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THE PARLIAMENTARY STANDING COMMITTEE ON PUBLIC ACCOUNTS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON TUESDAY, 23 JULY 2019

INQUIRY INTO THE OFFICE OF THE OMBUDSMAN AND HEALTH COMPLAINTS COMMISSIONER

Mr RICHARD CONNOCK, OMBUDSMAN, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Dean) - Welcome, Richard. I suspect you have given evidence to these committees previously and you understand the process fairly well. It is a public session and it is open to the public, You have parliamentary privilege, of course, while you are in this meeting today but once you leave you are on your own. As long as you understand that. All the evidence is being recorded and will be posted in due course as well. I think you understand the process and I think you would have been sent the documentation on committees, so you would have read that document.

Mr CONNOCK - Yes.

CHAIR - Your understanding of that as well. I think, Richard, that is really all I need to say in relation to that and where the hearing is going.

You have provided to us with two submissions. First, a lengthy one back in March and then a second one covering the additional two staff you were provided with through the budget. We want to understand a bit about that and what it meant to you.

Richard, having said that, there is an opportunity for you to say more if you want to or add to the submissions you have given, or any further detail that has come. I will give you that opportunity right now and then we will go to questions after that.

Mr CONNOCK - I will start off with the good news, and that is the RTI additional funding which we have been trying to get for years now. It has always been a problem, having only one officer doing all of this work. The additional funding has allowed us now to recruit a principal officer and another band 4 to augment the existing band 6 so we actually have a team now in RTI or we will once we have recruited. We are well on the way to recruiting a principal officer and the successful applicant will then be responsible for recruiting the band 4. We hope that will all be done very soon. That is great news and obviously the first thing we will be doing is attacking the backlog, which has gotten out of hand. That was really a product of having only one person. They do the decisions, they all come to me and I have to review all of them, which means I have to go through all the documents and all the information and that creates the bottleneck because only about 10 per cent of me is dedicated to the RTI functions. I have all these other ones, as you know, spread across the board.

Now having a principal officer will be like all the other major jurisdictions we administer, such as the Ombudsman and Health Complaints, which are responsible for getting things up to the finish line as it were so by the time it comes to me, I am really reviewing rather than going over the whole thing again. That should make things a lot better. It is a greenfield for us. We have never had a team in RTI so we will concentrate on clearing this backlog and then looking at developing processes and approach.

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As I have said to previous committees and to Estimates committees, we have a lot of other powers under the act other than just conducting formal reviews and we will now be able to utilise those, including case conferencing and directions and so forth. Hopefully avoiding having all matters going to formal review, which has been the case to date. Only having one officer means -

Ms FORREST - All RTI matters, you mean?

Mr CONNOCK - All RTI matters, yes. I am only talking about RTI at the moment. We have not been able to do that with one officer because if he hears compromises and so forth as part of the case conference, he himself is compromised and cannot continue.

CHAIR - Richard, it might be helpful for members to ask questions as Richard is going through his statement. I think might be the way to do it. Are you happy to do it that way?

Mr CONNOCK - Yes, very happy.

That is great news and hopefully in the next six to nine months that jurisdiction will be cleaned up, the backlog addressed and we will be able to move forward, which I think is terrific. It is something we physically have not been able to do to date.

Mr BACON - You expect to have entirely cleared up the backlog in nine months

Mr CONNOCK - I would not say entirely cleared up, but certainly under control. Have everything moving is my expectation. I have a whole lot of decisions sitting and waiting for review, and one of the principal officer's first tasks will be to go through all those.

Mr BACON - How many would there be?

Mr CONNOCK - I am not sure exactly but there is a number. I think we have 70 open files at the moment, which is the most we've ever had, so the timing couldn't be better in terms of addressing things, because this is just on the brink of getting totally out of control. I am very pleased about that.

CHAIR - Richard, on that point, there's a turnaround in relation to that of how many days?

Mr CONNOCK - I can take that on notice if you like because that varies. It is unacceptably large, a high level. We've some very old ones that blow the statistics out and there are some younger ones there too. There's a lot over 12 months old.

CHAIR - Under the act, what is the -

Mr CONNOCK - We don't have a time limit.

CHAIR - No time limit.

Mr CONNOCK - We have to do it as soon as practicable. The times are atrocious at the moment. As I say, I am hopeful things will be all be moving in the near future and that backlog will be gone.

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Ms FORREST - Just on the actual process, if I might, Chair. Richard, could you explain, mainly for the purpose of being on the record - we will report on this obviously - the current process that unfolds with just the one RTI officer and your role in that, and then the new process that will be in place once you get both the principal officer and the band 4 employee to manage this, how that will change your role? Can you just step us through current process and then what should be in, hopefully six months or so?

Mr CONNOCK - The current situation is that if we get an application for external review, it goes in the queue and we deal with things chronologically, unless the applicant can make a case for expedition. If they can, we will expedite that thing. Otherwise applications are taken in turn. What happens is the current senior investigation and review officer deals with the agency and the applicant taking submissions, gathering the information, reviewing it and coming to a decision as to whether that information is exempt or not. That decision is then written up and it comes to me for review and, as I say, it sort of gets stuck there. There is a bit of a logjam in my office with that.

I anticipate in the future that what will happen is what happens in the other jurisdictions where there is a structure. That is, the senior investigation and review officer and the new investigation and review officer will conduct inquiries, gather information, make a preliminary assessment of that and then make a decision, which will then be reviewed by the principal officer who will edit that into a final form. This is largely what happens in the other jurisdictions, particularly the Ombudsman.

I am informed along the way and I contribute to the decision-making, but the teams are fairly autonomous and they produce a finished report, obviously with input from me. I am ultimately responsible for this so I need to know what's going in it. By the time it gets to me, all I do is tinker with it and edit it, because I know what the content is, and it is in a way that can be published. I don't have to rewrite or review all of the things. I'm hoping in the future that is what will happen in RTI as well, so that my role will just be a bit more supervisory and top-level management rather than having to go back and do the actual decisions myself again, because that's incredibly time-consuming.

Mr BACON - Before you talked about a bottleneck and a backlog, is it fair to say in that two-step process, is the bottleneck and the large part of the delay with the officer or when you have to review?

Mr CONNOCK - No, with me. By the time it gets to me, because I then have to put everything else aside. I'm obviously not going to publish a decision unless I've actually seen the information and I largely agree with my officer, but I think it's my responsibility to look at the information itself and form my own view rather than just rely on anybody else's. That means I have to go through the files, which can be substantial, review all the information and satisfy myself whether it is exempt or it is not and then finetune the decision and put it out. That takes a lot of time.

Ms FORREST - On that point, because you're still signing off on them even under this new structure, you feel you'll have input along the way so you won't need to review every document when it lands on your desk for the final tick off? Is that what you're saying?

Mr CONNOCK - Anything that is claimed to be exempt I would be looking at. Anything that's going out I wouldn't be so concerned about. I would certainly peruse all the information, but

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my focus would be on the ones claimed to be exempt. Sorry, I withdraw that - I would look at everything, yes, because I need to be satisfied it is appropriate to put that out as well.

Ms FORREST - You're not going to be completely hands-off. That's not what you're saying?

Mr CONNOCK - No, I can't be hands-off. I have the responsibility, obviously, so I can't be hands-off, but I would hope that most of the work will be done before it gets to me. I'm just reviewing and looking at the documents, and it's a straightforward process.

