PUBLIC

THE JOINT STANDING COMMITTEE ON INTEGRITY MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON FRIDAY 30 OCTOBER 2026.

The Committee met at 11.45 a.m.

CHAIR (Mrs Armitage) - Thank you very much for appearing before today's hearing of the Joint Standing Committee on Integrity. Before we start, I'll just introduce our team at the table here. We have Michael Ferguson, member for Bass; myself, Rosemary Armitage, member for Launceston; the honourable Meg Webb, member for Nelson; and the honourable Cassy O'Connor, member for Hobart. Our secretariat, we have Fiona and Mary, and on Hansard we have Henry. Thank you very much. If you could please state your name and capacity in which you're appearing before the Committee.

Ms McKENZIE - Ellen McKenzie, the Chief Executive Officer of the Integrity Commission.

Mr HAY - My name's Robert Hay, I'm the Chief Commissioner of the Integrity Commission.

CHAIR - Can I confirm that you've received and read the guide sent to you by the committee secretary?

Ms McKENZIE - We didn't receive a guide, but I've read them previously.

CHAIR - You've read it in the past.

Mr HAY - I haven't seen it.

CHAIR - Right. Just two seconds. We'll just get some advice here.

Okay, if you could please read the statutory declaration in front of you, that would be fine. Thank you.

Mr ROBERT HAY KC, CHIEF COMMISSIONER, and **Ms ELLEN McKENZIE**, CEO, TASMANIA INTEGRITY COMMISSION, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thank you. As I'm sure you're aware, the hearing's covered by parliamentary privilege and the protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings. So, the hearing is public, the public and media may be present, and should you wish any aspects of your evidence to be heard in private, if you could just let us know, that would be lovely. If either of you would like to make an opening statement then, perhaps, we could ask you some questions.

Ms McKENZIE - No, thank you, Madam Chair, I don't have anything to state at this stage.

Mr HAY - I think the report's self-explanatory.

CHAIR - Speaks for itself?

Mr HAY - Yes.

Ms WEBB - Thank you. This is clearly a report that's in a sequence of reports, coming as No. 3. Can you speak briefly to what led to examining this particular area as part of that series and perhaps point to whether there are further elements yet to come in that series?

Ms McKENZIE - The series was set off by some experience that the Commission had had in its misconduct matters practice. In particular, we decided, as a result of the material that we had seen and gathered over a period of time that we should look into ethical conduct and misconduct risks in connection to Tasmanian parliamentary elections. I suppose the most recent report, 'The use and misuse of public resources during election campaigns,' is probably the end point of the process that we followed through from the very first research paper that we published back in, I think it was around 2022 or thereabouts that we published the first one in the series.

Ms WEBB - So, the impetus then, is that you - and again, obviously I'm not asking for particular details here, I'm just speaking generally - but you had received, potentially, material sent through, or potential complaints made, that maybe weren't able to be pursued in the context of investigations or other sorts of activities that the Commission does, but pointed to areas that would benefit from some examination and the Commission turning its mind to potential recommendations for going forward.

Ms McKENZIE - I think that's a fair summation. It's one thing for us to do work on individual matters or respond to individual matters, but where there are systemic issues that are being identified through the course of us doing that work or particular risks that we're identifying, there is a benefit, we think, to actually draw those to the attention of the public and conduct a project like we have here with the Project Acropolis series to identify those risks to the public and maybe to encourage some public debate and, perhaps, eventually some scrutiny by the Parliament itself, with a view, perhaps, to addressing some of the issues that we've identified through the course of those reports.

Ms WEBB - I guess that comes back to the fact that, on the one hand, you can investigate misconduct-type allegations, but integrity is a different matter to misconduct, so this is more your promotion of integrity role?

Ms McKENZIE - Correct.

Mr HAY - But also, excuse me sorry, the big issue it really is, well, we don't have jurisdiction during election periods. That was something that was pretty important that needs to be addressed, and that's obviously still a live question.

Ms WEBB - You've put that as a recommendation in the report. Perhaps you could speak to us about how this is managed in other jurisdictions and how we line up or don't line up currently with our arrangement there?

Mr HAY - Ellen will correct me if I'm wrong, but my understanding is we're the only jurisdiction where an equivalent body doesn't have jurisdiction during election campaigns.

Ms McKENZIE - I think that's correct.

Ms WEBB - Can I check then, when you say jurisdiction, do you mean jurisdiction just over the incumbent MPs who are recontesting election or, in those other jurisdictions that do cover those periods, does that also cover behaviour of other candidates in elections who aren't incumbent MPs?

Mr HAY - I can't answer that question, but, of course, it's not nearly as important because a lot of issues here are use of taxpayer resources, so you really have to be a current MP to be using public resources, particularly if you're on the government side.

Ms WEBB - In a more specific way, if your jurisdiction was to be extended to cover election periods for MPs, and we're talking about Lower House MPs here, of course, because Upper House MPs don't have election periods in that same sense where we are always Members all the way through to our election day, but Lower House MPs during the election period, if your jurisdiction was extended to cover that period of time, does that require then that they're still held to the Code of Conduct for MPs or the same standards as if they were sitting MPs at that time, even though technically they're not?

Mr HAY - One thing we did say in this report, we're not setting out how recommendations should be implemented, but what you're suggesting there is probably the likely outcome, yes.

