests** in parliamentary and ministerial decision-making, through measures including:

- stronger, more enforceable, code of conduct requirements for lobbying, and
- a **quarantine (‘cooling off’) period of 3-5 years** after serving in executive office, during which a former minister may not accept any substantial benefit from any entity or related entity.

Both **Houses of federal parliament** and the **WA Legislative Council** are now the only parliaments with no codes of conduct.

All parliaments need to follow Queensland in establishing ethical advice mechanisms, and most or all need independent mechanisms for **investigating and enforcing** breaches – the *National Integrity (Parliamentary Standards) Bill 2018* providing a model.

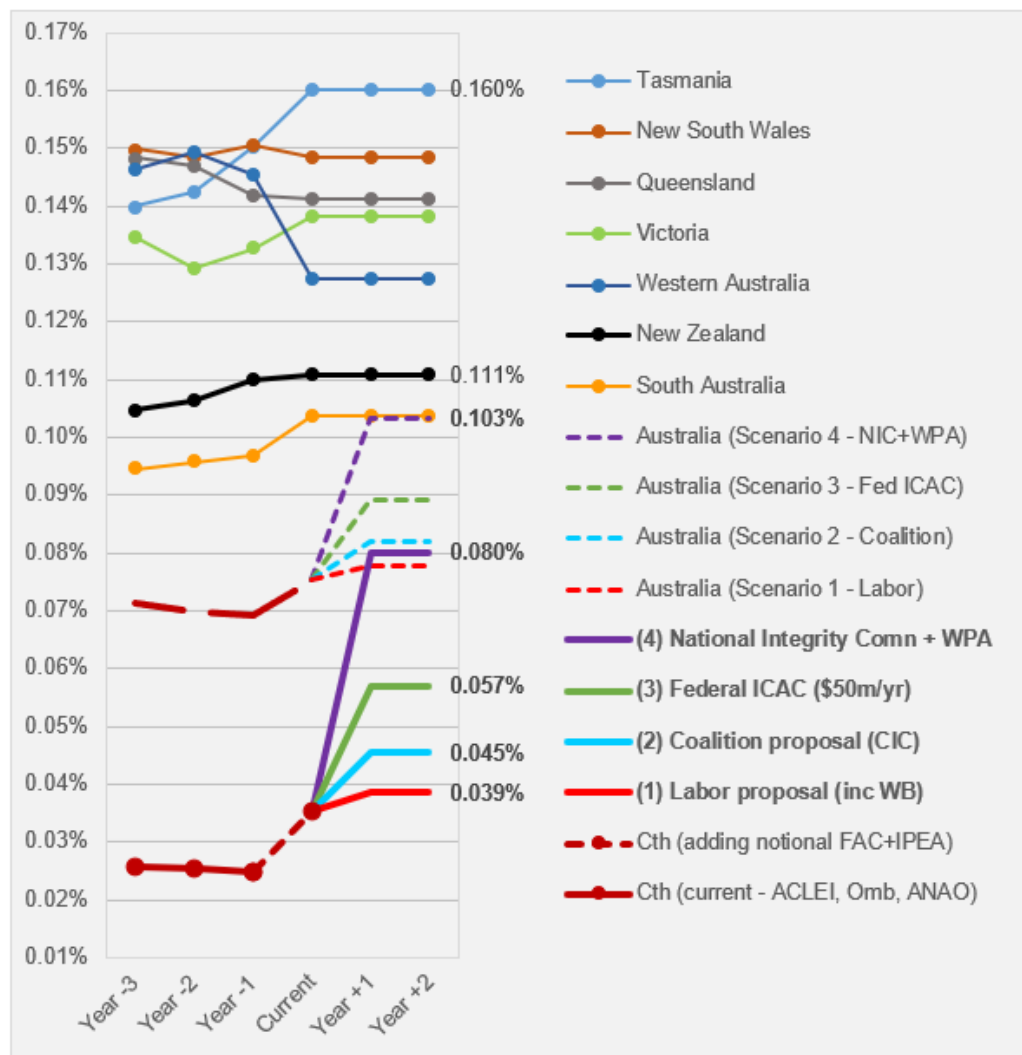
Key recommendations – Resources

Resources underpin the entire integrity system, but the financial positions of agencies vary wildly – including for the judiciary. Budgets remain highly dependent on the government of the day, and ‘efficiency dividends’ and other requirements threaten to erode the capacity of these core institutions of government.

