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**TRANSCRIPT OF PROCEEDINGS**

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**COMMISSION OF INQUIRY INTO THE TASMANIAN GOVERNMENT'S  
RESPONSES TO CHILD SEXUAL ABUSE IN INSTITUTIONAL SETTINGS**

**At Hearing Rooms 6A and 7A  
Tasmanian Civil and Administrative Tribunal,  
38 Barrack Street, Hobart**

**BEFORE:**

**The Honourable M. Neave AO (President and Commissioner)  
Professor L. Bromfield (Commissioner)  
The Honourable R. Benjamin AM (Commissioner)**

**On 5 May 2022 at 10.16am**

**(Day 4)**

1 MS BENNETT: Commissioners, this morning we have an  
2 interesting panel discussion between Professor Cassandra  
3 Pybus and Professor Richard Eccleston. I'd now like to  
4 ask - Professor Eccleston is present in the room and  
5 Professor Pybus appears online, and I'd ask that they each  
6 be called and sworn.

7  
8 <RICHARD GEORGE ECCLESTON, affirmed: [10.17am]

9  
10 <CASSANDRA JEAN PYBUS, affirmed:

11  
12 <EXAMINATION BY MS BENNETT:

13  
14 MS BENNETT: Q. Thank you, Professor Eccleston and  
15 Professor Pybus, I'm going to try and split my eye contact  
16 across the room this morning. I'll start, Professor Pybus,  
17 can you tell us your full name and your professional  
18 address or perhaps you might like to omit your address,  
19 just your full name?

20  
21 PROF PYBUS: Well, my full name is Cassandra Pybus, I  
22 don't use my middle name, and I don't really have a  
23 professional address, I'm a writer, sorry, at home.

24  
25 MS BENNETT: No, thank you. You've made a statement to  
26 assist this Commission. Have you read that statement  
27 recently and are its contents true?

28  
29 PROF PYBUS: I have, yes.

30  
31 MS BENNETT: And are its contents true?

32  
33 PROF PYBUS: Well, truth is not a word that historians  
34 trade in, but I believe it's close enough to what I believe  
35 and what I understand from my research, yes.

36  
37 MS BENNETT: Thank you, Professor. Professor Eccleston,  
38 could you tell the Commissioners your full name and your  
39 address.

40  
41 PROF ECCLESTON: I'm Richard George Eccleston, I'm a  
42 Professor of Political Science at the University of  
43 Tasmania.

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45 MS BENNETT: Professor Eccleston, you've also made a  
46 statement to assist this Commission. Have you read that  
47 statement recently?

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PROF ECCLESTON: I have.

MS BENNETT: Is that statement true and correct to the best of your knowledge and belief?

PROF ECCLESTON: To the best of my knowledge and belief it is true.

MS BENNETT: Thank you. Commissioners will have those statements provided to you. Professor Pybus, you've said that you're a creative fiction writer and an historian, is that right?

PROF PYBUS: Non-fiction writer.

MS BENNETT: I'm sorry.

PROF PYBUS: I'd hate to give you the impression that I was dealing in fiction.

MS BENNETT: I'm sorry, thank you. And you write historical biographical narratives, is that right?

PROF PYBUS: Many kinds of historical narratives. I've also written a number of what would be considered to be academic history books too, yes.

MS BENNETT: And you're historical research has included Tasmania's colonial past?

PROF PYBUS: It has included Tasmania's colonial past, it's also included Tasmania's 20th Century history as well.

MS BENNETT: You've lived in Tasmania until Year 11.

PROF PYBUS: That's right.

MS BENNETT: And you returned in 1985 and you've lived in Tasmania since, is that right?

PROF PYBUS: More or less, yes, I've spent a lot of time in other places but, yes, this has been my home.

MS BENNETT: Yes, Tasmania is your home. Professor Eccleston, you're a Professor of Political Science at the University of Tasmania. You've published over 12 books and

1 100 articles on various aspects of comparative politics and  
2 economic policies, is that right?

3  
4 PROF ECCLESTON: That's correct.

5  
6 MS BENNETT: You're currently the Professor of Political  
7 Science and the Director of the Tasmanian Policy Exchange  
8 at the University of Tasmania, is that right?

9  
10 PROF ECCLESTON: That is correct.

11  
12 MS BENNETT: The Commissioners have the benefit of your CV  
13 and I won't read it in full. Are there any other posts or  
14 qualifications that we should specifically advert to for  
15 the purposes of this morning?

