

# PUBLIC

**THE PARLIAMENTARY JOINT STANDING COMMITTEE ON INTEGRITY MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON FRIDAY 1 NOVEMBER 2024.**

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## **EXAMINATION OF INTEGRITY COMMISSION ANNUAL REPORT**

**The public hearing commenced at 9.02 a.m.**

**CHAIR** (Ms Armitage) - Thank you very much for coming in. It is very appreciated. I know you are busy people.

Before we start, if you just give the statement before you begin giving evidence. I'd just like to ask whether you've received and read the guide sent to you by the committee secretary. If so, I'd like to reiterate some important aspects of the document. The committee hearing is a proceeding in parliament, which means it receives a protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place out of parliament. It applies to ensure that parliament receives the very best information when conducting its inquiries.

It's also important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of the parliamentary proceedings.

This is a public hearing. Members of the public and journalists may be present and this means your evidence may be reported. It is important that should you wish all or part of your evidence to be heard in private, you make this request and give an explanation prior to giving the relevant evidence.

Do you understand?

**Witnesses** - Yes.

**CHAIR** - You do. That's great. So just that you are aware, the first hour is a public meeting and we are being broadcast, so if there is anything that you prefer that we can discuss that later on. So would you like to make an opening statement? It would be really good to have a bit of an overview if -

**Mr MELICK** - Thank you, Chair. I assume you've read the annual report, so what I was going to do -

**CHAIR** - I'm sorry. They're swearing in statements in front of you. You have? Yes.

**Mr GREG MELICK**, CHIEF COMMISSIONER; **Ms JULIA HICKEY**, ACTING CHIEF EXECUTIVE OFFICER; and **Ms SARAH FROST**, DIRECTOR OPERATIONS, INTEGRITY COMMISSION OF TASMANIA, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**Mr MELICK** - I assume you've read the annual report. What I was going to do is speak to highlights and then answer questions in relation to it.

I think it's important to note that there have been significantly increased demands placed upon us in the last 12 months or during the period of the annual report. We've had twice the number of notifications. We had the commission of inquiry. We've taken on the lobby register. Overall, we've become more sophisticated in the way in which we approach many of the issues we're dealing with, especially in relation to the education program, the audits and the oversights and compliance.

This has come at a cost. We've got very professional staff, and I cannot commend them highly enough for the work they've been doing during the relevant reporting period and, of course, since then. The issue is we just don't have enough money to do it. We get about half what the ACT and the Northern Territory get, and they have smaller populations and smaller public services to deal with. The ACT doesn't even have oversight of their police force and that's a considerable part of our work.

Life has been made even more difficult because of the over 50 amendments which we need to our Act because we get continually held up because of issues with the Act, which makes life difficult, including things such as we cannot appoint more than one investigator to a particular investigation.

Since 2016, so it's eight years since the Cox review. He recommended 55 issues. The government accepted 50 of them - about five or six have been implemented and since then we've highlighted a significant number of additional problems.

Our investigations continue to get frustrated by court proceedings, people taking points or issues. A lot of the problems could be overcome by clarifying the legislation and making the amendments we've requested.

The budget submissions we've dealt with, with this committee before. Part of our problem is from time to time we identify an issue, we get non-ongoing funding and, particularly in the education and training area, we have non-ongoing funding for two additional staff who did a fantastic job. In fact, it might have been three additional staff. Was it Julia?

**Ms HICKEY** - Yes.

**Mr MELICK** - So it was three additional staff, two of whom have since left and recently left because they've got no guarantee of a job because there's been no -

**CHAIR** - So you've lost good people.

**Mr MELICK** - Yes, two very good people, one of whom is now working for parliament.

**Ms O'CONNOR** - Lucky us.

**Mr MELICK** - Yes, you are lucky. She's very good and this is the issue.

Now, we've made several representations. The Attorney-General is very much on side. He's been very supportive, but there's a continual answer: we haven't got the money to do it. We just can't keep putting the increased pressure on our staff and expect them to stay. It affects their morale. They get criticised in the public for the time it takes to do investigations. We can't

explain to the public why an investigation takes so long. A lot of it's because of challenges and the way in which our legislation works.

The government has to make a decision as to what sort of Integrity Commission they want. We have a very good Commission with very good staff, which has far too much to do. It's going to become even worse with mandatory reporting. Things such as the lobby register. It was part of our Act right from the word go, but we didn't have the resources to do anything about it until the last 12 months. That has involved a considerable amount of time and effort, and we now think we've got one of the best in Australia, the way in which it's operating, and we think things like that, it's very important for the transparency and integrity of parliament and the way in which we operate.

I should emphasise all is not broken. The Commission is working; it's doing some great things, especially the education program for members of parliament. The first segment - the first parliamentary education program - has been undertaken. During the reporting period, 22 members of parliament attended the training and since then two have. The second stage will be education for the staff of parliament.

In mentioning parliament, we're still having significant problems in reaching a protocol when investigating members of parliament or members of parliamentary staff. The question of parliamentary privilege has got to be dealt with. Queensland and Western Australia have memorandums of understanding which seem to work. We've been trying for two years to get something similar in Tasmania. It makes it almost impossible to investigate a member of parliament or member of parliamentary staff unless they fully comply and consent rather than being compelled. I should give credit to Adam Brooks: we could not have conducted an investigation relating to him if he had not consented to everything and given us access, not relying upon parliamentary privilege.