Ms FORREST - In other jurisdictions does the Ombudsman's office have the responsibilities of the RTI process, the health complaints, the other Ombudsman roles -

Mr CONNOCK - Custodial inspectorate, energy, yes.

Ms FORREST - because notionally everything has to come back to you.

Mr CONNOCK - Final things do. Things like decisions and final reports in Ombudsman and Health Complaints I sign off on, but my staff have full delegations for correspondence and for running files generally. I am hands off in the day to day but when it comes to the finished product, as it were, I will sign off on that.

Ms FORREST - For every health complaint?

Mr CONNOCK - No. We do not do a lot of investigations in health. I am talking about investigation reports rather than just correspondence. Me or the principal officer of the particular jurisdiction will see every closure letter but we do not sign them. We make sure we agree with their basis for closing the file. Investigation reports and RTI decisions, yes, I would sign.

Ms FORREST - Is that the same in other jurisdictions?

Mr CONNOCK - Yes.

CHAIR - We have probably side-tracked you a bit as where you were going, Richard.

Mr CONNOCK - That is probably all I was going to say. It is a greenfield for us because we have never had the luxury of a team. Once that back log is under control we will look at how we want to move forward with things. As I say, there are a lot of other processes open to us under the act that we have not been able to utilise which I think we could and should. While I am happy with the guidelines drafted by a former Ombudsman, Simon Allston, they are very good. I receive compliments from other jurisdictions in fact. They have not been reviewed in 10 years and nor has the manual. They need to be looked at.

Ms FORREST - Whose responsibility is that?

Mr CONNOCK - It is Ombudsman's to provide a manual and guidelines.

Ms FORREST - You have not had time to do that. Is that what you are suggesting?

Mr CONNOCK - Not to review them, no. They are good but they have not been looked at in 10 years and that is something we should be doing because the landscape has changed in that time.

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The other thing that we are supposed to be doing is doing training. My officer does that at the moment and does very well, but cannot do it to a very high level because he has so many other responsibilities. I would be hoping that we will be able to do a bit more education and training at higher levels.

CHAIR - You mean training of other departments.

Mr CONNOCK - Other departments. One of the things we have not been able to do is go out and provide education and training at a high level. We have been doing it at officer level primarily but it probably would be useful to do it at the upper level of agencies so that senior management understand how this act works, and what their responsibilities are, and hopefully that will trickle down to their staff because, as you know, it is a cultural thing.

Ms FORREST - On the point of review, Richard, what would be the process you would undertake to do the review of the guidelines and the manual? Do you go out for public input on that, or is that an internal process?

Mr CONNOCK - It was largely internal the last time, but then nobody else knew much about the act. We had the responsibility and it had just come in. We do not get a lot of feedback from outside about the guidelines. I think in the first instance it would just be reviewing the content, making sure it is up to date, and then perhaps, I am certainly not against the idea of consultation and getting feedback from stakeholders because everybody has now been working with this act for 10 years or thereabouts. Because it is a greenfield I cannot say with certainty exactly what we would do but that is something that could be considered.

Ms FORREST - The training aspect of it, and we heard you would like to be training the higher level officers within departments to understand how the act works, this may be completely outside of your capacity to comment and that is fine if it is, but we have seen in parliamentary committees recently, ministers and departments using the RTI Act and the review of an RTI officer in a department for refusing a parliamentary committee a document or documents. Do you have a view about that?

Mr CONNOCK - I do not think I can comment on that particular case. I do think that there is room for education at the higher levels too. It was interesting, I was approached, this is the first time for me, by the Clerk of the House to talk to a new member about the role on the Ombudsman and RTI. I would certainly be happy to do more of that sort of thing for incoming members. I think too there has been generational change in government and so forth, and a lot of people coming in are not as aware of the role of the Ombudsman and where it fits including RTI. That is something I would be keen to change.

Ms FORREST - You think there is a role for the Ombudsman's office in educating members as well as senior levels in the bureaucracy as well?

Mr CONNOCK - I do, yes, and I am more than happy to do that.

Ms FORREST - With the extra resourcing in the RTI area here, would you be able to do that within - I know you don't know exactly how that is going to pan out, because it's not there yet - but we do expect that this would free you up to do this sort of thing?

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Mr CONNOCK - I expect it would. I think once the reviews are under control then, yes, we will have a bit of breathing space to pursue these other things. I'm very conscious that this is a statutory obligation, and while we've been getting out doing office-level training, I think there is a need for a more extensive presence at the higher levels of government.

Ms FORREST - The training would include the application of the RTI in terms of -

Mr CONNOCK - I don't know whether it would condescend to specifics about exemptions and discussing particular exemptions and so forth. It would be the object of the act, what it's supposed to achieve, how it operates day-to-day -

Ms FORREST - How it applies?

Mr CONNOCK - How it applies, yes, general sort of observations. As I mentioned, it's a cultural thing. It's understanding that this is part of open government now and agencies have a responsibility and making that clear, and that it's not a bad thing. I think there are still some people who are a little leery of the process.

Mr WILLIE - How often are you running the training sessions with officers?

Mr CONNOCK - Fairly frequently. My officer has his own calendar for doing this. It's not infrequent; it's when he can and when he gets request to do it he responds to those. We haven't been able to have an organised assault, as it were, in terms of highly organised training and a module sort of thing.

Mr WILLIE - There are potentially officers who might not be up-to-date, or they might have done training some time ago.

Mr CONNOCK - I think that's probably true. Most agencies or larger departments will have their RTI section where their delegated officers are. I don't think RTI goes beyond that section in a lot of these agencies. I don't know that there is a general awareness of how the act works. People know about it now, but how it actually works is still probably not fully understood.

Ms FORREST - There seems to be confusion out in the general public too. I'm sure we all get a lot of requests through our offices. They still call it Freedom of Information generally, a lot of people, but some don't. Do you think is there a role for the Ombudsman out in the public?

Mr CONNOCK - Yes, I think so. All users of the act would benefit from some level of education and training.

CHAIR - Richard, we will stick to training at this stage and I will get some structure around this, so any questions on training will stick to this side. Do you get many requests from the other departments for you to come in to give training in relation to where you are and what you are?

Mr CONNOCK - Mark, my officer does at officer level and he goes out and provides it. I've not had requests from senior management to go and do it. I'm not suggesting that that's indicative of any resistance. I just think people are not necessarily turning their mind to it. As I said before, it's important to go as high as you can to start with and hoping it trickles down to the lower levels so that everybody within an organisation understands that organisation's responsibilities under the act.

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CHAIR - Is it true then to say that some of our departments, some of the senior people, have never had a session with you?

Mr CONNOCK - Haven't had a session with -

CHAIR - The Office of the Ombudsman.

Mr CONNOCK - No, I don't think there's anyone so far. I'm trying to remember. When I've been speaking to senior officers about other things it has come up, but I've not had - that I can recall - having a direct conversation about RTIs solely with senior management.

CHAIR - Is that unusual? You obviously have close contact with your other colleagues around the country?

Mr CONNOCK - It's not unusual. We don't get requests for training in Ombudsman or Health Complaints either. It's not unusual, but other jurisdictions - I'm the only other Ombudsman apart from South Australia that has this information function. In the other states they're all separate commissioners and they all have large established officers and they go out and they do this. They put themselves on the spot; they don't wait to be asked. That's what I would be hoping to emulate - that sort of approach where you don't wait to be asked, you go out and do it. That seems to work in other jurisdictions.

