

Submission: Inquiry into the confidentiality provisions of the *Integrity Commission Act 2009*

1. Overview

The Joint Standing Committee on Integrity has been asked to consider whether the confidentiality provisions of the *Integrity Commission Act 2009*, including sections 11, 94, 98 and 100, appropriately balance the integrity of investigations and procedural fairness with public accountability and transparency.

The Committee is also specifically asked to identify possible legislative amendments to improve transparency, public confidence and parliamentary accountability while maintaining appropriate protections for investigations and affected persons.

COTA Tasmania considers this balance critically important.

Older Tasmanians interact frequently with government decision-making and publicly funded services, including health and community services, housing, local government, policing, regulatory agencies and other public institutions. Where concerns arise, people need to be able to raise them safely and to understand what happens next.

For many older people, the critical question is not whether a right technically exists. It is whether the system is understandable, safe, navigable and fair in practice.

Equally, for the broader community, the question is not simply whether an integrity body exists. It is whether there is sufficient visibility of its work to give people confidence that concerns are being investigated, lessons are being learned and misconduct is being appropriately addressed.

COTA Tasmania raised related concerns in its March 2026 submission on the *Integrity Commission Amendment Bill 2026*.

That submission supported appropriate confidentiality protections but warned against unintended “gag” effects that could prevent people from obtaining legal advice, advocacy, assistance from carers or trusted support people, or other necessary support. It recommended clearer reasonable-excuse provisions, a workable permission and review process for limited disclosure, and targeted and proportionate use of confidentiality notices.

Those concerns remain.

The present inquiry provides an opportunity to consider the issue more broadly: not only how confidentiality affects individuals participating in integrity processes, but whether the overall legislative framework permits sufficient transparency for the community to understand how the system operates and to have confidence in its effectiveness.

2. About COTA Tasmania

COTA Tasmania is the peak body representing the interests of older Tasmanians.

For more than 60 years, COTA Tasmania has worked to advance the rights, wellbeing and participation of older people through policy, advocacy, information, education and community engagement.

Our interest in Tasmania's integrity framework is not as a specialist anti-corruption body, but from the perspective of the people who must interact with public institutions and have confidence that those institutions are fair, accountable, understandable and effective.

3. Recommendations

COTA Tasmania recommends that the Committee:

1. retain appropriate confidentiality protections where necessary to protect investigations, complainants, witnesses, privacy, safety and procedural fairness;
2. embed necessity and proportionality as guiding principles for the imposition and continuation of confidentiality requirements;
3. ensure clear statutory exceptions or reasonable-excuse provisions allow people to obtain legal advice, advocacy and necessary support without unreasonable fear of breaching the Act;
4. provide a simple mechanism for seeking clarification, variation or permission for limited disclosure;
5. require active review of confidentiality restrictions and their removal when the circumstances that justified them no longer apply;
6. strengthen public reporting of completed matters, including appropriate aggregated and de-identified reporting of outcomes, systemic issues, recommendations and implementation;
7. ensure public reporting provides meaningful information about the performance of the integrity system, including workloads, timeframes and outcomes;
8. provide clear, accessible and plain-language information about confidentiality obligations and available support; and
9. consider the confidentiality provisions within the wider integrity reform program so that successive legislative changes operate as a coherent and effective framework.

4. Detailed comments

4.1 Integrity reform should be considered as a whole

This inquiry occurs within a continuing program of integrity reform.

The *Integrity Commission Amendment Bill 2026*, arising from an earlier consultation process to which COTA Tasmania contributed, was introduced into the House of Assembly on 18 June 2026. As of 2 September 2026, it had not progressed beyond first reading.

A separate *Integrity Commission Amendment (Mandatory Notifications) Bill 2025* has also been progressing through Parliament, reaching third reading in the Legislative Council on 10 September 2026.

COTA Tasmania notes that successive reviews and legislative reform processes have addressed aspects of the integrity framework over a prolonged period. While incremental reform can be appropriate, public confidence also depends on timely implementation and a clear view of how the various reforms fit together.

Integrity reform should ultimately be judged not by the number of reviews, bills or recommendations produced, but by whether the resulting system is coherent, accessible, transparent and demonstrably effective in practice.

4.2 Confidentiality is necessary - but should be proportionate

COTA Tasmania recognises that confidentiality serves important purposes. Investigations may require protection to avoid compromising evidence, exposing complainants or witnesses to risk, damaging reputations through untested allegations, or undermining procedural fairness.

Those protections should remain.

We believe that the issue is not whether confidentiality should exist, but whether it is imposed only where necessary, is no broader than required, and continues only for so long as there is a genuine reason for it.

Where confidentiality requirements are imposed, people should be able to understand:

- why the restriction applies;
- what information or conduct it covers;
- what disclosures are permitted;
- how long it may continue; and
- how it can be reviewed, varied or revoked.

Confidentiality should not persist simply because no mechanism or obligation exists to revisit the original decision.

4.3 People must still be able to obtain advice and support

COTA Tasmania reiterates its earlier concern that confidentiality requirements must not prevent people from obtaining assistance necessary to participate effectively in an integrity process.

This is particularly relevant for older people who may require assistance from a lawyer, advocate, carer, family member or trusted support person to understand correspondence, organise information, make decisions or respond appropriately. A person should not reasonably fear committing an offence simply by seeking necessary advice or support.

COTA Tasmania therefore supports clear statutory protections allowing disclosure where reasonably necessary, and that these allowances should be made clear to the public.