It's not a desirable situation. The public is entitled to know that members of parliament and parliamentary staff are subject to the same requirements as other members of the public service.

The other challenge, we've already mentioned the legal challenge, but once a matter is in court, we have no power on how long it takes, and because our Act is overly complicated and that's why we want to simplify it with the amendments we've asked for, it can take quite some time to get a decision.

Look, we acknowledge a lot of funding issues across government. That's why I come back: it's a matter for parliament to decide what sort of Integrity Commission they want, and what they want us to be able to undertake. If we keep going the way we are, we are going to find it difficult to keep our good staff. There are a whole lot of other agencies being set up as a result of the commission of inquiry and as a result of the Weiss review. I should add that the Weiss review is going to create an enormous amount of extra work for us.

**Ms O'CONNOR** - That's right.

**Mr MELICK** - We just don't have the staff to deal with it. When you have these other agencies set up to deal with the child sexual abuse and other such matters, they'll be looking for people who are trained to do appropriate investigations and they'll come to us. Our people will say, 'Well ...'.

Part of the problem is that our funding level is about one level too low, from myself down. I'm not asking for more money, but I'm the only one who is not on a Supreme Court judges' rate. I'm on a magistrates' rate; in fact, the chief magistrate's rate. That then compresses everything below me, and that means we have trouble; we'll have trouble keeping good staff. We can't pay people what we think they're worth because we just don't have the money. It's as simple as that.

We've been trying for over 10 years to get a general counsel because every time we have an issue we have to go to the Solicitor-General rather than rely upon general counsel, where appropriate, to have that evidence checked or that opinion checked by the Solicitor-General.

**Ms O'CONNOR** - Can I ask the Chief Commissioner why it's important that the Integrity Commission would have access to an independent general counsel rather than go the SG?

**Mr MELICK** - There's a lot of issues which really, we shouldn't have to go to the SG about. I'm not on the Commission to give legal advice. In fact, it would become inappropriate because as soon as the matter goes to court, I'm noted as the first defendant or first respondent. Often the Solicitor-General is conflicted, especially if we're dealing with a head of a government agency, a member of parliament, parliamentary staff; they may have already gone to the Solicitor-General's for advice.

**Ms O'CONNOR** - Members of parliament don't have access to the SG, but members of government -

**Mr MELICK** - Members of staff, yes, thank you.

So, general counsel would make life a lot easier, especially with the way the Act is at the moment. Of course, the general counsel can also do things such as research when you're setting up things like the lobby register, the grants programs, things like that.

The other challenge that we have is we've been told there's going to be review in relation to the Integrity Commission. We've been told that the completion will be April next year prior to budget. We don't know the scope of the review, who's going to do it, when it's going to start.

**Ms O'CONNOR** - You weren't consulted on the terms of reference, is that correct?

**Mr MELICK** - No, I haven't seen any terms of references yet. I don't even know if there are any yet.

**Ms WEBB** - Not for public release, anyway.

**Mr MELICK** - The problem we have is that we have staff saying, 'There's going to be review. What's it going to be all about? How's it going to affect me?'.

**CHAIR** - Will they keep their jobs?

**Mr MELICK** - Yes.

**Ms WEBB** - It sounds very unsettling.

**Mr MELICK** - I keep emphasising we have terrific staff. I want to keep them.

So, bearing in mind, we took on the lobbying work two years ago now without any extra funding -

**Ms WEBB** - Just to clarify: you said without any extra funding just then. So you haven't had any extra funding over these past two years that you've taken it on and are developing the new model. Is there any extra funding in place for when the model commences on 1 January?

**Mr MELICK** - No.

**Ms WEBB** - I think we'll talk more about that in a minute. Sorry to interrupt your opening remarks.

**Mr MELICK** - What worries me is we have our statutory responsibilities. We're spread fairly thin. We're going to have to make some decisions about what we don't do. The area that's really suffering at the moment is the education and training area. That's incredibly important because if you really want to reduce misconduct, you have to be able to educate people about what's expected of them - especially when you have local councils which are changing all the time, new members. Most of them haven't had any significant training in relation to the duties you've got to undertake and the conflicts that may arise. A lot of people, we find, before they enter the education training area, have absolutely no idea of the intricacies and how to deal with perceived conflicts of interest.

A lot of our investigations are also involved in relation to hiring of staff. People find it difficult to get on top of or understand the protocols you must go through to ensure there's no favouritism or 'captain's picks' and things such as that.

**Ms WEBB** - Especially in a small place like Tasmania.

**Mr MELICK** - I'm sorry?

**Ms WEBB** - Especially in a small place like Tasmania.

**Mr MELICK** - Exactly. That's part of the trouble.

Now, the cessation of the funding injection into education and engagement just leaves a skeleton of staff. We don't know how we're going to continue to do the education. We may have to contract our training delivery and revert to a more reactive approach. That's not the way to go. With education, you should be more proactive, get out there and get on the front foot. As I said, it's very important to make sure people understand.

Since I joined the Commission, I was very much in favour of the carrot approach, not the big stick approach. We're very fortunate to have with us for 10 years, and many of those years, our CEO, Michael Easton, who finished about 29 April this year. Since then, Julia and Sarah have had to Act as well as their ordinary roles, which has put incredible strain on them. So that hasn't been very satisfactory either.