Mr WILLIE - When you're reviewing cases do you spot trends in that and then think some department or an officer needs a bit more training? Is that a trigger to -

Mr CONNOCK - I wouldn't say there's particular officers, no. There are various classes of information, perhaps, which people get a bit possessive about, if I can put it that way.

Mr WILLIE - Risk averse.

Mr CONNOCK - You might say that; I couldn't possibly comment. Not really, I don't think.

CHAIR - Just looking at your staffing levels, I think it's four?

Mr CONNOCK - In RTI?

CHAIR - No, what's the staffing level of your office?

Mr CONNOCK - I think it's 23.

CHAIR - All up? That's across all areas?

Mr CONNOCK - All up. There's a lot of part-timers in there, so I think it boils down -

Ms FORREST - How many FTEs is really the question?

CHAIR - FTEs?

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Mr CONNOCK - I think it's about 19 FTEs. I could be corrected on that. I'm sorry I should have brought that along.

CHAIR - How long have you now been there now, Richard?

Mr CONNOCK - I've been Ombudsman for five years. I was acting Ombudsman for six months before that.

CHAIR - What were the staffing levels when you came in?

Mr CONNOCK - They were higher in health. I worked in the office before I became Ombudsman and the staffing levels were higher then than they are now.

Mrs RYLAH - On an FTE basis?

Mr CONNOCK - On an FTE basis.

CHAIR - You don't recall the numbers?

Mr CONNOCK - No, I don't, but I endeavour to take that on notice; I can find out.

CHAIR - If you would, yes. Since you've come into that office, what extra functions has the office had to pick up?

Mr CONNOCK - The major one has been the Custodial Inspectorate, which I will talk to you about in a minute, if I may.

CHAIR - Yes, we'll go into that later.

Mr CONNOCK - That's the major one. We've picked up a couple of others. We now have to review the application of the consorting laws after four years. Custodial is the major one, but the other one we have looming - we have another couple of things looming, too, that have been developing over the last couple of years - the code of conduct for unregistered health practitioners and the implementation of OPCAT, the United Nations Optional Protocol Against Torture and Other Cruel and Unusual Treatment. That requires the inspection of all facilities where people are held against their will. We have the Custodial Inspectorate at the moment so we can do prisons and we can do the Ashley Youth Detention Centre, prison transport and that sort of stuff.

Mrs RYLAH - Remand?

Mr CONNOCK - Remand, yes, we do the reception prisons. All the adult correctional facilities, which include the two reception prisons, the Risdon Prison Complex, Mary Hutchinson Women's Prison and the minimum security prison. OPCAT in other jurisdictions - and I assume it will do so here, too - includes secure mental health units and other places where people are held. It's obviously United Nations, so it comes from Geneva, but every nation party has to establish what's called a national preventative mechanism. In the case of Australia, the Commonwealth Ombudsman is the coordinating one. There have been no formal decisions in other states as to who the state NPM will be, but the thought is that it will probably going be the established inspectorates, because they fulfil a lot of the qualities of an NPM. They're independent, they're impartial and they're already doing this sort of thing.

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Ms FORREST - On that point, I'm interested how many requests for review of people being held in such a manner is likely to come? Do you have any idea?

Mr CONNOCK - No idea. I know how intensive the prison inspections are. These happen regularly, but there will be a fair amount of downtime. Again, it's like the prison inspectorate - nobody knows until you start doing it what's actually involved. I saw in the paper a couple of weeks ago that members of the committee are coming out from Geneva to visit various countries, including Australia and Nauru, so it looks like things might be moving.

Ms FORREST - They might need to get their ducks in a row before they get here.

Mr CONNOCK - I don't know. There are problems with that. Who is going to fund all of this and all the usual sorts of federation issues.

CHAIR - To get clarity around this, you are saying that some of these functions will become your responsibility?

Mr CONNOCK - It looks like it, yes.

CHAIR - When is that likely to happen?

Mr CONNOCK - I don't know. In terms of the national code that will be happening. That was a COAG initiative.

Ms FORREST - National code for?

Mr CONNOCK - The code of conduct for unregistered medical practitioners. We currently have the registered medical practitioners, obviously, and we work with AHPRA in relation to them, but these are the unregistered. The Health Complaints Act has been amended to include the code; regulations have been drafted, but it has not been proclaimed. As you will have seen in my submission, I am very concerned about this - it is not complaint-driven, it is notifications. It is like AHPRA - you do not have to be personally aggrieved or affected by the service you are complaining about; you merely notify. Unlike registered boards, there is nowhere we could refer that to. We would have to deal with it. Given the practices of some of these people and the impact it can have on personal and public health, you cannot be too careful. You probably heard the instance of the Queensland Health Ombudsman being removed from the office for not acting quickly enough on one of these things. My concern is that we are simply not resourced to do this sort of work. The people we have are very good - they are very good - but this is more like a prosecution in the investigation of a complaint. We can make interim prohibition orders suspending a person from practice, so there are serious consequences for someone here. Also for public health, we have to be able to move on these things. They have a right of review so we have to have it ready for court, basically. We are not prosecutors; we are administrative investigators.

Ms FORREST - What consultation was undertaken with your office prior to that legislation being brought in?

Mr CONNOCK - We were told it was coming basically, and we worked with the Department of Health's legislative arm in developing the changes, but it just happened.

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Ms FORREST - The resourcing of that area of your operations, the health complaints area which is essentially where you would expect it to fit, can you absorb any of that?

Mr CONNOCK - No.

Ms FORREST - What would you need to manage that?

Mr CONNOCK - I have said in here, if I can find it -

CHAIR - This is the original submission, Richard?

Mr CONNOCK - Yes, on page 6 of that. I have not actually said exactly how many we would need because we do not know how many we would get, but what we would need is somebody who is legally qualified, who has also practised and understands the rules of evidence and how courts work and all of that sort of stuff to get things ready for a potential review before a magistrate or a judge. We simply do not have that at the moment.

Again, the experience of other jurisdictions - and I do not know how far this will translate here - is that it takes up a substantial portion of their time and their resources, not because there is a large number of notifications, but because of the nature of the response. In New South Wales in particular the experience has been with a lot of fly-in fly-out practitioners who set up a clinic in a hotel room somewhere and start administering botox, or doing whatever it is they do, and then fly out. You have to develop relationships with Border Control and with the AFP otherwise you would not know these people were even here. It is fairly intensive.

Ms FORREST - I know you cannot say how many you are going to get -

Mr CONNOCK - One would be enough.

Ms FORREST - One would be enough. Let us say you get one notification. What would be the minimum requirement for your office to deal with that?

Mr CONNOCK - We would need at least one other officer, as I say, legally trained and qualified who has practised - at least. I think we would need somebody else, an investigation officer or whatever, to assist with the legwork. I would have thought - again all the teams are at the moment a minimum of three; energy is normally only two but that is relevant because it is funded by the energy entities; but the others are about three - if we get any numbers here, that would be the same requirement for the code.

Ms FORREST - Have you put any requests for funding and what has been the response?

Mr CONNOCK - Yes. There has not been a response. The problem is here too - well, not the problem - but it was a Health initiative and we are administered by Justice, so it is different department, a different area.

CHAIR - When did you apply for that extra funding?

Mr CONNOCK - We put it in a budget bid for this year. The submissions here are largely taken from our budget bid this year. We put up most of this stuff. It is very difficult. We will get something, but we do not know how many, but I am particularly concerned that if this is going to

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go ahead, it has to function properly. The consequences of missing things and not doing it is not a responsibility I want. It really needs to be thought out a bit more.

Ms FORREST - Do you have - you said there are regulations being made at the moment that haven't been enacted yet.