16  
17 PROF ECCLESTON: I think just a brief note that beyond my  
18 academic research in economic policy which is comparative  
19 and international, I also coordinate a lot of work focused  
20 on contemporary Tasmanian policy and the economy, so a lot  
21 of the insights are drawn from that broader collaborative  
22 work.

23  
24 MS BENNETT: Thank you. I'd like to speak to you both  
25 about what this Commission can learn about the history,  
26 culture, demographics of Tasmania from your various  
27 perspectives. I'd like to first just place this discussion  
28 in terms of Tasmania today and then I'd like to see how we  
29 can place it.

30  
31 So, I'll start with you, Professor Eccleston, and by  
32 reference to, I think it's paragraphs 13 and 14 of your  
33 statement, can you tell us a little bit about Tasmania's  
34 current demography and how it might be considered, if not  
35 unique, then distinctive?

36  
37 PROF ECCLESTON: I think there are clearly distinctive  
38 elements to Tasmania's demographic profile which have a  
39 number of implications, although I wouldn't say unique, as  
40 some of the characteristics of Tasmania are common to other  
41 remote communities, island communities and the like.

42  
43 But in terms of an Australian state, clearly a small  
44 population, a little over just approaching 550,000,  
45 relatively low population growth over most of the 20th and  
46 early 21st Century, but we've seen a relatively significant  
47 wave of migration over the last five or six years. I think

1 that's got many implications and one Counsel Assisting will  
 2 most likely tease out, but one implication of that is  
 3 Tasmania's demographic and population profile is relatively  
 4 static, both in terms of growth and also in terms of  
 5 mobility within the state.

6  
 7 I guess the other obvious point to note particularly  
 8 relative to other Australian jurisdictions is that we're a  
 9 relatively decentralised and regional community, with less  
 10 than 50 per cent of the population living in Greater  
 11 Hobart. Really only Queensland, albeit at a very different  
 12 scale, is comparable in terms of the regionality of the  
 13 community.

14  
 15 MS BENNETT: Can I ask you briefly to comment on  
 16 Tasmania's present socio-economic profile, you've referred  
 17 to this in about paragraph 14 or 15 of your statement?

18  
 19 PROF ECCLESTON: Clearly by a lot of traditional metrics  
 20 Tasmania is less affluent than the rest of Australia,  
 21 whether we're looking at household wealth, whether we're  
 22 looking at wages; average weekly wages are around  
 23 12 per cent less than the national average. And,  
 24 notwithstanding relatively strong growth in employment in  
 25 recent years, participation in the labour market remains  
 26 lower than the national average and particularly in the  
 27 regions, and that translates to a situation where  
 28 household's wealth's around 15 per cent below the national  
 29 average.

30  
 31 So, that's a sort of an economic snapshot, but there's  
 32 a flipside to that which I think is relevant to the  
 33 Commission's deliberations. We've got many strengths in  
 34 the community which are not captured in those basic  
 35 economic metrics, with a strong sense of connectedness,  
 36 community identity and resilience that really comes from  
 37 our history and I think the nature of our community.

38  
 39 So, I don't want to paint a deficit picture of  
 40 Tasmania, but certainly by traditional economic metrics not  
 41 as prosperous as the rest of Australia.

42  
 43 MS BENNETT: Turning to you, Professor Pybus, I'd like to  
 44 talk to you about how those demographic and socio-economic  
 45 ideas echo the history of Tasmania, can you tell us how  
 46 they land for you in reflecting on Tasmania's history?  
 47

1 PROF PYBUS: Well, I agree entirely with Richard's  
2 analysis of the demographics, although I would say I think  
3 there's a kind of, you know, dark side to the up side that  
4 he just pointed to about the nature of the community. But  
5 what marks Tasmania out for me in many ways is its powerful  
6 carceral past. It was established completely and utterly  
7 as a prison society and it was, thanks to the third  
8 governor, managed in extraordinary ways, the entire  
9 society, as a carceral society. Everybody was under  
10 scrutiny to a certain extent, and convicts and emancipated  
11 convicts who made up by far the great majority of the  
12 populations were under scrutiny all the time, as were any  
13 Aboriginal people who still managed to linger on.  
14