**Ms O'CONNOR** - I do have a few questions for you, Chief Commissioner.

**Mr MELICK** - I know that.

**CHAIR** - We just don't want to break your train of thought for the moment.

**Mr MELICK** - I might leave it there, and ask Julia if there's anything she wants to add.

**Ms HICKEY** - No, I think, particularly if you have questions, happy to move to those.

**CHAIR** - Cassy, you had some questions?

**Ms O'CONNOR** - Thank you, Chair. Thanks for that presentation, Chief Commissioner.

Your growing frustration on behalf of the Commission and the people who you work with is evident. You've obviously had conversations with the Attorney-General about the impact of too little funding on your ability to perform your statutory functions. You said that there's no commitment yet out of government to deal with that as it should. Is it starting to feel a bit deliberate? This is an ongoing issue with funding. This is not new news but it's now becoming increasingly evident how it's impacting the Commission's work. What do you think the issue is here? This is a government that can afford a chocolate fountain but is telling you it doesn't have the money to make sure that the Integrity Commission can do its job.

**Mr MELICK** - I've seen no evidence of any deliberate action on part of the government to impede our progress or our efforts. I must emphasise that I've had several discussions with the Attorney-General about this. He has been very supportive, he's asked relevant questions, he's probed, he's satisfied - he tells me that he's satisfied that what we're saying is reasonable, and he says, 'I'm having battles with Treasury'. I can't take it any further than that.

**Ms O'CONNOR** - He's the Treasurer now, so that problem should be fixable.

**Mr MELICK** - I must admit, I've been away until just recently, since the changes in government. I haven't had a chance to speak to him since then.

**Ms O'CONNOR** - You could ask him to have a chat with himself.

**Mr MELICK** - I will, no doubt, be raising it with the Attorney-General, but I must emphasise, he has taken a great interest in our work, he's asked a lot of relevant questions, and everything he's said has been supportive, except, 'I'm struggling to find money'. I will ask him to have a chat with himself.

**Ms O'CONNOR** - Just to be clear, what quantum of money have you put on the table or proposed to him is required? Is it a doubling of your funding? It sounds like that's what's needed.

**Mr MELICK** - It hasn't got down to that level of detail. The base of which I've put it is doubling the funding would probably be the minimum if we're going to take on all this extra work. It's very hard to crystal ball, but I'm very concerned about mandatory reporting, the work arising out of the Weiss report, and the commission of inquiry. Without those, we could probably do with slightly less than the other agencies have got, but with those, I think we'll probably need even more. Bearing in mind, if you look at the ACT, it's about 350,000 people

to our 550,000, relevant size of the public service I just can't remember, but the critical thing is they don't even have to do the oversight of police, which is a big part of our work.

**CHAIR** - I think, for those listening, just an understanding of what the quantum is currently, to say 'doubling', just to give an idea of what sort of money we're actually talking about?

**Mr MELICK** - Our current budget is about \$3.7 million.

**CHAIR** - Yes.

**Mr MELICK** - And the ACT is about \$7.5 million. I think the Northern Territory's -

**CHAIR** - Already, for less people.

**Ms WEBB** - The doubling still leaves us, probably, still at the back of the pack, but at least more comparable.

**Mr MELICK** - Yes. I should add, at this stage, we get a lot of criticism from armchair experts about the way in which we do investigations and other such matters. A lot of that criticism is unjustified. We get criticised because we don't have public hearings or we don't have integrity tribunals. We only hold those if we don't get the evidence we want for our investigations. Our team work very well, and we usually get all the evidence we need during the investigative process. We don't need to put on show trials or integrity tribunals or anything such as that.

However, if we're going to be able to continue to do that, and do the investigations in a timely manner, we do need the amendments to the Act and we do need more funding. It makes it very difficult to do a timely investigation involving a lot of potential interviewees and complicated facts if you can only have one official investigator. That's just a really simple amendment to the Act which would make life a bit easier.

**CHAIR** - One hand tied behind your back.

**Ms O'CONNOR** - Chief Commissioner, you said earlier that investigations into MPs can take a long time if those MPs don't fully comply. As we know, there are two investigations into MPs afoot. Does that mean that the subjects of those investigations are not complying or not being cooperative with the investigation?

**Mr MELICK** - Sorry, I'm not going to comment on the progress of any investigation.

**Ms O'CONNOR** - Perhaps to comment on why those investigations are taking so long to reach a resolution?

**Mr MELICK** - All I can say is, our team is progressing as quickly as they can within the restrictions of the Act and any challenges that may from time to time arise. The provisions of the Act prevent me from giving you any more details.

**Ms O'CONNOR** - I understand, and I'm very respectful of that.

**Ms WEBB** - I think you spoke, in general terms anyway, in your opening statement and identified that implementing previous recommendations for amendments to the Act would assist because it would remove barriers or complicating factors that are already there. That was quite clearly identified, which I appreciate.

I want to ask a couple of questions about the lobbyist register, because you have been responsible for that for two years and developed a new model for us in this state, which I agree with your comment earlier that will make us nation leading, I think, in that area once it's fully implemented. You've also said you have thus far received no additional funding to be doing that work and there is no additional funding upcoming when it does come on board.