Mr CONNOCK - No indication of the proclamation. I have spoken to officers at Health and expressed my concern that if this comes in we are not in a position to deal with it, and that the consequences of that for the public and for Government are, in my view, not insubstantial. I think it is understood at the level that we've been dealing that there is an issue, but where that ends or where it comes to rest, I don't know at this stage. I'm not going to take it if I'm not funded. As I say, it's a fairly onerous thing and the consequences for the public and practitioners are significant.

Ms FORREST - When you say you're not going to take it, Richard -

Mr CONNOCK - I don't think I can.

Ms FORREST - If it's proclaimed, how can you not?

Mr CONNOCK - I don't know. This is my concern. I'm just saying that I can't afford to take on another jurisdiction, particularly one like that, if it's going to be non-functional.

Mrs RYLAH - We've got a long way to go because we haven't even got federal -

Mr CONNOCK - This is the only - well, South Australia has a code and it's had it for some time. Interestingly, they are now recruiting for a senior manager just to take care of the national code, yet they've been codified for years. Queensland has a code. We keep looking at the Northern Territory that hasn't done anything much about it yet, so we're thinking while that's the case perhaps nothing is going to happen. But I just don't know. I don't know what the timing is or when it's going to come in and I think it is a 'when'. As I say, I don't want to take responsibility for that sort of jurisdiction if it's not resourced.

Mrs RYLAH - That makes sense.

Mr CONNOCK - That would be diabolical.

CHAIR - There is a way to go there yet.

Ms FORREST - If we were to ask about the time frame, should we be asking Health or Justice, or both of them?

Mr CONNOCK - It's sort of Health, I think.

Ms FORREST - It was a Health bill.

Mr CONNOCK - It was the Health ministers who decided to proceed with this, so it is a Health initiative, so they are pushing it.

Ms FORREST - But you are funded out of the Justice Department?

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Mr CONNOCK - We're a separate appropriation.

Mr BACON - Your budget belongs to Justice, I think, is the point -

Mr CONNOCK - No, we do a separate one. We are a separate appropriation. We are not part of Justice. We're a separate line.

Mr BACON - You said you didn't get a response to this budget request at all?

Mr CONNOCK - We don't normally. We got the RTI funding. We put in for that, but we didn't get anything in relation - that's the way it happens.

Mr BACON - You don't get feedback to say you didn't get it for this reason?

Mr CONNOCK - No, you get advice of what your allocation is. It is what it is.

Mr BACON - Can I go back to RTI then? It's just really a process question. If you put in an RTI - and I'm not sure what the time frame is to do an internal review by the department - if that time lapses you then cannot appeal to the Ombudsman?

Mr CONNOCK - Yes, you can. You can go on the basis of a deemed refusal. If you've made your request in accordance with the act, paid your fees, it's been accepted and all of that sort of stuff, and you don't get a response within the required time, you can approach our office.

Mr BACON - If you do get a response and it's knocked back for whatever reason?

Mr CONNOCK - Then you come to us on an external review.

Mr BACON - You don't have to have an internal review before you can come to the Ombudsman?

Mr CONNOCK - Yes, you do. Only if the decision at the first instance is made by the principal officer then they come straight to us because there is no other avenue of internal review. The decision will be made most normally, or most usually, by a delegated officer not the principal officer. If you're not happy with that decision, you have the right to have it reviewed by the principal officer. In practice that may be another delegate, but it goes to the principal officer. It doesn't come direct to us in the normal course.

Mr BACON - Because there's a time frame around seeking an internal review, I can't remember what the time frame is, I think it's 30 days -

Mr CONNOCK - Twenty working days.

Mr BACON - So if that time lapses, you don't then have that avenue any more for internal review -

Mr CONNOCK - You can come to the Ombudsman then on the basis of a deemed refusal.

Mr BACON - You can do that?

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Mr CONNOCK - Yes.

Mr BACON - Is there a time frame on that or that just -

Mr CONNOCK - Again, I'm having a mental blank, there is. I can't grab it at the moment, 15 or 20, I'm getting myself confused.

Mr BACON - That's 15 or 20 days.

Mr CONNOCK - Working days.

Mr BACON - If that time then lapses, do you have any other option then?

Mr CONNOCK - If you're out of time you're out of time. There's no other avenue.

Mr BACON - If another person then applies for that same information, it is the same refusal, they can then go to the Ombudsman.

Mr CONNOCK - Each application is treated separately.

Mr BACON - So there is no opportunity for a government department to say we have released this information in the past?

Mr CONNOCK - It depends how extensively it has been released. There is under the act the right to refuse a vexatious application, that is, a second application for the same information.

Mr BACON - From the same person?

Mr CONNOCK - That it is the same person is the general proposition. A lot of agencies now, when they release information, put it on an RTI log and publish it on their website. When you release information to an applicant you are effectively releasing it to the world at large. Agencies now publish that in order to avoid repeat applications for the same information.

Mr BACON - That person then is denied the right for an appeal of that decision if they get the same decision as the original applicant?

Mr CONNOCK - No. Every application has the same process. You treat them entirely separately. I am not going to get into whether or not that would a vexatious application. You would have to look at each one on its merits and on its facts. No, the same process would apply if somebody else applied for that information. But if they had published it, the agency can refuse to process the application on the basis that it is already available.

Mr BACON - Can you appeal that decision?

Mr CONNOCK - No. If it is already available it is already available.

Mr BACON - Effectively, if the first person that applies for information does not take up their opportunity to appeal then -

Mr CONNOCK - They would lose their right but that does not affect anybody else's.

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Mr BACON - But it does if the department refuses to accept the application.

Mr CONNOCK - That would depend on the application. I am not happy about making a general comment on that, but each application is dealt with on its merits. The fact that one went one way does not necessarily mean that another will go the same.

Mr BACON - Okay, thank you.

CHAIR - While we are back on RTI, Richard, the additional staff that you will get in that area, does that give you an improved opportunity in the other areas that you have responsibility for?

Mr CONNOCK - No, they are all effectively discrete.

CHAIR - Separate from each other?

Mr CONNOCK - Although there are similarities, there are also differences. The different skill sets apply to different jurisdictions. We have in the past tried crossing over and it works to a degree but really the functions are different. We have separate people. There is certainly enough in Health and Ombudsman to keep all of them occupied without branching out into other jurisdictions and, once we get RTI organised, that will be the same. We will have enough to do, is what I mean.

CHAIR - A step in the right direction in RTI.

Mrs RYLAH - I wanted to clarify that the requests that you asked for of the one FTE band 6 and one FTE band 4 has been met in full.

Mr CONNOCK - Yes. We already had the band 6. Yes, we costed the band 8 principal officer and a band 4 investigation and review officer and we got that dollar figure.

Mrs RYLAH - Met in full. Thank you.

Mr CONNOCK - And we keep the band 6.

Mr BACON - They are effectively the RTI team once it is established?

Mr CONNOCK - We will finally have a team. As I say I am not sure exactly how we will proceed because it is a new thing. Other jurisdictions set an example so we will see what unfolds.

Mr BACON - You will effectively make sure it is fit for purpose by the way you set it up?

Mr CONNOCK - Yes.

CHAIR - I will go into another area. You referred to this in your first submission, Richard, in relation to your statutory obligations. My question coming from that area is a general question. Currently, with the staff and commitments that you have, are you able to meet your statutory obligations as apply under all of the acts and so on?

