



Why the federal government's new integrity commission isn't up to the job

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Restricted powers and a small budget are major concerns with the proposed federal integrity commission. from www.shutterstock.com

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A federal integrity commission is an idea whose time has finally come. The Coalition announced its proposal for a Commonwealth Integrity Commission in mid-December, joining the Greens, Labor and independents led by Cathy McGowan in recognising the need for a body to investigate corruption by politicians and public servants.

But not all integrity commissions are equal. Unfortunately, the government's initial proposal is light on both powers and resources and is unlikely to weed out corruption and serious misconduct.

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There are big gaps in its proposed powers

At a minimum, the new commission should be able to investigate and resolve claims of corruption in the public sector. Yet the government's proposal limits its scope and powers in three critical ways.

1. It limits who can report corruption

The government proposes the commission only investigate corruption in the public sector if the federal police or agency heads refer it. The proposal explicitly excludes investigation of public complaints. It also appears to exclude investigation of tips and information from lower-level public officials, journalists and whistleblowers.

Closing off the best source of information about corruption — those that have witnessed it directly or heard about it — would severely limit the commission's effectiveness. Indeed, instead of ignoring public tips, the commission should be a gateway for them.

2. It limits investigations to criminal offences

The proposed commission will only investigate conduct likely to be a criminal offence. While criminal conduct should be the priority, the commission should also be able to investigate other forms of serious misconduct. For example, links between financial contributions and political favours should be explored even if an improper motive — required to meet the criminal threshold — isn't likely to be established.

3. Findings may remain secret

The proposed commission “will not be able to make findings of corruption, criminal conduct or misconduct at large”. Only the courts can make findings of criminal conduct. But the commission needs to be able to report to the public on the outcomes of its investigations. The government's proposal makes no mention of the commission having any public presence.

The commission won't allay public concern if it operates purely behind closed doors. It should be empowered to publish findings of fact in relation to its investigations and refer suspected criminal conduct to the Commonwealth Director of Public Prosecutions, or serious misconduct to the relevant agency.

Public findings from the commission are important to reassure the public that corruption and serious misconduct are being investigated. It also creates accountability for the agencies ultimately tasked with pursuing the conduct. It is equally important the commission makes public statements when it does *not* find facts to support an allegation, so that public officials don't live under a cloud of suspicion.

Funding too tight

The government proposes a commission operating budget of about A\$30 million a year. This is supposed to fund the new public sector integrity division as well as a division to investigate corruption in law enforcement agencies – a task currently undertaken by the Australian Commission for Law Enforcement Integrity (ACLEI), with a budget of about \$12 million a year.

Assuming the law enforcement division requires only the existing ACLEI budget – optimistic given the raft of new agencies the government is asking it to cover – this would leave the public sector division with a budget of \$18 million.

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That's far smaller than the annual budgets of the larger states' integrity agencies: NSW \$24 million, Western Australia \$30 million, Victoria \$40 million and Queensland \$57 million.

A recent review estimated the cost of a well-functioning commonwealth integrity agency at \$47 million a year (including a law enforcement division).

Broader integrity reforms are also needed

An integrity commission, even a powerful and properly resourced one, is not enough on its own to ensure well-resourced and well-connected groups don't have too much sway over public policy.

Grattan Institute's 2018 report *Who's in the room? Access and influence in Australian politics* covered the vulnerabilities of Australian governments to this type of undue influence.

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A number of simple changes could reduce these risks, including capping political advertising expenditure during election campaigns, strengthening the disclosure regime for political donations and making lobbying more transparent by publishing ministerial diaries.

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Setting much clearer standards for politicians on potential conflicts of interest – particularly relating to corporate hospitality, gifts and secondary employment – would also be a useful complement to the integrity commission’s activities.

Back to the drawing board

The government should go back to the drawing board. A weak and poorly resourced integrity commission is only marginally better than no integrity commission. Fortunately, there is time for the government to fix the model before the proposal is put to parliament. And if the government is serious about lifting the standards in public office, it should reform political donations and lobbying rules at the same time.



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