Ms WEBB - Because we need clarity on what the standards are that you would hold people to during that period even though they wouldn't technically be Members of Parliament.

Mr HAY - A lot of the issue will come back to use of public resources. If you're an elected MP and you have your electoral office out putting up posters or handing out leaflets or going to people's houses, and we've had this happen in Victoria, that's totally inappropriate during working hours for that electoral officer.

Ms WEBB - In terms of that, the electorate officer remains employed during the election period, even though the MP isn't technically an MP during the election period?

Mr HAY - That's my understanding, yes.

Ms WEBB - It's an interesting conundrum, isn't it, in that sense? One we don't have to face in the Upper House.

Mr HAY - The election period is probably the period where there's the most pressure and incentive to use public resources to assist in your election and that's what a lot of this is aimed at.

Ms WEBB - Is it your understanding that the person who was the MP, recontesting the election during the electoral period, not technically an MP, but they are still in a position to direct their electorate officer?

Mr HAY - I understand that's correct. Again, I am only here really to talk about the report. I don't know all the technical underpinnings for some of these things.

Ms WEBB - Interesting, thank you.

Ms O'CONNOR - During the course of your inquiry to develop this paper, what view did the Integrity Commission form on how prevalent the misuse of public resources during election campaigns is here in Tasmania.

Ms McKENZIE - I'm not sure I can particularly answer that. I think there are examples that we highlighted in the report from earlier campaigns where concerns had been raised publicly about misuse, if you will, or alleged misuse of public resources. That material definitely informed the findings of the current report, but I think we would have to say that it sits in a context, and I think this is evident, where there is a diminution of trust in Parliament. The public doesn't have the degree of trust and confidence in its parliaments that it used to, and I think the work that we were seeking to do here was to bring that to the fore and examine some of the reasons that might be. For us, using and misusing public resources is a key factor that people often cite as causing that reduction in confidence in the Parliament.

Ms O'CONNOR - Thank you, but you have established, haven't you, that there is - that it's likely happening in election campaigns, that this is a risk to public resources and public confidence? It is happening here, isn't it, during election campaigns?

Ms McKENZIE - Well, I think there were examples that we referenced in the report from previous elections for sure.

Ms O'CONNOR - So a series of recommendations are made in your report and some of them speak directly to Government or directly to the Department of Premier and Cabinet (DPAC). The first one is that DPAC:

> ... update all relevant policies, handbooks and guidelines with
> a) a statement that Members of Parliament (MPs) and ministers must use public resources for the dominant purpose of performing their public duties,
> b) an express prohibition against the use of public resources for personal, commercial and partisan purposes ...
> c) examples of conduct which infringes the principles of this report, and
> d) examples of conduct [of good behaviour during election campaigns].

Has there been any response from Government to that primary recommendation?

Ms McKENZIE - Not that I'm aware of at this stage, no.

Ms O'CONNOR - So no updating of any guidance to MPs? You talk in your report about the benefits of incumbency, and we see this during election campaigns, when the resources of government are used to promote the party that is in government. Do you want to talk a little bit more about the benefits of incumbency and the vast resources that are available to government during election campaigns?

Mr HAY - Well, any sitting MP, obviously, has some staff and things like that, but certainly the government has control of advertising, the benefits of more staff, Ministers have more staff, there's a lot more money available. The advertising, I think, is probably the biggest thing. Governments can advertise; that gives them a huge advantage over someone who's just trying to get in for the first time. That person's not known. So incumbency is a great benefit.

Ms O'CONNOR - Some of the solutions that you talk about, or potential solutions for example, the Department of Premier and Cabinet - and this relates to all MPs and MPS [Ministerial and Parliamentary Services] staff -

> have time recording mechanisms for MPs' staff and ministers' staff and that MPs and ministers be required to certify their staff have not been engaged in partisan activities during any recorded work hours.

Well, my first question is, has there been any response to that recommendation from Government? And I want to talk through with you the practicalities of that kind of a recommendation.

Ms McKENZIE - There's been no response that I'm aware of to that recommendation. Of course, we acknowledge in the report, and indeed, I think a number of the submissions raised concerns about the practicality of having to do that and the resource implications of having to do that. We acknowledge that in the report. I think that's why we suggested the alternative mechanism of getting a certification from the relevant MP or minister as to the use of the staff members' time. There's no doubt about it, it would be an impost, but if there were to be some policy response, if you will, to trying to regulate this type of conduct, then there needs to be a way to actually audit compliance with it. And that is the mechanism - we've given a couple of alternatives there - by which it could be audited.

Ms O'CONNOR - Do you think we need legislative or regulatory change here, and do you think that is feasible?

Ms McKENZIE - Ultimately, it would be a matter for the Parliament, of course, as to how it might go about seeking to regulate - I mean there are codes of conduct of course, but sometimes they're mandatory and they're backed by legislation and sometimes they're voluntary. I think it's self-evident how effective a voluntary code of conduct can be in some contexts. So, I think there's a basis that we've probably established in our report for some form of legislative or regulatory response for sure.

Ms O'CONNOR - Has any other jurisdiction dealt with this issue of the misuse of public resources during election campaigns in what the Commission would regard as an effective workable way?

Ms McKENZIE - I don't know that I can pull out this as any sort of specificities in response to that, but I think the overall view that we took was that Tasmania is quite a way behind other jurisdictions in its regulation, if you will, of this area.