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Mr CONNOCK - Broadly speaking, yes. We could always do with more in Health. Ombudsman is a little more flexible in that we have the capacity there to make preliminary inquiries in relation to complaints. We do not have to investigate. We can determine whether or not a formal investigation is necessary. If it is not, we do not proceed. Most things settle at that level. We do not have that capacity or that function in Health. There is no preliminary inquiry provision, so a decision has to be made within 45 days or 90 days on extension, or whether to dismiss, investigate or conciliate. That can create problems. For various reasons, a file might sit for a time without progressing - it stays in assessment for too long - and that's outside influences. We are waiting for information - we have to deal with AHPRA, with the service providers and with everybody else so often we are waiting for information before we can make a determination on what happens with a file.

Mrs RYLAH - Does that need change? Are you proposing it?

Mr CONNOCK - I would like the preliminary inquiry function in the Health Complaints Act, yes, so that we don't have to make a final decision on what is to happen with the complaint within a limited time frame, not having fully assessed it.

It is a very useful thing in Ombudsman. If we had to investigate every complaint that came in, it wouldn't work, but we work really effectively - we have a really good team that is able to resolve the vast majority of complaints quickly, efficiently and appropriately. That could happen in Health as well. Often it doesn't take much to resolve a complaint, but once you have the shadow of an investigation hanging over your head, that can influence attitudes and so forth. Plus they are complex and time-consuming.

Over all, the answer is, 'Yes, pretty well'. We could always do better. The thing in particular we're not doing a lot of in Ombudsman is own motion investigations. A lot of people think our main function is to investigate complaints, whereas in fact it's not - it's to investigate the administrative actions of public authorities. I am talking about the parliamentary Ombudsman now. We can do that by own motion or a complaint so actually a complaint is the second port of call. We would much rather do complex systemic things on an own motion basis because we then don't have to handle all the expectations of a complainant. We'll be confined to that complainant's scenario. They are big and complex, and you can't do them off the side of your desk, so we're not able to do a lot of those, but we're handling the complaint work.

It's much the same in Health - we can't do much else, we are just handling the complaint work so we're not moving forward.

CHAIR - You're reactive?

Mr CONNOCK - Yes, we're reactive and we would really like to get out there and do a bit more. There are a lot of things happening that we could usefully be involved in, but we don't have the wherewithal at the present time.

Mr WILLIE - You're not doing a lot of own motion inquiries. Do you have some numbers around that? How many have you done in the last few years?

Mr CONNOCK - In the last few years only two or three. The last big one we did was back in 2010, and that was the Tamar division at the Risdon Prison Complex; that was the last really big substantial own motion. We have done a couple of others. We did one, I think, in a public interest

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disclosure. That is the other thing - we are the principal disclosing entity under the Public Interest Disclosures Act 2002, and that act has a fairly formal and detailed process for dealing with public interest disclosures. Traditionally we have not had many in Tasmania, but we have been getting a lot more traffic recently there too, and that is something we don't have a choice about. If it is a public interest disclosure, we have to investigate. I have to say there are strains.

CHAIR - In the first submission you made and under the CF [inaudible] statutory responsibilities, you make this comment, and you're going into it now -

Staffing levels are inadequate and significant issues of public interest cannot be investigated.

What happens in the case where you can identify there is a public interest matter out there that needs to be investigated and should be investigated, but you don't have the staff to be able to do that? Do you push that off somewhere else?

Mr CONNOCK - No, that has happened in the past and it didn't proceed. It was in relation to Ashley Youth Detention Centre. A matter came up; it had been mentioned in the House and various things so we were approached to look into this. I spoke to the then secretary and said, 'I just don't have the resourcing for this. I would need extra in order to do it or to have my people do that. I would need to bring somebody else in to do the day-to-day'. There were discussions then about providing funding for that particular investigation. In the end it didn't proceed so I don't know how that would have panned out, but the only thing I can do is approach my minister and say, 'I think this is important and we need to do it but I'm not funded.'

Mrs RYLAH - I would like to go back to where you identified that the preliminary inquiry function in Health needs to be increased.

Mr CONNOCK - No, it needs to be established. We haven't got one.

Mrs RYLAH - To be established - is that a regulatory matter or a legislative one?

Mr CONNOCK - It's a legislative one. It's a simple one, I would have thought, the legislative process being what it is. In the Ombudsman Act, just one section was added saying that we can make preliminary inquiries.

Mrs RYLAH - Have you requested that of the Attorney?

Mr CONNOCK - No, not yet. There is apparently a - I must make a note of that - it's come to the fore recently because we've had staffing issues with people retiring and going on leave and things like that. We've been thinking this could be a useful thing to do. I'm not sure if the Attorney is aware of that or not, but I will certainly raise it with her.

CHAIR - I wanted to go into the Custodial Inspector's responsibilities. I would like an explanation of just what time this takes of your office and what is happening in this area? The other area I would like to touch on, and you might want to touch on that as well, is the number of complaints you are receiving from inmates, which is a part of this whole thing. I think they are able to complain directly to your office.

Mr CONNOCK - We have a direct line on the answerphone system.

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CHAIR - Can I get you just to cover that?

Mr CONNOCK - We are finalising the annual report statistics at the moment and I don't have them with me, but I'm happy to take that question on notice and give you actual numbers. Of all of the agency complaints, the Department of Justice is the highest and that's because it has the prison service. They are our most significant cohort of individual complaints.

We have a line on the Arunta Telephone System that is free to them and they can call us any time during business hours and raise concerns. We get a lot of calls on that line and we deal with a lot of prisoner complaints.

CHAIR - In that respect are you required to get back to each individual complaint made by an inmate, for instance?

Mr CONNOCK - There are various things that happen. Often the inmates haven't raised a complaint internally in the first place and we would direct them to do that before coming to us. Or we will accept it either as an inquiry or a complaint. We have a really good relationship with the prison service - we contact them directly, get an answer on what is going on, have the prisoner ring back a day later, or write to them or whatever and communicate that outcome and see if they want to proceed with a formal complaint. We've been doing this for a while and it works reasonably well.

Ms FORREST - On that point, as you said with Health complaints, often communication is the key here and things can be resolved very quickly. In terms of your experience with the Custodial Inspectorate, what percentage - and you might have to provide this later - of those requests or complaints -

Mr CONNOCK - The inspectorate doesn't actually deal with complaints. It's a separate entity. I'm not the Custodial Inspector because I'm the Ombudsman - it is a separate, standalone jurisdiction. It's not concerned with individual complaints at all. What it's concerned about is systems, security and the welfare of prisoners.

Mrs RYLAH - That's what Vanessa said in her speech.

Mr CONNOCK - Yes. We've established a set of standards that covers every aspect of a prisoner's time in custody, including transport and inspections into custody arrangements, and mental and physical health; there are separate standards for each of those. The inspection team goes into the facility and looks at it against those standards - is it compliant, is it not? Because this is new to Tasmania, a lot of those standards are probably aspirational because we have an older prison, and some of the facilities are older and they are not going to comply with some of these current standards, but we nonetheless apply them and make recommendations. It's not complaint-based at all. I can, on notice, give you numbers in relation to prisoner complaints. As I say, they are the largest cohort of individual complaints traditionally.

Ms FORREST - In terms of those ones?

Mr CONNOCK - Most are resolved at a very low level.

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Ms FORREST - It would be helpful to know of the complaints or communications received how many are dealt with by simple mediation, perhaps you might call the process, or do you call it something else?