Allowances could be for purposes such as:

- obtaining legal advice or representation;

- accessing independent advocacy;
- obtaining practical support from a carer, family member or trusted support person;
- seeking assistance from an appropriate regulator or oversight body; and
- responding to urgent health, safety or welfare concerns.

Where unrestricted disclosure would create genuine investigative risks, there should nevertheless be a simple and timely mechanism for authorising limited disclosure.

4.4 Transparency supports accountability and prevention

Confidentiality and transparency should not be treated as opposing absolutes.

Tasmania's Integrity Commission already publishes operational statistics through triannual reports, maintains information about finalised matters, and publishes anonymised summaries and some investigation reports.

COTA Tasmania supports that approach and considers there is scope to strengthen it further. Subject to necessary privacy and procedural-fairness protections, public reporting should allow the community to understand:

- the volume and broad types of matters received;
- how matters are resolved;
- broad reasons for dismissal, referral or investigation;
- assessment and investigation timeframes;
- significant systemic issues identified;
- recommendations made; and
- where practicable, whether recommendations have been implemented.

Much of this can be achieved through aggregated or de-identified reporting without identifying complainants, witnesses or people who have been the subject of unsubstantiated allegations.

More broadly, transparent reporting creates an accountability feedback loop: it allows the community and Parliament to see not only that issues have been identified, but whether recommendations have been implemented and whether institutional practice has subsequently improved.

Transparency also has a preventative role. Appropriately de-identified information about completed matters can help public bodies identify recurring weaknesses, improve governance and misconduct-management systems, and reduce the likelihood of similar problems recurring.

4.5 Public confidence must be capable of being earned

There has been longstanding public debate about the effectiveness of Tasmania's integrity framework.

For example, research published by the Australia Institute in 2022 reported that 48.5 per cent of Tasmanians surveyed distrusted the Integrity Commission's ability to uncover misconduct and raised concerns about funding, jurisdiction, investigative activity and implementation of earlier reform recommendations.

Those findings should be understood in their 2022 context rather than treated as a current assessment of the Commission.

COTA Tasmania does not seek to endorse every criticism made of the Commission. However, persistent doubts about effectiveness themselves matter. An integrity system that operates largely outside public view has limited capacity to demonstrate that it is achieving its purpose.

This concern is consistent with broader evidence about the relationship between institutional integrity and public trust.

In a recent address, Productivity Commission Chair Danielle Wood argued that strong independent institutions are important not only to prevent corruption and misuse of public resources, but also to maintain the public trust on which effective government depends. She noted that institutions are not invulnerable: their effectiveness can be affected by resourcing, appointments, referrals and other pressures, while public confidence in their independence provides an important safeguard. The Productivity Commission also emphasised that governments earn trust through effective delivery, transparency and evidence that policies and institutions are achieving their intended purposes.

This reinforces the importance of an integrity framework being able to demonstrate its effectiveness. Appropriate confidentiality may protect individual investigations, but the integrity system as a whole must provide sufficient public information about activity, outcomes, systemic findings and implementation for the community to assess whether it is working.

Public confidence cannot be created simply by asking the community to trust that an integrity system is working. Wherever possible, the system must provide sufficient evidence for that confidence to be earned.

4.6 Accessibility and clarity

The confidentiality provisions of the Act are legally complex. For someone unfamiliar with legal or administrative systems, uncertainty about what can or cannot be discussed may itself become a barrier to participation.

Any legislative reform should therefore be accompanied by clear, plain-language guidance explaining:

- what confidentiality requirements mean in practice;
- why a restriction has been imposed;
- who a person may speak to;
- how to obtain legal, advocacy or other support;
- how permission for limited disclosure can be sought; and
- how and when confidentiality restrictions are reviewed.

Information should be available in accessible formats and should not assume high levels of legal or digital literacy.

Conclusion

COTA Tasmania supports confidentiality where it is necessary to protect the integrity and fairness of an investigation.

However, secrecy should not become synonymous with integrity.

For individuals, an effective integrity framework must allow people to participate safely, obtain advice and support, and understand their rights and obligations. For the wider community, it must provide sufficient transparency to demonstrate that concerns are investigated, misconduct is appropriately addressed, recommendations are acted upon and systemic lessons are learned.

Tasmania's integrity framework should therefore be designed so that confidentiality is purposeful, proportionate and subject to review, while transparency is strong enough to support accountability and public confidence.

Ultimately, public trust depends not simply on the existence of an integrity system, but on whether people can see enough of its operation to have confidence that it is coherent, accessible and effective in practice.

COTA Tasmania encourages the Committee to use this review not only to refine the confidentiality provisions of the *Integrity Commission Act 2009*, but to strengthen the credibility and effectiveness of Tasmania's integrity framework as a whole.

References

1. COTA Tasmania, *Submission: Integrity Commission Amendment Bill 2026*, March 2026.
2. E Carr and R Hay, *Still Toothless: Jurisdictional, funding and secrecy issues in the Integrity Commission Tasmania*, Australia Institute Tasmania, 10 March 2022.
3. Integrity Commission Tasmania, *Triannual Reports and Finalised Matters*.
4. Joint Standing Committee on Integrity, *Inquiry into the confidentiality provisions of the Integrity Commission Act 2009-Terms of Reference*, 12 August 2026.
5. Parliament of Tasmania, *Integrity Commission Amendment (Mandatory Notifications) Bill 2025 (69 of 2025)*, status current to 10 September 2026.
6. Parliament of Tasmania, *Integrity Commission Amendment Bill 2026 (23 of 2026)*, status current to 2 September 2026.
7. D Wood, *Growing trust and trusting growth: the economic case for integrity*, Centre for Public Integrity Oration, Productivity Commission, 23 September 2026.