Mr FERGUSON - It's a perfect way for me to jump in, actually, because I'd like to respectfully challenge that last statement. I'm personally not aware of another state or certainly the Commonwealth that regulates the use, for example, of MPS staff or equivalent staff in the way that's proposed by some of the recommendations. I say that with great respect, but I'd probably say that I understand where you're coming from in respect, for example, of the role of the Integrity Commission with MPs during election or caretaker period. I would say there's probably some genuine grey area there to explore. I wonder if you wouldn't mind, then, taking it on notice, if you could explore what the Commonwealth or other states or territories might be doing. Because whoever wrote Paper 3, or the team that was behind it, must have had some

sort of evidence base to lead them to some of those recommendations that we've been dealing with. I'll pause there, if you wanted to respond.

Mr HAY - Yes. Clause 3.1 says this of the report:

> … many Australian jurisdictions have moved to prohibit MPS staff from engaging in partisan activities - especially election campaigning - during business hours. This prohibition notwithstanding, an MPS staff member's time outside of business hours is their own, meaning that they [can] engage in voluntary partisan activities [et cetera, et cetera].

I can't take it any further than what's said there, but clearly, other jurisdictions have tried to do something about this issue.

Mr FERGUSON - Yes.

Ms McKENZIE - And indeed, we reference some reports that have been released by some of our sister agencies nationwide that have gone to this particular issue, and that's referenced on page 50 of our report.

Mr FERGUSON - I genuinely thank you for that answer. I wonder if it's worth just pointing out, I suspect that it may be the case that what we call 'MPS' may have a different understanding of employment of staff than other jurisdictions. For example, with the exception of my colleagues here in the Legislative Council, as a member of the backbench in the House of Assembly my staff are MPS staff, as are ministerial staff. The Opposition's, who are not ministers, staff are also MPS staff. Therefore, I can see that there might be some disparity in the experience that you're expressing in Tasmania compared to some of those jurisdictions.

I think we're going to have a real policy challenge, whether you're in government or not, to consider the use of staff during caretaker periods. For example, electorate staff in any other jurisdiction - I'll take the Commonwealth, because I'm familiar with that - the Commonwealth electorate staff are employed under a completely different instrument to ministerial staff in the Commonwealth level, whereas in Tasmania it's all under the same umbrella.

Ms WEBB - For the Lower House.

Mr FERGUSON - For House of Assembly members, yes.

Ms O'CONNOR - Crown Prerogative contracts.

Mr FERGUSON - Under Crown Prerogative contracts. And for the benefit of this discussion, I understand that Legislative Council electorate officers are employed by the Legislature General -

Ms WEBB - No, Legislative Council.

Mr FERGUSON - or at least an organ of the Parliament, the Council itself. May I just add, I'd just like to round it out, which is to point out that they're employed by the Parliament, whereas my staff, doing the same job as Mrs Armitage's staff, are [not] employed by the Parliament.

Mr HAY - All this would be dealt with when it comes to drafting, and as this paper says right up front, it doesn't set out how the recommendation should be implemented, but it doesn't mean that there should not be some controls over this.

Mr FERGUSON - Thank you, and do you mind if I pick you up on the mention of advertising? When you refer to advertising, do you mean, for example, Tasmanian Government-branded advertising around what we're doing in the health system, or 'Please get your children vaccinated', or a campaign on elder abuse? Do you mean agency-oriented -

Mr HAY - There's nothing wrong with that kind of advertising. That's expressly made clear in here.

Mr FERGUSON - Then, in that case, do you mind just expressing what you mean by Government advertising?

Mr HAY - Government advertising includes that sort of thing but that's perfectly permissible, but that's still part of having a great advantage during election campaigns but it's totally okay as well. Our main objection is to using money for blatantly political purposes, and sometimes there's going to be a grey area for this, of course.

CHAIR - You mean like TasInsure?

Mr HAY - Well, I'm not going to get into specific things.

Mr FERGUSON - I would be happy for you to use the TasInsure example, because I'm trying to understand, when you refer to Government advertising or the incumbency advantage around advertising, I would appreciate understanding what you may be referring to. If it didn't mean the ordinary agency advertising around elder abuse or vaccinating your children, what could you be referring to?

Mr HAY - I would be mainly talking about Victoria here. But in my experience, there has been periods where some of the sort of advertising that could be dressed up as informative or educational was not that at all. It was a blatant 'look what we're doing, we're great'.

Now, advertising telling people about, say, COVID would be a very good example. Health issues, people's rights, new welfare reforms that people could access welfare - that's all perfectly fine. But when you're just effectively saying 'vote Liberal' or 'vote Labor', which is the effect of whatever the advertising is, that's when you start running into problems.

Mr FERGUSON - And I respect what you've just said, I really do. And I appreciate the distinction that you've been able to draw. I'm not wishing to be here claiming that it's never happened in the history of the state government - I just cannot think of an example along the lines of the 'look what we've done with rail crossings', with red branding during an election campaign in Victoria. I haven't seen something like that that I can think of during my time in this place. And I was happy to mention TasInsure, because I don't think anybody would be claiming that, you know, the agencies were pumping that particular initiative on behalf of the Liberal Party.