Overall, investment in our integrity institutions appears low. Expenditure on core integrity agencies (anti-corruption, ombudsmen and auditors-general) amounts to only 0.069% of total national public expenditure. The Commonwealth spends at best **around a quarter** of what most states spend; and Australia’s public sector spends **a third less** than New Zealand, pro rata, on the same core public integrity functions (Figure 10.3).

Similarly, investment in practical **protection of whistleblowers** remains weak – for public and private sectors – due to the lack of any agency with responsibility and specialist skill to police detrimental action.

Figure 10.3. Core integrity agency expenditure as a proportion of total public expenditure – current versus Government, Opposition & other proposals



Note: Expenditure on/by the Auditor-General, Ombudsman, anti-corruption agency and any specialist police conduct agency in each jurisdiction, plus estimates of specialist law enforcement agency contributions to anti-corruption in jurisdictions with no anti-corruption agency.

Figure 10.3 also shows four future scenarios based on the proposals for a new **National or Commonwealth integrity commission**, as well as for a federal whistleblower protection authority:

- A realistic budget for a State-style anti-corruption commission (ICAC) at federal level – around **\$50 million** per year (Scenario 3);
- Previous estimates for an agency charged with these functions, plus a strategic approach to corruption prevention, plus recommended whistleblower protection functions – a minimum cost of around **\$100 million** per year (Scenario 4);
- The Labor Opposition's estimate of \$58.7 million over forward estimates (**\$19.6 million** per year) to its proposed integrity commission, plus **\$1.1 million** for the five (5) public servants proposed for whistleblower protection (Scenario 1); and
- The Government's estimate of more than that – **\$30 million** per year – for a Commonwealth Integrity Commission with a narrower, criminal-only jurisdiction and no public hearings (Scenario 2).

STOP PRESS
Federal Budget '19 includes \$104.5m new funding over 4 years for the CIC, rising to \$30m/yr, on top of existing ACLEI funds (total \$42.3 m/yr)

Under neither scenarios 1 or 2 would Commonwealth spending on core integrity functions reach even 0.050% of total public expenditure. As such, neither the Opposition nor the Government proposals as yet entail lifting Commonwealth integrity expenditure to a credible level – especially the Labor proposals.

The Opposition's proposed whistleblowing reforms include a welcome reward scheme, but as above, its protection authority for the entire workforce would consist of five staff added to the wrong agency for the purpose (Commonwealth Ombudsman). This is also not yet a credible proposal, risking making whistleblowers worse off, by encouraging reporting but failing to provide meaningful protection.

Recommendation 14: Whistleblower protection that protects

Recommendation 25: Sufficient, secure and stable resources

Governments need a **national benchmarking review of integrity agency budget needs and expenditure** – e.g. by the Productivity Commission – to set new thresholds for the target share of expenditure for core integrity agencies (not less than 0.2%).

As an interim step in bringing the Commonwealth up to par, the Government and Opposition need to commit to **minimum initial funding** for their proposed National / Commonwealth Integrity Commissions of at least:

- **\$50 million per annum** for a basic ICAC-style commission; and
- **\$100 million per annum** if proposing to include a strategic approach to corruption prevention and whistleblower protection as recommended by the parliamentary committees (see also Recommendation 14).

Australia faces a crucial opportunity to 'walk the talk' of an improved and strengthened national integrity system. Credible answers to these questions of resources are the final factor in determining whether we take it.

Public **comments and submissions** are welcome on the draft recommendations arising from the assessment by **10 May 2019** to:

nationalintegrity@griffith.edu.au

Appendix 1. Table A6. Contribution of each option to addressing key weaknesses (Options Paper, August 2018, Part 3 – Updated)

Key current weaknesses in Commonwealth integrity system	Option 1. Coordination Council	Government Commonwealth Integrity Commission proposal	Opposition (ALP) commitments to date	Option 2. An ICAC	National Integrity Commission & Parl. Standards Bills 2018	Option 3. Full Integrity Commission model
	Contribution to addressing					
3.1. No coordinated oversight of high-risk misconduct	Low	Low	Medium / Unknown	High	High	High
3.2. Most strategic areas of corruption risk unsupervised	Low	Medium	Medium / Unknown	High	High	High
3.3. No coherent system-wide corruption prevention framework	Medium	Low	Low / Unknown	Medium	High	High
3.4. Inadequate support for parliamentary and ministerial standards	Low	Low	Medium / Unknown	Medium	Medium	High
3.5. Low and uncertain levels of resourcing	Low	Medium	Low	Medium	Not applicable	High
3.6. Cross-jurisdictional challenges (public and private)	Medium	Low	Low / Unknown	Low	High	High
3.7. Public accessibility & whistleblower support (public and private)	Low	Low	Medium	Medium	High	High