15 Now that, and whilst there were a number of convict  
16 settlements in Australia, none were as big or lasted as  
17 long as in Tasmania, and there was this massive  
18 out-migration of free settlers in the 19th Century, and so  
19 you have a situation where the make-up of the Tasmanian  
20 community, which as Richard points out has been remarkably  
21 stable with a lot of out-migration, not a great deal of  
22 in-migration, was dominated by people who have been through  
23 the convict system and had been tainted as children in ways  
24 that I can talk about a bit more later.  
25

26 Also, merely by association they were sort of  
27 criminalised to a degree, and that that sense of trying to  
28 evade, repress, not have anything to do with the convicts  
29 staying is one of the things that's been picked up by  
30 social historians about Tasmania which is the very  
31 interesting fact that free settlers for generations managed  
32 never to marry into the convict class. So, they always  
33 married each other or went off to England to find partners,  
34 and so, that sense that there is the dominant group in the  
35 society is stigmatised and a source of shame, a shame for  
36 themselves and a stain on the wider community.  
37

38 MS BENNETT: Can I pause you there for a moment because I  
39 want to test something with Professor Eccleston about that,  
40 because Professor Eccleston, you tell us in your statement  
41 at paragraph 15 that:  
42

43 *Research suggests that those residing in*  
44 *these socioeconomically disadvantaged areas*  
45 *are less mobile and unlikely to move around*  
46 *the state to seek employment or live in*  
47 *other communities.*

1  
2 You go on to say that:

3  
4 *It is common for families living in*  
5 *socioeconomically disadvantaged areas of*  
6 *Tasmania to have lived in the same*  
7 *communities for generations.*  
8

9 Now, you talk about that in terms of connectedness.  
10 Does it also have an echo in what Professor Pybus is  
11 talking about around this sort of generational cultural  
12 connection or social mobility?  
13

14 PROF ECCLESTON: There's a social mobility and I guess  
15 arguments about class and their historical origins. I  
16 guess, my approach would be to thinking about - to frame it  
17 in terms of the contemporary economic context, and in most  
18 developed countries there's a strong economic gradient to  
19 mobility: the more affluent you are, the more highly  
20 educated you are, the more mobile you'll be, both in terms  
21 of your means to pursue other lives, different lives in  
22 different places, but also perhaps in terms of an intent to  
23 do that.  
24

25 And, clearly that is true in the data in Tasmania,  
26 where we're looking at the less advantaged, more  
27 disadvantaged rural and regional and remote communities,  
28 there is much less mobility. You know, the ABS has got  
29 good records of this in terms of asking that census  
30 question about where you resided five years previously and  
31 a lot of our regional communities are remarkably stable in  
32 terms of some of the core population. You know, some  
33 migration around that, but there are groups of families  
34 that have lived in communities literally for generations.  
35

36 MS BENNETT: Returning to you, Professor Pybus, what do  
37 you see is the implications around that for social networks  
38 in Tasmania for people being connected to their area and  
39 region and how that might impact on, in a good way and a  
40 bad way, their willingness to go outside those networks?  
41

42 PROF PYBUS: Well, it's a matter of who you're related to.  
43 When I moved back - just a little personal aside, when I  
44 moved back to Tasmania in 1985 I was taken aside by a  
45 political apparatchik I'd known in Canberra and told to be  
46 careful about who I spoke to and who I spoke about because  
47 I would be speaking to one of their relatives. He then

1 went on to make a very disparaging remark about a  
 2 political - about a property developer and I said, "Oh  
 3 yeah, that's my cousin Keith". Now, there you go. That's  
 4 a big issue, that the kin networks in these very stable  
 5 lower socio-economic groups that Richard has identified are  
 6 very strong, as they are amongst the elites who have so  
 7 proudly and firmly hung on to their elite status and their  
 8 non-convict history, and so they're both of them, in my  
 9 view, inclined to be very non-engaged in any  
 10 self-reflection about their past; that's something that  
 11 also marks Tasmanians, their refusal to do that, and I put  
 12 that down to in both cases a matter of shame.

13  
 14 Shame is a very powerful, powerful social mechanism of  
 15 suppression, and I think shame operates in Tasmania much  
 16 more powerfully than it does almost anywhere else in  
 17 Australia. The island state, the island that I most see  
 18 similar kind of patterns is in fact the Republic of  
 19 Ireland, or the whole island of Ireland and the way in  
 20 which a kind of brutal and traumatic past and  
 21 extraordinarily brutal treatment of women and children over  
 22 generations has also had this kind of extraordinary  
 23 suppression of reality really.