Ms WEBB - Well, I think there's been a finding from a parliamentary committee that, in fact, that did happen, through Tasracing. But it's not our Committee, so -

Mr FERGUSON - No, I don't think - I don't wish to be disagreeable, but I don't believe that is a fair characterisation. But I appreciate the distinction, because I was wondering if you might have been saying, or wishing to recommend that, for example, Government withdraw from the mainstream advertising initiatives during caretaker in case it's perceived as 'look how good the Government is'.

Ms McKENZIE - I wonder, Madam Chair, if it might be of assistance, if I could just draw the Committee's attention to page 27 of our report, where we talk about the caretaker conventions guidelines and what they state about advertising and information campaigns - what they can do, but also, I suppose, more relevantly to this discussion, what they can't do. And relevantly, in relation to not being able, or not appropriate.

Should not:

- promote policies or achievements of the Government
- highlight the role of particular ministers, or
- relate to issues that are a matter of contention between the Government and non-Government parties.

I guess that's what we're attempting to get at in our recommendations, but the guidelines themselves go on to say that:

Campaigns may continue if they are:

- operational in nature, such as public health [as the Chief Commissioner just said] or road safety campaigns, and
- appropriately authorised in accordance with the legislation [that currently applies].

Mr FERGUSON - I'll pass the baton - I'll just mention I respect what you've said, thank you. I can imagine an example of a Minister with a photo in the forward of a document and an agency that'd be quite normal and proper outside of an election, but during an election, I can appreciate an agency might say, 'Oh, this thing that we were about to release next week, we're now not going to release it next week.' All right, thank you.

Ms O'CONNOR - Isn't one of the issues also, though - sorry Chair - but it's not just about advertising. For example, during an election campaign, the Government Media Unit is still spinning flat-out, isn't it? I mean, a lot of those announcements during a campaign of where the Premier is going to be or which Minister, making an announcement that is part of the campaign, that's happening through the Government Media Unit on the 10th floor.

Mr FERGUSON - On Crown Prerogative contracts through MPS, and I don't wish to be disagreeable, but as would be the opposition staff during an election campaign period equally be doing that, because they're all employed into the same umbrella here.

Mr HAY - I think this report makes a very good distinction between partisan activities and other activities because, you know, some of the submissions argued that everything is political when you're dealing with politicians and stuff. Of course that's true, but partisan activities is another category. That's where you're blatantly pushing people, or encouraging people, to vote for you as a Liberal or Labor or Green or whatever, effectively trying to get people to vote for you. We talk about - I think it's a very good distinction this is made. And that's one simple way of working out, in most instances, whether something's going to be okay or not.

Now, I know with advertising, I think we actually suggest that some states do not even have the dominant purpose test. There's just this prohibition. Anyway, I can't remember where that was but I remember seeing that there. But in most of the time, the advertising should be quite clear. If you're promoting anything educational to do with health, whatever, it's going to be fine. But if you're trying to say, 'Aren't we good guys, we've done this', that will not be fine.

Ms WEBB - The problem now being that the caretaking conventions, although they do specify that fairly clearly, are not remotely enforceable.

Mr HAY - Indeed.

Ms WEBB - And they are enforceable to the extent that they are via a mechanism that's still fairly closely connected to the Government, in that sense.

Mr HAY - Also, even the handbook given to all MPs talks about not using public resources. The Code of Conduct does that as well. But during election periods, it all can go by the board, really.

Ms WEBB - Can I come back to the recommendation that we were discussing just earlier in response to Ms O'Connor's questions around how we might have a mechanism put in place in order to help distinguish whether staff are engaging in partisan activities or not. Because I think, as you've made clear in your report and as the discussion already has made clear here, there's some potential concern there around -

Ms O'CONNOR - Workability.

Ms WEBB - Workability, and how that might actually look in the reality of an office. I'm also interested in it because it seems to put the onus, then, onto some sort of mechanism that's so detailed that it proves that partisan activity is not being engaged in. Rather than, for example, the way we might normally think of it where, if there's an allegation that partisan activity has been engaged in, there would be an investigation of that and you would look to see what evidence there was of that occurring or not and assess the evidence then and come up with a - it sort of puts the onus to prove that you're not doing something rather than to investigate afterwards.

Mr HAY - The problem with that suggestion is, though, it would be impossible to audit. This recommendation means you can audit it. And look, in the business world, time recording is absolutely standard, and it might not even require a lot of detail. You might put down, '9 till 12: I attended three meetings.' I'm not saying how this should be set up.

Ms WEBB - For a staff member in a political office -

Mr HAY - Yeah, I understand.

Ms WEBB - The world is not as simple as that. They're likely to be engaged in up to half-a-dozen tasks at any one given time. Some of those will be parliamentary related, some of those will be community related, some of them are probably communication related. It's very impractical to think that they keep a linear record of how their time is being spent. Surely, the implication would be if, as some of your other recommendations make very clear, if there are more explicitly stated requirements to not engage in partisan behaviour, and then there are active investigations when allegations are made that partisan behaviour has been engaged in, you can then go look for evidence. Because the evidence might be an email that they sent, or that they were out door-knocking when they shouldn't have been, or whatever. If you're going to hold them to account for partisan behaviour, you would need to be able to demonstrate it had occurred. So, to me, it seems entirely unworkable to think that you'd keep track of every minute of your staffer's day. But I can absolutely see that a higher, explicit requirement to not engage in partisan behaviour, which then is more actively investigated if allegations occur, is a practical way forward.

