



## NORTHERN TERRITORY OF AUSTRALIA

### Protocol for the appointment of statutory officers under the Northern Territory Integrity Framework

This Protocol outlines the selection process for the initial appointment of statutory officers under the Northern Territory Integrity Framework. The Protocol does not apply to the re-appointment of statutory officers, where permitted under the relevant legislation.

In accordance with the processes provided in the relevant legislation, the statutory officers outlined in section 1 of this Protocol are formally appointed (or re-appointed) by the Administrator. This Protocol does not outline appointment processes, such as whether appointments must be published in the Gazette or tabled in the Legislative Assembly, as these processes are provided in the relevant legislation.

Responsible agencies can develop processes and guidelines, consistent with the principles of natural justice, to support the implementation of the Protocol.

1. This Protocol applies to the making of the following appointments:
  - the Independent Commissioner Against Corruption under s 113 of the *Independent Commissioner Against Corruption Act 2017*;
  - the Independent Commissioner Against Corruption Inspector under section 134 of the *Independent Commissioner Against Corruption Act 2017*;
  - the Ombudsman under s 132 of the *Ombudsman Act 2009*;
  - the Electoral Commissioner under s 314 of the *Electoral Act 2004*; and
  - the Auditor-General under s 4 of the *Audit Act 1995*.
2. The Protocol may be adapted for use in the making of other statutory officer appointments.
3. If the Chief Minister proposes to recommend to Cabinet the making of a statutory appointment for one of the officers listed in section 1 above, the Chief Minister will appoint an Advisory Panel to perform the function specified in this Protocol in relation to the proposed appointment.
4. The Advisory Panel will be chaired by:
  - a. a former Judge of the Supreme Court of the Northern Territory, or of a superior court of a State or Territory or the Commonwealth, who preferably has had experience in the Northern Territory, and who has not been retired for more than seven years; or
  - b. a lawyer who has been admitted to the legal profession for at least 10 years; or
  - c. a person who has held a role such as the Ombudsman, ICAC or similar in any State or Territory or the Commonwealth.

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5. In the case of the appointment of the Independent Commissioner Against Corruption, and the Independent Commissioner Against Corruption Inspector, the other members of the Advisory Panel will be the Solicitor-General for the Northern Territory and the Chief Executive Officer of the Department of the Chief Minister. If the Solicitor-General is unable to participate as a member of the Advisory Panel, his or her place on the Panel should be filled by the Chief Executive Officer of the Department of the Attorney-General.
6. In the case of the Ombudsman and the Electoral Commissioner, the other members of the Advisory Panel will be the Commissioner for Public Employment and the Chief Executive Officer of the Department of the Chief Minister. If the Commissioner for Public Employment is unable to participate as a member of the Advisory Panel, his or her place on the Panel should be filled by the Under Treasurer.
7. In the case of the Auditor-General, the other members of the Advisory Panel will be the Under Treasurer and the Chief Executive Officer of the Department of the Chief Minister. If the Under Treasurer is unable to participate as a member of the Advisory Panel, his or her place on the Panel should be filled by the Commissioner for Public Employment.
8. The function of the Advisory Panel is to provide a written recommendation to the Chief Minister identifying those persons suitable for appointment, having regard only to the eligibility requirements outlined in the relevant Act and considerations of merit. The recommendations to the Chief Minister will identify with brief reasons why those persons are suitable for appointment.
9. The Advisory Panel will recommend to the Chief Minister not less than two persons suitable for appointment. In the event that the Advisory Panel is not able to recommend more than one person to the Chief Minister, the recommendation will identify brief reasons why only one person has been recommended.
10. Expressions of interest will be invited by means of a public advertisement, but will not preclude the Advisory Panel from identifying potential applicants through alternative means.
11. The Advisory Panel will decide whether or not to interview persons who might be suitable for appointment. The recommendation from the Advisory Panel to the Chief Minister should indicate whether or not the Panel conducted interviews, and if so, with whom.
12. In the course of its deliberations, the Advisory Panel may consult with a representative(s) of relevant bodies, such as professional bodies. The recommendation from the Advisory Panel to the Chief Minister should indicate whether or not the Panel conducted consultations in the course of its deliberations, and if so, with whom.
13. In its recommendation to the Chief Minister, the Advisory Panel may indicate, but is not obliged to indicate, whether a particular person or particular persons among those suitable for appointment is or are to be preferred. In that event, the Panel will provide brief reasons for that preference.
14. After receiving the recommendation of the Advisory Panel, the Chief Minister may meet with the Advisory Panel to discuss its recommendation. In that discussion, the Chief Minister may seek further details in relation to the persons recommended as suitable for appointment.
15. The recommendation from the Advisory Panel to the Chief Minister will be provided by the Chief Minister to members of Cabinet, before the proposed appointment is considered by Cabinet.

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16. The Chief Minister and other members of Cabinet may consult other persons relating to the Advisory Panel's recommendation.
17. If Cabinet proposes to appoint a person not recommended by the Advisory Panel, that proposal may be referred to the Advisory Panel for consideration and comment before the appointment is made.

### **Probity Checks**

18. A person under consideration for appointment to an office the subject of this Protocol must complete and submit the Questionnaire and Consent contained at Appendix 1 to this Protocol before the Advisory Panel recommends that person as suitable for appointment.

### **Administrative support**

19. The process for advertising for and receiving expressions of interest, collating them and arranging for interviews if they are to take place, should be conducted by the Department of the Chief Minister, in liaison with the chair of the Advisory Panel.