Mr CONNOCK - Really an explanation in most instances. That is not confined to prisoners. That is often the case. People dealing with the government do not understand why a particular decision has been made and a particular action taken. We explain it to them. That is the large part of what we do. It is the same with prisoners; they do not understand why a decision has been made. It is finding out why that decision has been made. Sometimes they have misunderstood what they have been told, or sometimes, dare I say, they are trying it on. We get back to the prisoner and we get an explanation and we provide that back to the inmate.

Ms FORREST - Then that is the end of the matter?

Mr CONNOCK - Usually. If there is a more substantial issue then we would investigate.

Ms FORREST - What I am asking is how many of those are just generally resolved through that process, and those that go on to investigation?

Mr CONNOCK - I will get you the more accurate figures.

CHAIR - Richard, on the issues that you are taking on notice, we will write to you with those matters.

Mr CONNOCK - That is okay. I will get back and get them organised.

I just wanted to say in relation to the Custodial Inspectorate, it has now been in operation for three years. As you all know, given the level of resourcing, we cannot do the large-scale omnibus inspections that they do in other jurisdictions. We have to do targeted ones and we have to have done all of those by December of this year. With the resourcing we have, that is problematic. The situation with the inspectorate was - and you mentioned Dr Goodwin; she was really committed to establishing this and did some really good work on it. But when we are discussing budget, when it was established the budget we have now was the budget to establish the inspectorate, not to operate it because nobody knew what was going to be involved. We knew we had to develop standards, we knew we would have to do preliminary visits to facilities, and have discussions with Justice and prison management and all those. We knew there were a lot of things to do there and we have done all of that. We have established the standards and we have developed relationships and all of that sort of stuff. We are now conducting the actual inspections and the resourcing we have is just not sufficient to do that.

CHAIR - It is 1.5, isn't it?

Mr CONNOCK - Yes, 1.5 FTE. That is a principal officer 0.9 and another officer at 0.6.

I have just been dealing with Justice talking about the work that they have been doing in the last 12 months. We have just delivered the custody inspection to Justice and to Communities for comment, but since that was done 18 months ago we have done five other inspections and those reports are all in the wings as well. We have a lot of other things that come up that we have to respond to as the inspectorate which take up responsibility, and writing the reports itself is a huge impost on time. Because this has not happened before those reports are lengthy and complex. The

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first one contained 150 recommendations because nobody had looked at the prison before. There is an awful lot of work there and we are not going to be able to do it to the level that it needs.

Ms FORREST - What do you need to enable you to do the -

Mr CONNOCK - We have been lucky we have had an additional two 1 FTE permanent employees, one at band 6 and one at band 5. The hours of the current band 5 to be increased to 0.6.

Mrs RYLAH - Six to eight.

Mr CONNOCK - Six to eight rather. The other thing that we have discovered now and this was something that was discussed at the time, we do not have the expertise for specialist inspections like health and mental health and education. There was always going to be a consultant line in there to bring people in, which is what we have done with the inspections to date but that has gone. We do not have any money left for a consultant so there are things we are unable to do.

At the beginning of next year we will have to start again. The first inspections were health but we do not have the funding for a health consultant, mental or physical health. We do not have any budget for travel and accommodation yet we have to go up to Deloraine on a regular basis to inspect the youth detention centre. We are not functioning at the level we should be and if OPCAT comes in that is just going to be a nightmare. I am not saying it is - I do not know what is happening with that. But we really need more people there to operate that the way it should be operated.

CHAIR - If the northern prison takes off?

Mr CONNOCK - Exactly. The remand centre is going to be finished at the end of next year, the new reception prison, and the northern prison in 2024, so there is going to be extra facilities and prisoner numbers are increasing every day. There are lots of issues out at the prison that need looking at and it is our responsibility to look at but we just can't. My office is pulling their hair out because they just can't do their job.

Ms FORREST - You indicate in your submission there about what the Custodial Inspectorate needs to actually operate, is there anything you wanted to add to that? It is clear that you are under the pump in terms of delivering what you are required. What do you need? Also, for your health, particularly your mental health inspections and things like that. What do you need there?

Mr CONNOCK - For example, in the Health one, I will use that, we had to do various tests, water tests, air quality and all of that sort of stuff. We needed somebody to do that for us and to analyse the results, which is not cheap. We had someone from the ACT Correctional Health come down to assist us with the review of physical health at the various facilities. We had Dr Jim Ogloff, a forensic psychologist from Victoria, come to do the mental health aspect of it. There were three consultants on the health inspection.

Ms FORREST - Three psychologists or psychiatrists?

Mr CONNOCK - I think he is a forensic psychologist.

Ms FORREST - I'm just clarifying.

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Mr CONNOCK - I can clarify that, but I'm pretty sure. He's done a lot of work in all jurisdictions and he was known to half the staff when we took him out. For things like that - and for education standards -

Ms FORREST - What is the budget you need for that? That's the question, describing what you need to do.

Mr CONNOCK - I can give you the costings that we had on the previous one, but we would probably not need - or it would not be quite the same the second time around because we've done some of this once. I can give you -

Ms FORREST - I'm just interested. You made the comment that with the Custodial Inspectorate you had funding and staff to establish it but not operate it. What I'm interested in is what do you actually need to continue to operate it effectively, efficiently and within the requirements of the act, and the same with the Health inspections.

Mr CONNOCK - We have said in the budget during submissions how we need consultants and all of that sort of stuff. You are asking for some sort of idea of the dollar figure?

Ms FORREST - Yes.

Mr CONNOCK - As far as we can I will try to get that for you.

Mrs RYLAH - Are you getting no funding for the Custodial Inspector, or do you just need a change in funding?

Mr CONNOCK - We need an increase in funding. We have the funding that we have and we need an increase in funding.

Mrs RYLAH - An increase in funding, yes.

Mr CONNOCK - Having operated it now for three years we know what's involved in it. We're about to start the whole process again and we can't do it on the current funding. We're concerned, too, coming up to the three years in December that we're going to meet our statutory requirement of having reported on all - because apart from anything there's not many sitting days left and we have to table these things.

Ms FORREST - Can they be tabled out of session?

Mr CONNOCK - They can, but I'm not sure that that's a desirable way to do it. You can do it through the Clerk, but in the interests of transparency I think it is probably better -

Ms FORREST - I agree, but I'm just thinking -

Mr CONNOCK - If push came to shove, but it would not be the preferred way to do it.

CHAIR - The funding for this area, does that come to you as a part of your budget? It's a line item in your budget for the Custodial Inspectorate functions?

Ms FORREST - I'm sure it's in the budget papers.

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CHAIR - I'm just trying to get clarity around that as well. I think Ruth has covered it pretty well in what you say that you really do need to be able to undertake that responsibility.

Mr CONNOCK - It's not sustainable at the current level to get around everywhere to the standard the act anticipates.

CHAIR - This all came about as a result of the Palmer Report; I think there was the identification for a need for this office -

Mr CONNOCK - Which followed our Tamar report that I mentioned before. The two of them have led to -

CHAIR - Of all of the functions that were pointed out in the Palmer Report, has that been taken on by the Custodial Inspector, you?

Mr CONNOCK - We are an independent inspector. What we've done is when we've established there are all sorts of international instruments, minimum rules, minimum standards, other independent inspectorates, and what we did was deal with particularly the Western Australian Inspectorate Custodial Services, which is the most long-established independent inspectorate of prisons. We looked at international instruments and we're doing what Mick Palmer envisaged an inspector would do.