Mr HAY - In the end, though, you probably need something that can be audited, though. Now, this is all going to be up to you guys as to whether you do any of this, but in the absence of having some form of record kept, it will not be possible to audit. You're depending on someone, a member of the public or what have you, making a complaint.

Ms WEBB - Indeed. That's right. That's what I'm saying. This is not like about how you spend your money. So, you've got an allowance, you can easily track how the allowance has been spent. That can easily be audited later. That's a very straightforward process of recording information which can be audited.

CHAIR - It is already because it goes to the tax office.

Ms WEBB - Indeed, so that's fine. But, the use of a staffer's time and all the tasks engaged in that staffer's time, it's not like noting what you've spent where and here's a receipt for it. It's not like that. I would dispute that you could have any meaningful - even if an attempt was made to record it, trying to then audit to the degree of confidence that we would expect from an audit process seems bizarre.

Ms O'CONNOR - Or impractical. For example, during a campaign there might be an email come in from party headquarters to say there's this event at this time, what's the boss doing? That might be an activity that takes an MP's staffer three minutes to deal with. How do you disentangle? It is quite tricky I think in an election campaign particularly to precisely carve out and record all of the activities of staff.

Mr HAY - We did invite, effectively, any alternatives. I still think there has to be, in the end, the ability to check. Perhaps not in the sort of detail that you're giving in some of your examples, but at least a broad outline of what someone's been doing.

Ms McKENZIE - I wonder whether the alternative that we express in recommendation 4 is perhaps more palatable in terms of the resource implications route to go down because at least there, there is a responsibility that's being reposed on the Member of Parliament to ensure

that their staff aren't misusing public resources, but it's goes beyond that. They're actually required to make a certification to that effect.

Ms O'CONNOR - So it's a positive responsibility on the MP.

Ms McKENZIE - Correct.

Ms O'CONNOR - Effectively to certify, ahead of time?

Ms McKENZIE - No, it would be after the event.

Ms O'CONNOR - After the event?

Ms McKENZIE - You might have a monthly certification for example, or a week - I don't know. You'd set it up in some way and, at least there, you're being required as the Member of Parliament to positively consider, assign work or whatever, hopefully ensuring that you're not directing your staff members to engage in partisan activity.

Ms O'CONNOR - Or making a false statement about whether or not there have been partisan activities engaged in.

Ms McKENZIE - And that would be readily auditable then because you'd have the certification, complaint's then made, ‘oh we've got footage of this staff member handing out 'how to vote' cards’, and it falls within the period certified by the Member of Parliament.

Ms O'CONNOR - If that was the path taken, what's the role of the Integrity Commission there? Who does the Commission believe should have those statements, and how do you think the potential audit of those statements could happen?

Ms McKENZIE - I imagine what would happen is, those certifications would be sent to some central records repository, probably held by, I don't know, the Parliament or somewhere. Then, at whatever the interval is decided upon, whether it be every year or every two years or whatever it is, we would then conduct this audit, call upon provision of those certifications, then review those against any information that we might have to hand. Even perhaps just checking that there are in fact certifications. It might be that some MPs have not made the certifications.

Ms WEBB - See, I think that's a much more straightforward system and it does align with what I was saying that actually the only meaningful thing to do is to then investigate when allegations of breach have occurred, essentially. You have a system where there's a much more explicit requirement that people acknowledge their responsibilities, both the staffer and the MP. You have documentation of where they're asserting that the things haven't occurred that we don't want to have occur, and then later, if allegations come up, that can be checked against, and any breaches of that can be looked at, that sounds much more reasonably usable system.

CHAIR -More straightforward.

Ms McKENZIE - And if the audit were to show for example that, we wouldn't probably audit everybody, we would do a random audit of X number of MPs, say. And perhaps that audit throws up, of that random sample, two or three have not regularly, as required, completed those

certifications and, without naming the MP, we would issue a report, subject to the Board's review, reporting on that fact. A little bit similar to what we do with when we audit the Members' disclosure of pecuniary interests as you would generally be aware, I am sure.

Ms O'CONNOR - And that's a response back to Parliament isn't it, from the Commission?

Ms McKENZIE - Well, we would have a public report in that regard. In fact, we've got one in the works at the moment, subject to the Board's review, ultimately, when the report is finalised.

Mr FERGUSON - I respect where the Commission is coming from in wanting to be protective of public resources. During an election campaign, or shall we say election campaign caretaker period, every MP is in the same situation that you describe. I mean, let me ask you this question. I hope it's not seen as an unfair question.

Election campaign, it's week two, my office, Michael Ferguson MP who's running in the election to win his seat back. His office receives a phone call. 'Hey, I just heard that there's a policy announcement from the Premier about the education agenda for the next four years, can you send me a copy?' Would your opinion be that that's a partisan activity for my staff member to send them the policy document and even to spend 10 minutes on the phone explaining it to this person who's, - let's say a voter and weighing up their options, and the staff member at the end of the phone call says, 'I hope you're going to support Michael.'? I'll leave the scenario there, and I wonder if you would take the view, based on your research and report, that my staff member should not have done that.

Mr HAY - Do you want to answer that?