How are you, in practical terms, going to be implementing that lobbyist register on 1 January if there is no additional funding to do it? There are practical implications here, I'm imagining, not just to do the functions internally for the collection of information and the monitoring, but also I'm assuming that there's a piece of education work that's going to need to go alongside that lobbyist register. What's the plan for undertaking that?

**Mr MELICK** - If we don't get additional funding, we're going to have to rebalance our workforce to deal with it, and try to prioritise.

**Ms WEBB** - Can you just break that down a bit? You will be implementing it, there's no question over it being implemented from 1 January, for a start?

**Mr MELICK** - No.

**Ms WEBB** - Okay. What will that mean then in terms of your internal resources? What resources will you need to put to that from 1 January, or, in fact, now, leading up to 1 January?

**Mr MELICK** - I'll hand over to Julia on that. She's had oversight, but it's basically going to require at least one full-time equivalent, I would have thought.

**Ms HICKEY** - In terms of the work that we've done to date, we have reallocated resources internally towards this project. It's very much a joint allocation of human and financial resources between the corporate services area and my area. So education and engagement retains policy oversight and some degree of administrative responsibility. We are working together because there are many elements, such as creating the mechanism for the new disclosure log and we've done a lot to ensure that that's going to be very user friendly for public officials.

Essentially, we've been working away for two years and we've been anticipating what the new model will look like. We have been able to reallocate resources. To some degree, once we get to 1 January and there is a lot more public awareness about the new log, it may be that there is more demand upon us. We will be disclosing, we're anticipating disclosing on our website contact with lobbyists on a monthly basis. I expect that at that point the media will become more interested. We'll have to continue determining how we resource that function once we go live.

**Ms WEBB** - In terms of the education and information side of things that will have to go alongside it, actually functioning, have you already been developing information resources that will be available?



**Ms HICKEY** - Yes.

**Ms WEBB** - Will there be an education program for, say, parliamentarians, lobbyists, the media?

**Ms HICKEY** - We have developed our education resources and we have a plan to roll them out over the next couple of months. It's a bit of a tricky situation because we don't want to roll out information about the new code and, as a consequence, that leads to confusion about which code is in place. We've got a very structured process for rolling out educative resources for public officials - you'll be hearing from us very soon - as well as lobbyists themselves. Not much will change for the lobbyists themselves apart from the fact that the scope of who they are lobbying is broader, but the obligation to disclose will fall upon public officials. As we know, that's broader than just government representatives. It's all MPs and very senior officials.

**Ms WEBB** - It will affect us all, yes.

**Ms HICKEY** - You will be hearing from us very shortly. There will be a lot of information on the website. We have developed and are about to roll out frequently asked questions. We could potentially conduct sessions, if that was desirable, however, I'm confident that the new system will be quite user friendly for public officials. At every point of the way, we have designed the system so that it's not going to be an onerous process for public officials to comply with it.

**Ms WEBB** - Just to clarify, there hasn't been a need for there to be anything legislated or put in place formally through the parliament in order for this system to come on board? You've got the scenario ready to go.

**Ms HICKEY** - That's right. We already have the power in our Act to implement and develop codes of conduct. There's not a requirement for legislation.

**CHAIR** - Member for Bass, Simon, would you like to ask any questions?

**Mr WOOD** - No, thank you, Chair. I'm happy listening attentively.

**CHAIR** - Thank you. To be clear, the number of FTEs you have at the moment, staff wise?

**Mr MELICK** - It is 19.5, except it's - I don't know, because we've just lost two.

**CHAIR** - Seventeen?

**Mr MELICK** - It is 17.5.

**CHAIR** - You've got vacancies? You have two vacancies currently?

**Mr MELICK** - No, that's the problem: funding was not ongoing.

**CHAIR** - Right.

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**Mr MELICK** - The funding was due to finish at the end of the year - or was it next budget -

**Ms HICKEY** - At the end of this financial year.

**Mr MELICK** - The end of this financial year. How do we go and recruit somebody for six months? Effectively six months by the time you do the recruiting process, et cetera.

**CHAIR** - You've got your full complement of staff for the money that you actually have? You haven't lost anyone else that you've got funding to re-employ, basically? You have no vacant positions for the money that you actually have allocated?

**Ms HICKEY** - No, we do have vacancies.

**Ms O'CONNOR** - The two?

**Ms HICKEY** - Yes. We do have vacancies.

**CHAIR** - That's right.

**Ms HICKEY** - Some of the positions that were funded on a fixed-term basis, those people have left the organisation because we weren't able, at least in part.

**CHAIR** - You need to try to recruit two and then you have the others that the funding is finished for? Is that what you were saying?

**Mr MELICK** - No, I think the question is of the people we have guaranteed funding past the end financial year.

**CHAIR** - Yes.

**Mr MELICK** - I don't think we have any vacancies.

**Ms HICKEY** - Correct.

**CHAIR** - Okay. Staff wise, you could, obviously, need quite a few more to be able to do the work quickly. You're still doing the work, but it's obviously taking a lot longer?

**Mr MELICK** - And there's some work that we just have to put to one side and not get on with it. We need permanent staff. We need people. We need people to have certainty about their employment. Also, I would like to be able to pay our staff at a greater level at which they're being paid at the moment. Otherwise, we're going to lose them because with these other agencies being set up to deal with the output of the commission inquiry, et cetera, they're going to be recruiting.