But a lot of water has gone under the bridge too in the 10 years since the Palmer Report in terms of international standards and so forth. Other countries like New Zealand have ratified OPTCUT many years ago and they are compliant. The international situation has gone through a change and our inspectorate is informed by those changes and by international standards as well as other Australian jurisdictions.

CHAIR - So I'm clear on this, your responsibilities there, do they go as far as the police cells?

Mr CONNOCK - No, police cells are not a part of Corrections.

CHAIR - It's not a part of Corrections.

Mr CONNOCK - No, we don't do the court cells and we don't do police cells.

CHAIR - Even the court cells are not Corrections.

Mr BACON - Wouldn't you do that under international -

Mr CONNOCK - When that comes in, we will have to do that, I think. The other thing is there are not a lot of police lock-ups in Tasmania and I think they are talking about our police cells where people are held for more than 24 hours and I don't think that happens. They try to get them to one of the prisons.

Mrs RYLAH - Onto the remand centre.

Mr CONNOCK - Yes, when I said prisons I was including reception prisons, remand centres. Get them somewhere that is quick to house them.

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Mrs RYLAH - Could I just clarify, the acronym, OBCAT or OPCAT?

Mr CONNOCK - OPCAT - Optional Protocol Against Torture and Other Cruel and Unusual Treatment - I think that's right.

Mrs RYLAH - OPACAAT?

Mr CONNOCK - OPCAT, it's known as OPCAT.

CHAIR - I think you said it covers also the transportation of prisoners.

Mr CONNOCK - We do transports now.

Mrs RYLAH - Under the Custodial Inspectorate?

Mr CONNOCK - Yes.

CHAIR - I take it that as a result of the previous suicides, the deaths that we had in that transportation, that would have created more work for your office?

Mr CONNOCK - Not more work. We pay particular attention to transports and what has been happening since those unfortunate events.

CHAIR - That all comes under your umbrella.

Ms FORREST - Because we want to look at the whole of your operations basically in this, Richard, you have to do the review of the application of the consorting laws - that's not right now -

Mr CONNOCK - No, that was within four years but we weren't consulted on that one either.

Ms FORREST - You weren't consulted on that one either?

Mr CONNOCK - I learnt about that from the Deputy Clerk of the House.

Ms FORREST - You probably have a little bit of time to think about how you're going to staff this but will it require a specific set of skills and additional staff, and when do you plan to prepare for that?

Mr CONNOCK - The New South Wales review, which was what prompted giving us the function, was a very lengthy document. There is a lot more bikie activity up there, I think, and that's what this is aimed at obviously. So again, it's a bit of a piece of string, but someone is going to have to sit down and go through all of these every time the act is used, look at all those instances and review them. It's not going to be a simple thing, I don't think.

Ms FORREST - You would have to have additional staff for that, do you believe?

Mr CONNOCK - Probably but that is a one-off as I understand it. So it may be a case of getting somebody in to do that. I don't know, I haven't really turned my mind to that yet.

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Ms FORREST - You need an increase in your consulting budget, potentially.

Mr CONNOCK - Potentially, yes. As I say, I haven't really turned my mind as to how that will work. Because it's only been in for a short time, and I know there have been already some fairly startling headlines, it looks like there will be a few.

CHAIR - 'Within', it says, 'the four years of it commencing'.

Mr CONNOCK - That would have to start before the expiration of the four years.

CHAIR - Sure, absolutely. Richard, talking on the police issues, you also in your submission said that you are undertaking inspections pursuant to various police powers' statutes. How much work is involved in that for your office?

Mr CONNOCK - That's not so bad now that everybody is organised and been doing it. We have established a process with police who are incredibly cooperative. This is all record-keeping. We inspect the records when there are warrants for listening devices and things like that. We make sure that the police combine it with all the statutory requirements in relation to records. So it's going down and looking at those, checking them off against a checklist and then we report. So that's not too onerous.

CHAIR - Just a general question to just make sure I have this right. Your original submission that we have received, nothing really changes in that from what came out of the budget other than perhaps some change within the RTI part of it. Other than that, everything else still remains as it is?

Mr CONNOCK - Yes, RTI was the only one that got, everything is much the same.

CHAIR - I just wanted to make it clear on that point. Anything further, Richard, that you would like to leave the committee with at this time?

Mr CONNOCK - My two major concerns at the moment are the Custodial Inspectorate and the Health Complaints jurisdiction, particularly because of the new things that might be coming but also because they are labouring at the moment. Having said that, Ombudsman could also do with funding. It is across the board, but the two sorts of acute areas with development on the horizon are the inspectorate and health complaints, with the general comment again that the inspectorate cannot be sustained on current funding levels.

CHAIR - There was one further question I had. On the official visitors, and you have set it out here fairly well, what is the commitment there? How is that operating?

Mr CONNOCK - We coordinate the mental health official visitors and the prison official visitors. We have a manager who has an assistant who run those.

I was going to say there, too, that the consequences of unfunded health complaints commissioners, there has been a bit of publicity about the New South Wales health complaints not acting in a timely fashion and a big 7.30 report on AHPRA -

Ms FORREST - What? Unregistered health -

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Mr CONNOCK - No, this is health care watch dog dysfunction because they are not getting complaints dealt with in a timely manner and the same with AHPRA not addressing notifications. There are -

Ms FORREST - AHPRA has had a bit of attention lately.

Mr CONNOCK - Yes, it got a bit of a hammering on 7.30 the other night.

The budget of the program has not changed since 2009 when it was established. There are a lot of things involved in operating the budget. There are a lot of transport issues and things because they travel around to all the various prison facilities and all the mental health facilities, which means while they have some up north there is still a bit of interchange.

Is your question going to what they do?

CHAIR - What are the responsibilities?

Mr CONNOCK - The OV is under the Corrections Act to go out and have free access to prisoners at the various prison facilities. They can take complaints about day-to-day concerns, which they generally then resolve on the spot with staff. They also report back to the manager about other more serious issues -

Ms FORREST - The manager of?

Mr CONNOCK - The manager of the OVs which is part of the Ombudsman's office. They are an important source of information about what is going on at the prison on a day-to-day basis and also to alert us to perhaps more significant issues that might exist.

Mental Health OVs go in and look at the care of mental health patients. They can take complaints but largely look at things like seclusion and restraint, and just make sure that the act is being complied with. They too report back to the manager.

Mrs RYLAH - In regard to restraint, are they looking at physical restraint and chemical restraint?

Mr CONNOCK - Yes. In fact, we have previously done an investigation and reported on chemical restraint. It is an issue that we are alive to. That was in health complaints.

CHAIR - I noticed in the area of energy, your responsibilities in that area, that you are reasonably -

Mr CONNOCK - They are okay, but that is funded by the energy entities - Aurora and TasNetworks.

CHAIR - That is right. They fund that and they fund it appropriately, I think you have said in your submission.

Mr CONNOCK - It is based on the number of complaints each one has and they fund that. It is like the industry models in other jurisdictions only we do not have an energy ombudsman. But the Energy Ombudsman Act gives me functions in relation to the sale and supply of electricity. We

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now have the first interstate operator down here supplying the domestic market so we have had our first taste of contestability, which is interesting.

Ms FORREST - Not necessarily because of that but it adds another level to it, if the demand increases, you have more energy complaints or inquiries coming, does that automatically then get the funding topped up by the energy entities? Is that how it works?

Mr CONNOCK - We ran out during the year and then we put in the budget based on what we've had.

Ms FORREST - So it's a retrospective -

Mr CONNOCK - Yes.