Ms McKENZIE - I'd probably prefer not to answer in the abstract because one of the things that we recommend in our recommendation is that there are examples given of infringing conduct. There may be circumstances where the example that you've put forward would be acceptable, but there may just as easily not be. It's very -

Mr FERGUSON - I worked hard sitting here thinking of a real example, because that happens in all of the offices of the people you are looking at the moment.

Ms O'CONNOR - It does.

Mr FERGUSON - And we will all admit that happens all the time, and I would stand on it as appropriate.

Mr HAY- You've got to go back to the dominant purpose point, too. If you're actually imparting - a lot of that seems to be imparting information. The last bit was the partisan activity.

Ms O'CONNOR - That is the recommendation to vote for Michael?

Mr HAY - Yes.

Mr FERGUSON - 'Please support Michael. Tell all your friends.'

Mr HAY - So the dominant purpose test probably is not met for any problem there.

Mr FERGUSON - Thank you. I'm just exploring it with you.

Ms WEBB - I think it's really worth exploring because it's very nuanced. And I mean, our staff face it all the time in the Upper House because we're still doing our job right up to our election day, and our staff are still doing their jobs. So, it's a very active thing that they have to be mindful of. I know, having just gone through it last year [2025], that we had lots of very clear discussions in the office about how things would be handled if, for example, information requests were made that related to my campaign compared to the work I was engaged in at that time in an ongoing way, and we had really strict approaches to that. But it it's tricky to tease it out, as you've just said.

Mr FERGUSON - Well, that's right.

Mr HAY - And we acknowledge and hear that there are grey areas. That's why the dominant purpose test is probably - and the courts have dealt with the meaning of dominant purpose many times, not that we want to get into that - but the dominant purpose will stop a lot of the minor - what you might worry about, minor infringements and things like that.

Ms WEBB - I've got another area to go to.

Recommendation 3 in the report is directed towards this Committee, and it's:

> that the Joint Standing Committee on Integrity make recommendations to each House of Parliament to include the statements set out in recommendation 1 of in the Members of Parliament Code of Conduct.

You've directed that as a recommendation to this Committee rather than more broadly to the Parliament or to the Government. Do you want to speak to why you chose to direct that recommendation to our Committee?

Ms McKENZIE - I don't know that I know particularly why we directed it to you, other than the fact that this report is about integrity in the conduct of parliamentarians. You're our oversight Committee and I think it's probably part of what we would be raising with you, as our oversight Committee.

Ms WEBB - It could be a vehicle through which to make that recommendation, too?

Ms McKENZIE - For some advocacy in relation to the issues. And look, we don't make any bones about the fact that any of this is easy. A lot of this will require quite a seismic cultural shift in some areas and is not easily doable, given all of the restraints and pressures to which Members of Parliament are subjected.

Ms WEBB - No, that's reasonable, thank you. I just wanted to sort of flesh out why it was directed to the Committee, which I think is a perfectly reasonable vehicle by which you could give effect to that recommendation, that, ultimately, the MPs' Code of Conduct includes then what you've covered in recommendation 1 of the report, to document that. So, thank you.

The other one I want to ask about was recommendation 9 because that's directed to the Tasmanian Audit Office. It's:

> That the Tasmanian Audit Office conduct mandatory audits of a random sample of government advertising following State elections.

Again, I'm wondering why you felt that it was the correct jurisdiction to have that undertaken by the Tasmanian Audit Office. And it's not because I'm contesting that it isn't, I'm just wanting to sort of have a full understanding of what the thinking is there. For example, is it the Integrity Commission wouldn't do that because it doesn't have jurisdiction during elections, even though the actual activity is being done post-election, or is there another reason for that?

Ms McKENZIE - I think there's a simple explanation which rests in the *Audit Act 2008* itself. There's a provision under section 23 giving the Audit Office the capacity to conduct audits of Government advertising. So, there's already a legislative basis for them to do that.

Ms WEBB - So it's just linking in with the existing legislative function?

Mr HAY - Our power - it goes on to talk about our power, that's about investigating complaints, but the auditor can actually do the audit.

Ms WEBB - Thank you.

Ms O'CONNOR - You make recommendations around the use of the Members' Resource Allowance (MRA) by the House of Assembly and recommend that the same principles for the use of the MRA that the Legislative Council uses are applied to House of Assembly Members' Resource Allowances. Can you talk through what the issue is perceived to be there in the House of Assembly's approach to the use of this pool of public funding - noting that the MRAs are effectively allocated to MPs for equipment, office supplies, printing, those sorts of things to be used in the course of their work as MPs?

Mr HAY - This is the one paid as a lump sum, isn't it?

Ms WEBB - No, that's the electorate allowance. So, it's a resource and doesn't cover some of the things that Ms O'Connor said, so that's okay. It is equipment, but it's not printing and office supplies, that's separate.

Ms O'CONNOR - Okay. Well, office supplies, like furniture -

Ms WEBB - No, that comes out of the office allowance. This is part of the difficulty. There are numerous allowances, numerous buckets of money, and they are documented differently and accessed differently across both Chambers.

Mr HAY - Might be a good starting point to have it all documented as to what they are in one spot, one place.

Ms WEBB - Indeed.

CHAIR -Well, they are documented.

Ms O'CONNOR - So that's how, for example, when I set up my office, we had furniture purchased, a printer, that sort of thing. And it's all run through a Legislative Council process, which is, in my view, pretty rigorous.

Mr FERGUSON - It's acquitted.

