

13 July, 2008

Members
Joint Select Committee on Ethical Conduct

Dear Committee Members,

JOINT SELECT COMMITTEE ON ETHICAL CONDUCT

Please accept this letter as my formal submission to the Committee.

I understand the noun ‘ethic’ relates to the moral principles and rules of conduct that distinguish between right and wrong. For a Government and Public Service to behave ethically requires high standards of ethical conduct and integrity of the elected Parliamentary representatives and servants of the State. In relation to the public administration this involves public officers acting in accordance with the concepts of *integrity*, *transparency* and *accountability* that have been identified by the United Nations (UN) countries, collectively and individually, as part of the founding principles of public administration.¹ In Tasmania it is expected that these principles be espoused and be seen to be practiced by our elected Parliamentary representatives and public servants alike.

In public administration, *integrity* refers to ‘honesty’ or ‘trustworthiness’ in the discharge of their official duties, serving as an antithesis to ‘corruption’ or the ‘abuse of office’. *Transparency* refers to unfettered access by the public to timely and reliable information on decisions and performance in the public sector. *Accountability* refers to the obligation on the part of the elected Parliamentary representatives and public officials to act truthfully and competently or suffer the consequences for any unlawful or incompetent action. Above all they must not be corrupt.

The basic cause of corruption is monopoly and discretion without adequate accountability. This implies that the expanding role of government in development has placed bureaucracy in a monopolistic position and enhanced opportunities for unlimited administrative discretion. Corruption results from excessive regulation, increased bureaucratic discretion, and the lack of an adequate, accountable, and transparent system. The State intervenes in the economy to provide a framework for economic and social activities – protection of personal and property rights, provision of public goods not supplied by the market, redistribution of income, and the provision of opportunities for education, health, and employment. However, State intervention is also likely to expand the discretion of public officials to make decisions. It is the misuse of unchecked discretion that is one of the primary causes of corruption.

¹ The *UN Charter* states, “The paramount consideration in the employment of the (UN) staff ...shall be the necessity of securing the highest standards of efficiency, competence and integrity.” (Article 101) in addition, many Member States identify *integrity*, *transparency* and *accountability* among core values or founding principles for their public administrations in their constitutions and relevant laws.

In Tasmania today I believe the existing mechanisms to ensure *integrity, transparency and accountability* within Government and the Public Service currently available to support ethical and open government either are non-existent or ineffective. Ministers may simply refuse to answer written questions from members of the public ignore official complaints through the Office of the Ombudsman. The administrative capacity to conduct independent investigations when sufficient evidence can be provided to indicate unethical behaviour by Ministers or from within the Public Service also appear to be either non-existent or ineffective.

Attached as Annexes A, B and C are examples of unethical behaviour that I have experienced with three elected Parliamentary representatives and a number of public servants. You will note that Annex A is a letter to Minister David Llewellyn which he has failed to provide any response. Annexes B and C are letters of complaint to the Ombudsman. Advice from the Ombudsman has indicated that the respective Ministers and Departmental Secretaries are simply ignoring his requests for explanations to many of the matters raised and his Office has no real power to demand responses. The only other recourse to a fair determination in relation to my concerns is to undertake legal action through the Courts.

Sincerely,

Robert Patterson