24  
 25 MS BENNETT: Let me just pause there because I want to  
 26 explore the relationship with authority in a moment, but I  
 27 wanted to return to you, Professor Eccleston, around those  
 28 networks, because you say in your statement that you were  
 29 surprised to learn in your research that Tasmanian  
 30 employers rely more heavily on informal networks for  
 31 recruitment. Can you tell the Commissioners a little bit  
 32 about that?

33  
 34 PROF ECCLESTON: We're doing a large piece of work on the  
 35 impact of COVID on regional labour markets generally and in  
 36 Tasmania and really assembling the best kind of comparative  
 37 data that we had, and one really distinctive feature of  
 38 Tasmania relative to other states and other regional parts  
 39 of Australia was this I think quite reliable time series by  
 40 one of the commercial labour market companies that asked a  
 41 question over 15 years or more, "How did you find out about  
 42 the job that you're currently employed in?"

43  
 44 And, as you'd imagine, one of the big stories there is  
 45 that nobody finds out about jobs in newspaper  
 46 advertisements any more, it's all various online platforms,  
 47 but nationally I think, and the figures are in my



1 statement, around 15 per cent of people still find their  
2 work through word-of-mouth and personal networks.

3  
4 COMMISSIONER NEAVE: Here or everywhere?

5  
6 PROF ECCLESTON: No, nationally. In Tasmania it is double  
7 that; it's around 30 per cent. And, thinking about it from  
8 a policy perspective, you know, we were thinking this  
9 highlights some of the barriers potentially to work and to  
10 fully utilise the skills of new arrivals and migrants, but  
11 it also says something to the kind of networked - to  
12 professional networks, how we interact, how we find  
13 employment as a community.

14  
15 MS BENNETT: So, Professor, we've got there strong social  
16 connections, limited workforce mobility, and what does a  
17 combination of those two factors in your view give? Is  
18 there a hypothesis that you would advance around how those  
19 two matters might interact for dealing with problematic  
20 unethical or even criminal conduct? I'll draw your  
21 attention to paragraph 46 of your statement?

22  
23 PROF ECCLESTON: The caveat is that I don't have expertise  
24 in terms of child sexual abuse and its causes and how it  
25 should be addressed, but I think a working hypothesis is,  
26 if you've got a small and connected professional community,  
27 perhaps fewer alternative sources of employment, and these  
28 strong community bonds, then you would imagine that the  
29 implications of reporting or disclosing misconduct or  
30 criminal activity would be higher in that community.

31  
32 And, as I again tentatively outlined in my statement,  
33 there are other implications. In a very relatively tightly  
34 connected community, if you are aware of abuse, misconduct  
35 or illegal activities, perhaps you might be in denial. You  
36 know, I know this person's families, forebears, you know,  
37 so you may be less willing to disclose.

38  
39 I guess on the flipside in terms of the consequences  
40 for the accused and reflecting on the presumption of  
41 innocence.

42  
43 PRESIDENT NEAVE: I'm sorry to interrupt you. What about  
44 the consequences for the individual who does disclose? Do  
45 you have any speculations about that - sorry, who discloses  
46 misbehaviour on the part of another person?

1 PROF ECCLESTON: Well, I think the implications and the  
2 consequences could be greater all things being equal in  
3 that smaller community setting, so I think that's a working  
4 hypothesis which I'm sure that the Commission will explore.

5  
6 COMMISSIONER BENJAMIN: Because what you're saying, isn't  
7 it, just so I understand, is that about a third of  
8 Tasmanians who get jobs get it because of their community  
9 or social contacts?

10  
11 PROF ECCLESTON: That's correct.

12  
13 COMMISSIONER BENJAMIN: So therefore your employment is  
14 dependent upon at some levels your position in society and  
15 how you're viewed by your family or those communities, is  
16 it not?

17  
18 PROF ECCLESTON: That's right, that's part of the  
19 calculus, and also, your colleagues as well as being  
20 professional colleagues, are also part of your - often part  
21 of social networks and there are interactions there, so  
22 it's that challenging environment where we need to think  
23 about the governance and the policy response to these  
24 issues, but also be really mindful of the broader social  
25 and community context in which we're operating.