Ms McKENZIE - Yes. I think the explanation is a simple one, in that our analysis showed that the policy that applies to the Legislative Council is more stringent than the one that applies to the House of Assembly. I think it's as simple as that.

CHAIR - We can't access as many things through our MRA, as the House of Assembly can, but I think, as was pointed out with the other Allowance too, the tax office basically is our auditor.

Ms O'CONNOR - So, this is the Electorate Allowance and there were recommendations also around electorate allowance expenditure being audited.

Mr HAY - We make the point there's no transparency over how electoral allowances are spent.

CHAIR - Well, the tax office does -

Ms O'CONNOR - You have to submit a full accounting of your electorate allowance expenditure to the tax office, and they can be pretty hardline about -

Mr FERGUSON - There's a tax ruling on it.

Mr HAY - We acknowledge that, outside of the Australian Tax Office, there's no monitoring. So, we didn't go on it - in theory it's possible for incumbent MPs to apply their Electorate Allowances towards election campaign expenses, which in turn can be claimed as deductions.

Ms O'CONNOR - Right. Did you find examples of that during the investigation, or is it identified as a risk?

Ms McKENZIE - I can't answer that. I'd have to make inquiries into that. I wouldn't want to speculate.

CHAIR - I was going to say, because many times, we're actually told by the powers that be, with our MRA, if it doesn't fit within our MRA, we should use our Electorate Allowance and then, obviously, the tax office decide whether that's a legitimate expense or not. But it is taxable, and I notice on the page that your Electorate Allowance is paid fortnightly untaxed. It's probably untaxed there, but it actually is taxable, and I think it's important to make - and I know further on you say that, but I think most of us spend pretty much most of our allowances in our electorates.

Mr FERGUSON - A different question, if I may. I am really interested in recommendations which run from 13 through to 19, which really relate to election promises

that are made by political parties. Possibly Independents may make promises, I'm not sure if that's ever the case, but certainly –

Ms WEBB - Not that have funding implications.

Mr FERGUSON - Certainly, the recognised parties of government that are seeking office will be making promises, if elected, with their own terminology. My party says, you know, 'If returned to office, we will do this.' I'm interested in the recommendations but also the policy work that you've done, as a Commission, around greater transparency, but also the rigour that sits behind the costings of policies for the public purpose of firstly, I suppose public awareness and knowledge of whether or not the political parties are spending appropriately, too much, not enough, and is it accurate. Secondly, for some budget control, to try to perhaps mitigate the excesses of political parties promising money that we can't afford.

So, I'd be interested in what framework that 13 through 19 could actually sit in so that those public interests perhaps are advanced. Where did they come from? What did you compare Tassie with in order to find these recommendations? Are we well behind the -

Mr HAY - I mean, I've only been this job since November [2025] and I think Ellen's been in for a bit longer than that, but -

Mr FERGUSON - Are we behind the mark from other states in this area, for example?

Mr HAY - Well, we specifically refer to New South Wales as part of this, that they've got a *Parliamentary Budget Office Act 2010*, and now I understand that in June this year [2026], the Tasmanian Parliamentary Standing Committee [on Public Accounts] has recommended having a Budget Office so that people can go to that and assist them in developing costings on their policies. The Commonwealth certainly has that.

So, that's one issue, enabling particularly the non-majors to develop costings for policies. The other point, though, is to enable - say the Greens - to get policies costed through the Treasury, making that not mandatory; they have the choice. The other one which is one of the items that, I think, are criticised, is sometimes parties say, 'We're going to spend $20,000' - just a simple example - 'on eggs.' And the problem is for the Treasury is you've nominated the figure of $20,000 without any regard to how much it's actually going to cost. So, there's a recommendation about that in there. But I think the main thing is to allow everybody to have access to the Treasury, to cost things.

Mr FERGUSON - And there is precedent for that, I'm aware - Commonwealth, some other states.

Mr HAY - But also having your Budget Office to enable parties to develop detailed policies.

Ms O'CONNOR - So, just to be clear, our policies, the Greens -

Mr HAY - I wasn't having a go at the Greens.

Ms O'CONNOR - No, no, but just for clarity, we submit our policies to Treasury for costings, and usually our costings come in pretty close to Treasury's.

Mr HAY - I'm sure that's correct.

Mr FERGUSON - I'm perhaps just now going to inform you that there is some work happening in this space, both through motions of the House, the Public Accounts Committee have certainly been looking at some of these, and the Eslake report, which isn't talked about as much these days, but that work, that's perhaps 18 months old now - no, a bit longer, maybe two-and-a-half years now - recommended in some of these spaces. So, my final question would be around do you see it as a more assertive Treasury being able to say, 'Well, we're watching the election and we're reporting that this public policy release or this social media post that was made, we're now going to cost it and we're going to account for it even if it hasn't been submitted to us.' Is that the style of role that you are envisaging in some of these recommendations, as I feel you are?

Mr HAY - It certainly wasn't the major one.

Mr FERGUSON - Well, No. 17 certainly goes there, and 16.

Ms McKENZIE - We also advocated the consideration of the establishment of a Parliamentary Budget Office, and the Inquiry that was conducted by the relevant Parliamentary Committee [on Public Accounts] certainly recommended the establishment of one, but interestingly, relevantly, recommended that it be an independent entity that reports directly to the Parliament with oversight by a parliamentary committee - then that completely extracts it, if you will, from the political or partisan process.