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**APPENDIX 1: QUESTIONNAIRE AND CONSENT**

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**STATUTORY DECLARATION**

<b>INDEPENDENT COMMISSIONER AGAINST CORRUPTION</b>  <b>INDEPENDENT COMMISSIONER AGAINST CORRUPTION INSPECTOR</b>  <b>OMBUDSMAN</b>  <b>ELECTORAL COMMISSIONER</b>  <b>AUDITOR-GENERAL</b>  <b>(SEPARATE FORM TO BE USED FOR EACH OFFICE)</b>	<b>NORTHERN TERRITORY</b>
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Persons seeking appointment are required to complete and sign this Declaration and Consent.

The information is sought to assist in assessing a person's suitability for nomination/appointment.

Please answer the following questions by circling the reply that applies to your personal circumstances.

If you answer "yes" to any question, please provide details in an attachment to this form. Please note that answering "yes" to any question does not necessarily preclude you from being appointed.

Your response will be treated as confidential and will only be used for purposes connected with this proposed appointment.

Please answer all questions. If there is insufficient space, please attach details.

1. Have you ever been charged with a criminal offence? [If yes, provide full details by separate annexure.]	Yes / No
2. Do you have any disclosable criminal convictions, i.e. convictions as an adult that form part of your criminal history other than those protected by a Spent Convictions Scheme? [If yes, provide full details by separate annexure.]	Yes / No
3. Are you, or have you been, a party either as a plaintiff/applicant or defendant/respondent in any civil or criminal court proceeding (including as a director or other office holder of a company that is or was a party to such a proceeding)? [If yes, provide full details by separate annexure.]	Yes / No
4. (a) Have you ever been declared bankrupt, entered into a debt agreement under Part IX of the <i>Bankruptcy Act 1966</i> or entered into a personal insolvency agreement under Part X of the <i>Bankruptcy Act 1966</i> ? [If yes, provide full details by separate annexure.]	Yes / No

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(b) If you are in a partnership, have any of your partners ever been declared bankrupt, entered into a debt agreement under Part IX of the <i>Bankruptcy Act 1966</i> or entered into a personal insolvency agreement under Part X of the <i>Bankruptcy Act 1966</i> ? [If yes, provide full details by separate annexure.]	Yes / No or N/A
5. Has any business or commercial enterprise for which you, or if applicable your partner(s), have had responsibility ever gone into receivership or a similar scheme or arrangement? [If yes, provide full details by separate annexure.]	Yes / No
6. During the last 10 years have you, or if applicable your partner(s), been the subject of a court order in connection with monies owing to another party? [If yes, provide full details by separate annexure.]	Yes / No
7. Have you ever been summonsed or charged concerning non-payment of tax or outstanding tax debts, investigated for tax evasion or defaults, or negotiated with the Australian Taxation Officer over outstanding tax debts? [If yes, provide full details by separate annexure.]	Yes / No
8. Have you ever been the subject of a complaint to a professional body which has been concluded, or is currently under investigation? [If yes, provide full details by separate annexure.]	Yes / No
9. Have you ever been dismissed from employment because of a discipline or misconduct issue? [If yes, provide full details by separate annexure.]	Yes / No
10. Do you or your immediate family have any financial interest or conflicts of interest in any company, business or entity, or are you or your immediate family employed or engaged by any company, business or entity, which might have or had dealings with, or an interest in the decisions of, the office to which you may be appointed? [If yes, include advice in an attachment on how this conflict of interest would be managed.]	Yes / No
11. Is there any other information which could be relevant to your suitability for the proposed appointment? [If yes, provide full details by separate annexure.]	Yes / No

I ..... solemnly and sincerely declare that:

1. this declaration is true and I know it is an offence to make a statutory declaration that is false in any material particular;
2. my private, business and financial interests, including taxation affairs, would not conflict with my public duties or otherwise cause embarrassment to myself, the institution to which I may be appointed or to the Government during my term of appointment; and
3. I am not aware of any reason why I should not be appointed nor why I could not carry out the duties of the office as required of me.

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I undertake to advise the Chief Minister in writing of any changes to the above information on becoming aware of such changes at any time during the term of appointment.

Declared at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

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Name and contact details

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Signature

Witnessed by:

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Name and contact details

.....  
Signature

**NOTE: This declaration may be witnessed by any person who is at least 18 (eighteen) years of age.**

**NOTE: This written statutory declaration must comply with Part 4 of the *Oaths, Affidavits and Declarations Act 2010* (NT).**

**NOTE: Making a declaration knowing it is false in a material particular is an offence for which you may be fined or imprisoned.**

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**CONSENT**

<b>INDEPENDENT COMMISSIONER AGAINST CORRUPTION  INDEPENDENT COMMISSIONER AGAINST CORRUPTION INSPECTOR  OMBUDSMAN  ELECTORAL COMMISSIONER  AUDITOR-GENERAL  (SEPARATE FORM TO BE USED FOR EACH OFFICE)</b>	<b>NORTHERN TERRITORY</b>
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I .....

of .....

consent to:

1. a National Criminal History Check being conducted in relation to me;
2. any relevant professional bodies in the Northern Territory providing the records of any investigation into my professional conduct; and
3. the relevant professional bodies of any State or Territory in which I have practised providing such records.

I will provide a copy of a current practising certificate or document evidencing my academic qualifications, if required.

**Date:**

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**Signature**