The staff members who we have lost, one went to a higher pay grade, for a start, straight away. As I said, our funding - sorry, our staffing - levels are compressed. We could be a lot more competitive about getting good staff if we were able to offer the next level up, so to speak. We're just very fortunate we've got so many staff with us who actually enjoy working there.

**CHAIR** - Yes, the levels you're offering, it's basically because you don't have the funding that you can't offer them more money, it's not because that it's a level that you actually have to offer at because of the positions?

**Mr MELICK** - Exactly.

**CHAIR** - The other ones that are coming in obviously have greater funding and offering more and picking up your good staff?

**Mr MELICK** - And interstate as well. When you look at the level of what we pay our investigators and our staff generally, it's generally one public service level below what their equivalents are getting in other states.

**CHAIR** - Yes, it's difficult.

**Ms O'CONNOR** - Thank you, Chair. I want to go back and touch on the subject of the question that I asked earlier. It is a matter of public interest that there are long standing investigations into unknown MPs - which casts a cloud over us all - being undertaken by the Integrity Commission. I wonder if there's any sort of - if the Commission sees any end in sight or if there's a suggestion of a timeline when these cases might reach a resolution and a decision.

**Mr MELICK** - I'm sorry, I just can't comment.

**Ms O'CONNOR** - No, okay.

I want to go to the lobbyists register. There's a really interesting talking point piece in the papers today from the former Treasurer in relation to lobbying, the influence of lobbying of the gambling industry on government and a policy to minimise harm. The former Treasurer says, 'We should be alert to sectional interests'. How might the lobbyists register mitigate some of that undue and potentially corrupting influence of the gambling industry or any other corporate vested interest on government?

**Mr MELICK** - I'll open up generally and leave it to Julia for more precision. One advantage of a lobby register provides transparency as to who's had conversations with whom, and therefore it allows relevant questions to be asked in parliament if necessary. I just think that once people know who is speaking to who, it not only increases transparency, but it also increases the ability to interrogate or investigate as to what influence or otherwise may have been used. Julia, do you want to add into that?

**Ms HICKEY** - We're expanding the scope of lobbyists who need to be registered from not only third-party lobbyists who are engaged to lobby on behalf of an organisation, but also to include in-house lobbyists - organisations that employ people whose main part of their role is to lobby government on behalf of the organisation they work for.

**Ms O'CONNOR** - Like Font PR, for example?

**Ms HICKEY** - No, sorry, this is in-house.

**Ms O'CONNOR** - Okay, sorry, right.

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**Ms HICKEY** - If there's an organisation that employs someone and the main part of their role as an employee is to lobby the government, they will have to be registered under our new code, so that expands. I can't anticipate which organisations would actually have those kinds of positions, but that is something that we heard throughout the consultation process, that those in-house lobbyists need to be regulated in the same way as third-party lobbyists.

**Ms O'CONNOR** - In practical terms, how does a lobbyists register work to mitigate the influence of sectional interests? If the Premier, for example, or another minister, has a meeting with the head of the Tasmanian Hospitality Association, how is that meeting captured within that structure that's been created?

**Ms HICKEY** - Meetings with organisations such as that would not necessarily be captured by the lobbying code of conduct. It's only if the lobby - sorry, I should backtrack. All lobbying activities as defined in the new code of conduct will need to be disclosed by public officials, irrespective of whether that lobbying is by a registered lobbyist or a non-registered lobbyist. Public officials will need to disclose when they have been subject to all lobbying activities.

**Ms O'CONNOR** - Okay, All right.

**Ms WEBB** - Yes, and if you're doing monthly disclosures, that's excellent in terms of frequency. It's much better than some other jurisdictions.

**Ms HICKEY** - I should say, that is our intention at this stage to do the monthly disclosure. It's very difficult to anticipate what volume we will be dealing with, but that is our intention at this stage.

**Ms WEBB** - It would be right to say, in terms of the question that the member for Hobart was asking, that not that the lobbyist framework that you've developed and the register and the monitoring and reporting prevents activities from occurring, it's simply a spotlight shone on them to make it public, and then that information becomes available to members of the public when they're thinking and making decisions about things in the political domain, to the media, to members of parliament, and can be utilised for further transparency, interrogation. That's the essence of it, isn't it?

**Ms HICKEY** - Correct.

**Ms WEBB** - It's not to prevent people from doing something or to shut down any activities that people might engage in.

**Ms HICKEY** - Correct. As we've said consistently, legitimate lobbying is a very important part of the democratic process.

**Ms O'CONNOR** - That's right.

**Ms WEBB** - Yes. The questions I wanted to move on to, if I can -

**CHAIR** - Sorry, before you go into that, with regard to the lobbying, there will be an education component for members?

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**Ms HICKEY** - Yes.

**CHAIR** - Part of the new education component will be with regards to the lobbying and how they need to comply?

**Ms HICKEY** - That's right, you'll be hearing from us in the next month.

**CHAIR** - I think that's really important so that people actually understand their requirements. Thank you.

**Ms HICKEY** - That's right, there'll be a comprehensive program.

**Ms O'CONNOR** - We look forward to that.

**CHAIR** - Thanks for letting me chime in.

**Ms WEBB** - No, that's okay.

I appreciate that you mentioned the fact that you've been interacting with the Attorney-General during his time in that role and that he has been broadly understanding of the issues being faced and is supportive of the work of the Commission and then identifies that financial barrier is the difficulty. Of course, the other clear area that you have pointed to is the lack of progress on making amendments to the Act as recommended in the Cox review eight years ago. The Attorney-General obviously can be proactive and is in charge of progressing that.