Mr FERGUSON - I don't wish to be disagreeable. This will be my last question on the subject -

Mr HAY - I'll finish that. No. 16 is about when a party says, 'We have this policy that's going to cost x', but if they don't put it in for costing, the Treasury would be able to say, 'Well, we've looked at that and it's going to cost a lot more, it's going to cost less', or whatever.

Mr FERGUSON - That is really where I wanted to go, so thank you for that. I think it's the case that a Parliamentary Budget Office is more applicable outside of an election period, and I could be wrong, that's my understanding. Thank you for those answers.

Ms O'CONNOR - I'm interested, and I noted what Michael said before about parties going and making huge promises - paraphrasing Michael, sorry - in election campaigns. We have the examples of the 2018 and 2021 election campaign promises by the Government of the day, the Liberals, and they run into the hundreds of millions of dollars, and we're still actually paying the price for that in the state budget. Some of them are just, and I know you dealt with that in another paper, but some of them are just these small grants out to sporting clubs, shooting clubs, community organisations and community infrastructure, and a lot of them are great and worthy promises. But I'm interested in fleshing out the difference between policies, that we've been talking about before, so policies that are costed and are clearly understood, and promises or pledges of money? How do all these bits of small change, effectively, in terms of public expenditure, that add up to a lot, how do they fit in, potentially, to this framework around transparency and genuine costings and accommodation for those costings in Treasury processes?

Mr HAY - I think a lot of what you're talking about, though, doesn't really arise in terms of policies that are published on a website or what have you. 'I'm going to give $6 million to a club' or $300,000 to fix an oval in Ross or somewhere - they're not normally policy. And we would strongly support proper guidelines with grants, and that's important. And I think it's this report that came out the other day -

Ms O'CONNOR - No. 1.

Mr HAY - That talks about that. We would agree with that. The Commonwealth's got very good guidelines on grants, and certainly it's important, because money I give to you is money that's not available for someone else, and why should you get priority? And it's not in my policy document, I've just chosen this because it's my electorate or whatever. It's probably not so blatant under the Hare-Clark system, because you have multi-member electorates.

Ms O'CONNOR - It's a bit blatant. We have the list here, it's obviously -

Mr HAY - That is important, and I agree with you that the grant process needs to be looked at and tightened up and made a lot more transparent and probably objective criteria applied for people applying for money. And I think one of the recommendations that - I'm not sure where I read it, it must've been one of the earlier reports - is it's not good that a whole lot of donations are suddenly made around election time. You know, if you're going to be serious about having a process for grants, you should see a pattern, really, where right through the four years, you're seeing grants going out the door, not suddenly at election time all this money going out to -

Ms O'CONNOR - It's not merits-based, it's not transparent, not necessarily at a level playing field, depending on which electorate you're in.

Mr HAY - So, we would support objective criteria and probably a committee of some sort. I'm only being very vague here. I haven't worked through the best way of doing it.

Ms WEBB - Your previous reports lay it out quite well.

Mr HAY - Yes, and the Commonwealth has got very good guidelines, which I read last night. So, an objective criteria for grants, a proper process where people can see, 'oh yes, I can also apply for a grant and I'll be treated fairly.' All that sort of thing.

Ms McKENZIE - So, the recommendation that the Commission made was that the consideration be given to bringing into the Tasmanian space, if you will, the Commonwealth Grants Rules and Guidelines from 2017, and they cover a number of relevant issues, including the value of what the expenditure is being directed towards; that those who are making decisions about those grants are answerable for those decisions; that there's some sort of documented process in relation to both the consideration of the merits of those grants, and then documentation of the decisions, and that there's a preparedness on the part of those who are making those decisions to be under scrutiny.

Ms O'CONNOR - Because some of it comes back again, doesn't it, to the benefits of incumbency in government when you have knowledge of, and access to, the public purse during an election campaign.

Mr HAY - Indeed.

Ms O'CONNOR - It's much easier to splash cash around for electoral purposes, to misuse public funds, potentially.

Mr HAY - Certainly, we think the grants issue needs to be tidied up. The Commonwealth one is actually now 2024 - Commonwealth Grants, Rules and Principles 2024.

CHAIR - We have two minutes left for any burning questions.

Ms WEBB - It's more just a short general one, too. Just noting the process you went through to put the report together, and you put a consultation paper out, had some submissions made and then, I think, sought some further input when you were preparing your final draft. Were there any areas that you felt you hadn't been able to receive information from, or any particular stakeholder groups or broad areas where you felt it would've been beneficial to have more information to feed into this report that didn't get covered by your list of submitters and the people you may have reached out to on the final draft?

Ms McKENZIE - I don't know the answer to that question off the top of my head, but what I can indicate, I suppose, is that there's nothing that we have in process at the moment that we're looking to do to develop any further work on this particular topic, at least for now.

CHAIR - Thank you, and if we have no further burning questions, we thank you very much for your appearance today. Obviously, what you've said to us is protected by parliamentary privilege. Once you leave the table, I'm sure you're aware that privilege does not attach to any comments you may make to anyone, including the media, even if you're just repeating what you said to us. Do you understand that?

WITNESSES - Yes, we do.

CHAIR - Thank you very much.

The witnesses withdrew.

The Committee adjourned at 12.45 p.m.