Mrs RYLAH - The interstate entity will have to contribute?

Mr CONNOCK - Yes. It has been a concern in other jurisdictions - that people pop their head up, start playing in the market and all of the rest of it and then disappear without having contributed to the scheme. That obviously hasn't happened here because we haven't had anybody other than Aurora and TasNetworks. Anybody about whom we take complaints contributes - the more complaints, the more they pay.

Ms FORREST - It is in their interests not to have complaints then.

Mr CONNOCK - That's right, and we tell them that. Having said that, Aurora is terrific in the way it deals with complaints.

Ms FORREST - They have a very customer-focused approach in a lot of their stuff. Just on Health Complaints, you mentioned the bit of a shellacking AHPRA got in the media recently and the timeliness of dealing with Health Complaints. I know your annual report is probably going to be out fairly soon in terms of the Health Complaints Commissioner as well as the Ombudsman, but are you able to give us some up-to-date figures?

Mr CONNOCK - They are being finalised at the moment.

Ms FORREST - Do you have a time frame for that in terms of whether we could get them a bit earlier than the tabling of the annual report? They're always a bit later.

Mr CONNOCK - I will have a word with my business manager when I get back and see what we can do. I know, and I think you probably saw in the submissions, that my principal officer in Health prepared a graph of complaint trends over the last 10 years, so they have been on the increase. I don't think they have increased greatly this year, but they are still up around the level they were last year.

Ms FORREST - If it is possible, could we get a breakdown of the number resolved, whether through mediation, answering a question or a query or clarifying a matter? As we said, a lot of those things are communication.

Mr CONNOCK - That will be in the annual report. There have been difficulties, too, in relation to mediation in Health because of changes in the Health environment, changing from the

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Tasmanian Health Service to the Department of Health and Human Services and now to the Department of Health and Communities. Networks and things have become dispersed and the contact lost. Getting people to come to mediation was a problem because we didn't know who were -

Ms FORREST - Whom you were mediating with.

Mr CONNOCK - Whom we're supposed to be dealing with, but that is settling down a bit now. We haven't been doing a lot of mediations in the recent past.

Ms FORREST - If people have a complaint about Burnie hospital, say - we will leave the one down here alone for the moment - that would go through the Health Complaints Commission deal with the Department of Health and Communities to potentially mediate throughout that process?

Mr CONNOCK - Yes, in terms of mediation.

Ms FORREST - Where is the confusion? When you said Communities and other areas.

Mr CONNOCK - The offices have been moved around. The people we've been dealing with historically and have developed networking relationships with are being moved to different places.

Ms FORREST - It's the people who are moving, right.

Mr CONNOCK - We have to go to the top and that takes a long time to then filter down to where it is supposed to be.

Ms FORREST - To find who it is you are dealing with?

Mr CONNOCK - That has been an issue, but we're working on that at the moment and things are improving. Things have settled down again now.

CHAIR - Richard, just on Health, I note it also involves private hospitals as well. What do you see coming in? Is there a lot coming in from there as well? I take it there would be. How is that funded? Is that a part of the budget, the state funding, as well?

Mr CONNOCK - Yes.

CHAIR - I wonder if there's a way to recoup it.

Ms FORREST - You reckon they should pay for that?

CHAIR - Well, private hospitals I would have thought should make a contribution. They are run -

Mr CONNOCK - Most of it is in the public environment, but I note your comment there. The other thing is since AHPRA, we don't look at professional conducts. If it involves a practitioner, we have to send it up. That, too, is an issue, because often we have to wait for AHPRA to make a decision before we can proceed.

Ms FORREST - So the clock stops at that point?

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Mr CONNOCK - Sometimes. The complaints can be split. If it is a practitioner, it goes up.

Ms FORREST - To AHPRA?

Mr CONNOCK - To AHPRA. If he/she ends up being exonerated, they are not going to be too interested in mediating, are they? We have to wait for that outcome and they are not going to participate before AHPRA makes a finding, so we have to wait for that to run its course.

CHAIR - I have another question to ask you, Richard. Clearly the closing of the Launceston office impacted on your office. Ideally, I suspect you would say, 'If we had the funding, we would like to reopen that office'. Is that a fair assessment or statement to make?

Mr CONNOCK - Yes. We get Health complaints from the north particularly, and we still get Ombudsman complaints. Having that northern office was very useful thing - because it was there, people complained. You know what it is like.

Ms FORREST - Complained it was there or complained about other things?

Mr CONNOCK - Complained about other things. Because they could walk in and see it, they made the complaints. When they cannot do that, a lot of people tend not to complain. They come to you instead. Yes, it was useful enough and I think it performed a function, but at that time we had the global financial crisis. That was the only action we could take because we were obviously paying rent on another set of premises and a salary, and that was all we could do to meet the saving.

CHAIR - The reason it closed was because of that crisis. Now, ideally, you are saying, 'I think that it would be a good position for the Ombudsman -

Mr CONNOCK - A presence in the north.

Ms FORREST - Just on that, I acknowledge it makes it difficult for people from my electorate to visit in person, and you cannot undertake inspections by digital methods generally. You can probably see some things. What is your usage of IT and digital technology to undertake some of your tasks? Could that be beefed up a bit?

Mr CONNOCK - I am not sure. In the electronic age we do not now get a lot of walk-ins to the office, but we still get a lot of telephone traffic. Most of our complaints are online. I am not sure we could do anything. We are working on our telephony at the moment, putting in an automatic divert which other jurisdictions have so that there would be an announcement. People see the word 'Ombudsman' and just go. A lot of what we do is referring them to where they should be - Telecommunications Ombudsman, Financial Industry, Commonwealth -

Ms FORREST - 'Press 1 if you want this; press 2 if you want that'?

Mr CONNOCK - Yes, and it will directly put them through. That will save us having to deal with all that sort of stuff. We are looking at things like that all the time. We are working on the functionality to be able to send out SMSs from our resolved database because that is the preferred communication of a lot of people these days, and some of those who do not have internet access have iPhones. That is sort of thing we are looking at.

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CHAIR - On the northern office, it had a responsibility also for the north-west, didn't it? They travelled there, I think. I had quite a bit to do with their Ombudsman at the time.

Mr CONNOCK - Yes. That was Tony Byard, when he was there. He used to get around, yes. He was very good at doing that, in fact.

Ms FORREST - You still need a budget for travel, though. Even with a northern office, you are going to come to the north-west and west coast and places.

CHAIR - Sure, but I know it was an asset.

Mr CONNOCK - We do not get complaints from the north-west, but that does not mean that things are not happening. Tony used to go out there to talk to people and get to the issues, which was good.

CHAIR - Do committee members have any further issues or questions to raise? Richard, is there anything you wanted to leave with us at this time? You have covered it pretty well. Our office will correspond with you about the questions taken on notice.

Mr CONNOCK - I will start doing some backgrounding on those anyway and see what I can get for you.

CHAIR - Richard, thank you very much for your attendance today. Thank you for your candidness in answering questions. We look forward to getting your responses in due course when you are able to get on to those questions on notice as well. The committee will meet later on to determine where we need to go and what we will do. No doubt, as Ruth has already said, we will be reporting on this as soon as we possibly can. It is an important matter and we want to do that.

Mr CONNOCK - If any other questions occur to you later, please do not hesitate to ask.

CHAIR - Thank you - that is likely to happen during our further discussions around it, so thank you.

Mr CONNOCK - It usually does, but do not hesitate. I am very happy too. Thank you very much for your time.

THE WITNESS WITHDREW.