In the discussions that you've been having, what's the appetite that you've identified there in government and with the Attorney-General to actually progress the legislative reform that would smooth the way for so much of your work, from what you've described?

**Mr MELICK** - There has been a substantial amount of work done in relation to the recommendations under the Cox review and seven or nine other ones since then. There's been a paper prepared, there's been discussions. As to where it is at in terms of parliamentary drafting, I'm not aware. I don't think we've had an update recently, have we, Sarah?

**Ms FROST** - No.

**Ms O'CONNOR** - To be clear, have you been told there is a drafting process?

**Mr MELICK** - No, no, there has been a - there were two people within Attorney-General's working on each of the recommendations, making recommendations as to how it could be done. A reasonably voluminous paper. Since then, we've identified about another 27 areas of concern. It goes on every time there's a court challenge or something else gets raised.

**Ms O'CONNOR** - You learn more.

**Mr MELICK** - I'm concerned that the volume of work is what has been delaying it and adding extra request. At least if we got the ones that have been virtually worked through put

into legislation and then do a second tranche later on, it would make life a lot easier. Sarah, do you want to expand on that at all?

**Ms FROST** - No.

**Ms WEBB** - Can I follow up, then? In terms of the discussions that you've had with the Attorney-General, has the Attorney-General at any time given you a firm commitment to progress law reform here and improve the Act?

**Mr MELICK** - He is committed to progressing it; the timing, there's been no commitment on.

**Ms WEBB** - No commitment on timing, sort of an empty commitment, in that sense.

**Mr MELICK** - I'm not in a position to comment on the government's legislative priorities.

**Ms WEBB** - Sure.

**Mr MELICK** - Just that I'd like to see us get a bit more than it's got at the moment.

**Ms O'CONNOR** - You could always ask that the drafting process begin so the Integrity Commission could formally request that drafting on those agreed necessary amendments begin at least so that we're not waiting until after April next year to have any sort of action on strengthening the Act, making it more workable. Just a suggestion.

**Mr MELICK** - That's a good idea.

**Ms WEBB** - It's quite clear in the - can I ask another question?

**CHAIR** - Yes, of course.

**Ms WEBB** - It's pleasing that you're being quite plain and open about the challenge that's there, and I think how sad to have to say it over and over again and then potentially even go to the point of having to make a formal request when clearly you're making quite clear requests, no doubt in the meetings you have behind the scenes, but also in the public documents and sessions like this that we're having.

You mentioned the proposed review that is supposed to be undertaken as part of the arrangement with some of the crossbench members of parliament and done by apparently April next year, for which there is no public term of reference confirmed for at the moment. You said you haven't had an opportunity to provide input into that.

The Cox review in 2016 happened. You've had numerous other things that have reviews that have happened, including 2022, the department was doing a review, I think, as well. What, if any, additional value do you see would be added by a review process that could occur now? Ideally, if there is a process that's going to happen between now and next April, from the Integrity Commission's point of view, what could it add as value into the space where we've already got that body of work sitting there?

**Mr MELICK** - I think it could add value in that the issues I've discussed today, it could actually verify them. At the moment, this is us saying these are problems, I'm fairly certain we've got it right and we're not exaggerating. If you have an independent review that says everything the Integrity Commission said is correct, and what's more that there are these additional things, that would be very useful and would place the appropriate pressure on government to get on with it.

**Ms WEBB** - Ideally, if you were to be able to have a say and input into a term of reference, you'd like to see a term of reference that had the scope to look at these issues. Are you able to point to the things that you would like to see in a term of reference?

**Mr MELICK** - Basically, what resourcing is - sorry, you would start with what the roles are. You'd look at the roles. Do we need to review the roles of the Integrity Commission? No. If the roles are okay, is it fit for purpose? If not, what needs to be done in terms of staffing, legislative review, et cetera. That's the sort of direction I would assume and would like to see a review undertake.

**Ms WEBB** - If you were asked for your input. Interesting.

Sorry, I finished on that one.

**CHAIR** - No, that's alright. Cassy, did you - I wouldn't mind asking a question on education.

**Ms O'CONNOR** - No, you go.

**CHAIR** - Unless you want to continue on a similar line.

**Ms O'CONNOR** - No, I'll come back.

**CHAIR** - Simon, sorry, member for Bass, if you do have a question, just put your hand up because I do keep an eye on you there. It was Craig, sorry, I didn't see you up there, Craig, welcome.

**Mr GARLAND** - How do.

**CHAIR** - Member for Braddon, just jump in you have a question you'd like to ask.

**Mr GARLAND** - No worries, thank you.

**CHAIR** - We'll keep an eye on that. Some of the screens aren't all that large, but we will.

Going to the education and training because, from my perspective, that's a very important area to prevent some of the issues that we see arise, particularly people not understanding what they should or shouldn't do. On page 39 of your annual report, pages 39 and 40, just getting an understanding of the online module completions by sector. Are they something that's not continued as much now? I notice there's quite a large difference in some of the areas or some of the amounts of online modules completed. They're not compulsory, but I'm just looking at TasPol. TasPol doesn't do online modules; it's not a requirement there.