26  
27 COMMISSIONER BENJAMIN: And if we go back to what you said  
28 earlier, Professor Eccleston, is that economic means gives  
29 rise to mobility. So, if you've done really well  
30 academically in Tasmania and you want to achieve  
31 economically, perhaps the Bass Strait is not a border  
32 you're looking for, you're looking for broader borders,  
33 whether that's in mainland Australia or overseas, and that  
34 must have some impact, or does it have impact probably is a  
35 better way to put it, on the community which is left  
36 behind? Because, I think even Professor Pybus, I think she  
37 went away and then came back, which is almost a common  
38 Tasmanian story, isn't it?

39  
40 PROF ECCLESTON: I think it does, Commissioner, but it's  
41 also a story that's changing, in the sense that we're not  
42 having - in the last 10 years the big shift has been that  
43 net outflow of graduates and young professionals, and  
44 similarly we are seeing professional migration from  
45 interstate and beyond of younger professionals in their 20s  
46 and 30s, so that is changing, but the fact remains I think  
47 that, if you've got very strong - you've got a stable

1 workforce, relatively stable population, strong social  
2 connections, that the issues around disclosure are  
3 undoubtedly more challenging. The final --

4  
5 MS BENNETT: In terms of - no, go on, please.

6  
7 PROF ECCLESTON: The final, and again, this is just a  
8 hypothesis: that professional and community environment  
9 where you do have these very strong connections, I think  
10 there is a risk that, if there is misconduct and abuse,  
11 somehow it does become culturally normalised or to turn a  
12 blind eye, then there's probably increased risk of that  
13 kind of systematic and long-term abuse.

14  
15 COMMISSIONER BENJAMIN: I note that Professor Pybus is  
16 nodding her head.

17  
18 MS BENNETT: And I'd like to turn to Professor Pybus  
19 because one thing that struck me about each of your  
20 statements is you land in remarkably similar places through  
21 remarkably different means. Professor Pybus, can you tell  
22 us about how that analysis lands for you in your particular  
23 context?

24  
25 PROF PYBUS: Well, what I was mostly nodding at has to do  
26 with, if this behaviour becomes normalised. Now, from a  
27 historical point of view I would put it, when was it not  
28 normalised?

29  
30 MS BENNETT: What do you mean by that?

31  
32 PROF PYBUS: Historically it has been normalised. We have  
33 in this short time, Europeans in this island, basically had  
34 an abusive administration, an abusive environment for  
35 children; I don't mean all children, but for a certain  
36 class of children or children who just happened to kind of  
37 fall between the cracks or whatever; children were  
38 criminalised from the moment - if they arrived with their  
39 parents, they were separated, they were used as slave  
40 labour, they were incarcerated, they were basically tainted  
41 in the same way that their convict parents were tainted,  
42 and that meant, as far as British administration was  
43 concerned, that punishment or brutalisation - and, let's  
44 face it, the convict system was very brutal - was par for  
45 the course.

46  
47 I mean, it's very interesting to look at, for example,

1 the anti-slavery rhetoric at the same time as  
2 transportation which says that the slave, the black slave  
3 being taken from their kin and home in Africa and sent off  
4 to plantations in the Caribbean, that was shameful and  
5 immoral because they were innocent. But convicts who were  
6 taken from their home and their families and for the rest  
7 of their lives sent to the end of the earth, that was all  
8 fine and good because they had sinned.

9  
10 So, of course, the mark of the sin, the mark of the  
11 criminal, is on the child and it travels down through the  
12 families too, and these children from the word go right  
13 into the 20th Century have been at the mercy of the state,  
14 the apparatus of the state, the kind of people who were  
15 employed by the state, and the people who basically owned  
16 them; you know, they were basically a slave labour force  
17 for a long time and so this is just rife for abuse.

18  
19 MS BENNETT: Pausing there, I understand that's the  
20 historical perspective. That's a long time ago now since  
21 that --

22  
23 PROF PYBUS: Except it isn't a long time ago, it's only a  
24 matter of a 100 years ago or more, and also, we've just  
25 heard about how little the population here has changed,  
26 apart from the out-migration of the people who might be  
27 better educated, for example, how concentrated it has been  
28 and that what has been normalised in the 19th Century into  
29 the 20th Century has continued on through the 20th Century  
30 and may - I mean, sexual abuse of children is commonplace  
31 across the world. So that, I'm not suggesting that there's  
32 anything really peculiar happening here; what's peculiar  
33 about it is that it becomes normalised, it has become  
34 normalised.