## PUBLIC

I am trying to get an understanding, particularly when I look at government business - you know, the GBEs - they've been a bit in the news little of late, but 2022-23, 1182 compared 2023-24, 34. Are they something that's encouraged? They're compulsory, they're not compulsory, that they actually go out? As I said, from my thoughts, the more you can educate people to understand what they should be doing, the less work that you actually have on the other hand. There seem to be some very big differences here.

**Ms HICKEY** - You're quite right.

**CHAIR** - If you can give it a bit of an explanation about those figures.

**Ms HICKEY** - Yes, the Integrity in Public Service online module is a foundational module. It covers some foundational concepts which are set out there: our role, good decision making, misconduct risks. It is very much a foundational module. In the previous year, there was one government business enterprise that put a number, a very large number, of its staff through the Integrity in Public Service module, which is great.

**CHAIR** - That's good.

**Ms HICKEY** - It's really important that the IPS is not seen - sorry, the Integrity and Public Service module - is not seen to take the place of face-to-face, more targeted training.

**CHAIR** - Yes.

**Ms HICKEY** - It's supposed to be a precursor. We use that as our first sort of engagement point with our stakeholders and we encourage them to put their staff through that module. The proactive, targeted training builds upon that. In the proactive training you will work with our stakeholders to develop, for instance, scenarios that resonate with their staff so that they understand and can apply the learnings in their specific workplace. We work very closely with our stakeholders on developing those. The IPS is really important, but it is the foundational module and it doesn't really allow for further exploration of some of those more nuanced concepts such as conflict of interest and misuse of resources, and all the various misconduct risks that are apparent across the public sector.

**CHAIR** - It's interesting that TasPol didn't have any of it at any time.

**Ms HICKEY** - No, that's true, but we do a lot. We work very closely with TasPol, both my area and Sarah's area, on training their recruits. We work -

**CHAIR** - Before they get to that stage, get them early.

**Ms HICKEY** - Yes, exactly, yes.

**CHAIR** - Thank you. Cassy?

**Ms O'CONNOR** - Thank you, Chair. Chief Commissioner, earlier you were talking about the lack of progress on the protocol between the Integrity Commission and the parliament. The question is how to progress it. That's a question for the parliament; I understand that. But also your thoughts on how it would work and how to make it workable here.



**Mr MELICK** - Generally speaking, if you can - and I'm now talking about experience in Western Australia and Queensland, particularly Western Australia where I've spoken in detail to my equivalent over there. When you look at behaviour of parliamentarians and you want to get hold of their emails, a very small part of the emails would be directly related to their parliamentary business and therefore should be covered by parliamentary privilege. Whereas, in relation to the rest of it, no. You then have the problem: how do you determine who actually determines what's relevant or falls within the parliamentary business and what doesn't, and therefore what should be disclosed?

There are various possible models. To take it back to a court situation, if you have litigants before the court and they claim legal professional privilege, if that matter is before a judge, he will then look at the materials himself without disclosing to the other side and make his own mind up as best he can. What you need is some sort of neutral person. Now perhaps if it's a member of parliament, that person could be the Clerk. If it's in the Clerk's area, somebody could be appointed independently.

The problem is to claim blanket parliamentary privilege when a very small percentage or proportion of the material would actually be classified or could be classified as material that privilege should attach.

**Ms O'CONNOR** - Can I get some clarity on that? How do you mean that? Because all our parliament email work is parliament work - organising meetings, lobbying for constituents to find them a home. Do you know what I mean? I think a lot of our parliament; the vast majority of our parliament work would be parliament work on our emails. This is a genuine sort-of confused question.

**Mr MELICK** - If you look at one of the matters considered in Western Australia, it was in relation to use of parliamentary funds for overseas travel, prostitutes and other such matters.

**Ms O'CONNOR** - Oh, well, that's not good.

**Mr MELICK** - Where do you draw the line? Do you say, 'I'm sorry, but I was spending parliamentary money, therefore it's parliamentary business'?

**Ms O'CONNOR** - Of course, not. Can I ask then - you talked about there is a number of different models for these protocols and we've seen a draft that was prepared, I think, by the Commission. Do you think we've got the best draft model before us, or given that there's been some apparent stalling or lack of progress -

**CHAIR** - Delays.

**Ms O'CONNOR** - Thank you, Chair. - delays, have we landed on the right draft model, do you think?

**Mr MELICK** - In my view, yes, I think we've taken the best of the other processes. Sarah, do you want to comment further on that?

**Ms FROST** - Yes, we do have a draft that was negotiated between the Integrity Commission and parliament, and it is based on what happens in other jurisdictions, but it takes

into account the differences down here. Yes, it could still be quite a cumbersome process, but that's just the reality of the situation, so.

**Ms WEBB** - Can I follow up on that? When you say it could be quite a cumbersome process, where does that burden lie in terms of, say, adding to a workload?

**Ms FROST** - It would lie on the person who's been authorised by parliament to determine claims of privilege.

**Ms WEBB** - Right. So either if that was internally, say the Clerks, then it would be on to them an additional workload, or if somebody was to be appointed to be an independent arbiter of some sort in this space, that would have to be funded in some way or come from some resourcing that is as yet unidentified, I presume.

**Ms FROST** - Yes, the problem is that if we receive parliamentary privileged material, even if we don't intend to use it in evidence and we don't want it, it's a use of it, and that's not permissible given this recent case law. So, it might be quite a simple legislative fix to say that we can receive material, not use it in evidence at all, but we can still take receipt of that material inadvertently in email accounts, for example.

**Ms WEBB** - Just for full clarity, to follow up on the member for Hobart trying to tease out what this actually looks like in practice, and Chief Commissioner, you mentioned the WA example where a member of parliament was using public funds. What you're saying is: in order to search through that member of parliament's emails to see if there was a paper trail about, say, procuring prostitutes or booking flights for personal use with public funds, to get at those emails you would perhaps be provided access to - or somebody has to go through and pick out those ones as opposed to ones that are genuine parliamentary business. This is the task that we're talking about, that, at the moment, no-one here is allowed to do, essentially.

**Ms FROST** - Yes, that's correct We normally get an email account for a certain period of time and then we have special software that trawls through it and finds the things that we're looking for.

Parliament doesn't have software like that at the moment. I understand that people have to manually go through email accounts and pull out the privileged material before the email account is handed over. So, it's quite a laborious process.

**Ms WEBB** - So wherever the task to do that, let's say we do progress this and that task becomes assigned to somebody, whether it's internal in parliament in some sense or an external independent arbiter of some sort, they realistically speaking will need that software or similar to do the task.

**Ms FROST** - Yes, it would be helpful.

**Ms WEBB** - So that's another resourcing issue, if it sits anywhere other than with you -

**Mr MELICK** - Although if you make the legislative change which says we can have everything -

**Ms WEBB** - then you could do it through your system.

**Mr MELICK** - We could use our systems to bring it up. It would create extra work for us, but there would be less extra work on our behalf than if somebody appointed by parliament because of the processes and the materials you currently have.

**CHAIR** - But you can progress more quickly.

**Ms WEBB** - Is that model in place anywhere else, where the material is given to the Integrity? I don't bet it is, because we're pretty cagey about protection of parliamentary privilege, right.

**Mr MELICK** - No.

**Ms WEBB** - It's a very important principle. Parliaments, I'm imagining everywhere and here, will be very reluctant to do something as dramatic as that to allow another entity outside parliament to be accessing and determining what fits within parliamentary privilege. I think that's a, yes, less likely pathway forward.

**Ms O'CONNOR** - There's also an issue because we deal with some quite sensitive constituent issues and private information and it's contained within the relatively safe space of our email. That would be another issue that I think a lot of MPs would be mindful of as well.

**Ms WEBB** - So, essentially, what we're talking about is: if it's to be progressed, more likely it would be progressed either within the parliamentary system or in some form of independent arbiter that has been acceptably established. But it would need resourcing then because it's going to be a burdensome task and will likely need to have software and technological backing to do it.

Thank you for that clarity. It's useful to understand that better.

**Mr MELICK** - We're just putting up a process which would actually be less expensive than the others, but I take your point.

**Ms WEBB** - Indeed, but also more contravening of our well established and very valued parliamentary privilege arrangement. So it's -

**Mr MELICK** - I think, at the end of the day, it's going to have to be somebody independent, but it may not be a permanent appointment; it may be a part-time appointment -

**Ms WEBB** - as required.

**Mr MELICK** - as required. I mean, some allegations might be bullying and harassment, and it becomes very easy to separate those from what else, but when it's a question of expenditure of public money and to try to work out which is covered by parliamentary privilege, which was genuine and which is not, it is not an easy area. But at the moment, as I said, if Adam Brooks had just said, 'No, I'm going to rely upon parliamentary privilege', we couldn't have carried out that investigation. It's just that he was open and transparent about it.

**Ms O'CONNOR** - You've said previously that the absence of a protocol is holding up current potential investigations, I believe, yes.

## PUBLIC

**Mr MELICK** - There is at least one investigation at the moment which is being held up because of an absence of a protocol.

**CHAIR** - Well, it being 10 a.m., which was our first hour and was public, are there any questions in the public arena or area that anyone would like to ask before we turn off the broadcast and go into a private session?

**Ms O'CONNOR** - A very, very quick one. Thanks, Chair.

I don't want to ask about your diary planning details, but given your frustration over funding and the need for the Attorney-General/Treasurer to respond to that, will there be another effort to engage with the Attorney-General, particularly with his new role, to address these issues?

**Mr MELICK** – Yes, this month, I hope.

**Ms O'CONNOR** - Thank you.

**CHAIR** - Member for Braddon, Craig, do you have any questions you'd like to ask in this public section of our meeting?

**Mr GARLAND** - Yes, I'm new to this, but what sort of funding amount would help the Integrity Commission get to where they'd like to be? That's the only thing from my end.

**Mr MELICK** - We haven't done a detailed breakdown because that would depend upon the area in which the parliament or the government was inclined to go. I think we're looking at about \$4 million -

**Ms O'CONNOR** - Extra.

**Mr MELICK** - Extra, on top of what we're getting.

**CHAIR** - Member for Bass, Simon, do you have any questions in this public section of our meeting? You might still be on mute, Simon.

**Mr WOOD** - No, thank you, Chair.

**CHAIR** - Thank you very much. That is the end of the public hearing.

**The public hearing ended at 10.02 p.m.**