35  
36 And so that, if you look at a place like Point Puer in  
37 the 19th Century and a place like the Ashley Boys Home in  
38 the 20th Century you'd say, what is the difference between  
39 these two places? To what extent is the same licence for  
40 abuse going to be operating in both of these places because  
41 of the mark of sin, the mark of being criminalised or being  
42 just basically an outsider without strong family  
43 connections to protect these children?

44  
45 MS BENNETT: Let me turn now to another topic, I'm  
46 conscious of the time and I want to turn to a couple of  
47 matters concerning integrity oversight in Tasmania and the

1 relationship with authority. I want to start with  
 2 Professor Eccleston around the Tasmanian State Service, and  
 3 you make some observations around that at paragraphs 28 to  
 4 35 of your statement and you later refer to the  
 5 recent Watts Review. Can you tell the Commissioners at a  
 6 high level what you see the key issues are in the Tasmanian  
 7 State Service arising from those matters?

8  
 9 PROF ECCLESTON: Yes, certainly, and this is really just  
 10 summarising some of the regular reporting from the State  
 11 Service annual reports but also Ian Watt's review of the  
 12 Tasmanian State Service which was concluded last year and I  
 13 guess in a sense mirroring the broader demographic profile.

14  
 15 The State Service is a very important source of  
 16 employment as well as a key service provider in the State;  
 17 80 per cent of the members of the State Service are  
 18 permanent employees, it is older and less diverse than  
 19 other Australian jurisdictions, and also, the percentage of  
 20 separations and the average length of service among members  
 21 of the Tasmanian State Service, you know, is 20 or  
 22 30 per cent above the national average.

23  
 24 And again, there are two sides to this coin: there are  
 25 real strengths in terms of having that institutional  
 26 knowledge and building capability over time in an  
 27 environment where many organisations are struggling to  
 28 retain staff. But the flipside is that you do have that,  
 29 you know, status and stability which means that a lot of  
 30 employees have been in the service, and I think Ian Watt's  
 31 observation is, have been in similar roles and similar  
 32 agencies within the service, and there isn't - and that can  
 33 be a barrier in terms of innovation and dynamism and  
 34 potentially in terms of the issues that we're discussing  
 35 today; again, you know, it would strengthen those  
 36 professional and personal bonds.

37  
 38 And again, just an observation about the Tasmanian  
 39 labour market and most regional labour markets particularly  
 40 for professional roles within the State Service there  
 41 aren't many alternatives, so you don't have that movement,  
 42 community sector, private sector, government.

43  
 44 MS BENNETT: Is that connected to your comments at  
 45 paragraph 49 and following where you say:

46  
 47 *There are strong social and professional*

1           *connections among the population and among*  
 2           *many employees of the Tasmanian State*  
 3           *Service. These interdependencies make it*  
 4           *particularly difficult to maintain*  
 5           *integrity and a commitment to process and*  
 6           *ethical conduct.*

7  
 8           Can you expand on that for the Commissioners?  
 9

10       PROF ECCLESTON:   One important qualification, I wouldn't  
 11       say definitively that it does but I think clearly it's a  
 12       risk factor. Cassandra made some really interesting points  
 13       about kinship and history. I guess from my perspective and  
 14       not being a historian, you know, that might be part of the  
 15       story but it really is about those strong personal and  
 16       professional networks.  
 17

18           People who have worked in a range of roles in Tasmania  
 19       soon become quite socially connected so there aren't  
 20       those degrees of separation, and in terms of providing  
 21       really important services, health, social, educational  
 22       services in regional communities, it's often the same. You  
 23       have strong movement usually of younger employees through  
 24       regions, but when people settle in regions they often stay,  
 25       so you do have those strong bonds.  
 26

27       PRESIDENT NEAVE:   I don't know whether you are able to  
 28       answer this question or perhaps Professor Pybus would be,  
 29       but do you think that - and I'm not quite sure how you test  
 30       this hypothesis either - do you think that hierarchy and  
 31       not challenging authority is a stronger motivation for  
 32       people within the State Service, within the Tasmanian State  
 33       Service than within other State Services? I mean, what  
 34       you've described is a feature of all hierarchical  
 35       organisations to an extent, but would you venture a comment  
 36       on whether that is more so here than elsewhere?  
 37

38       PROF ECCLESTON:   Professor Pybus?  
 39

40       PRESIDENT NEAVE:   Professor Pybus?  
 41

42       PROF PYBUS:   I'm not - Richard is a person who can speak  
 43       to the nature of the public service. What I can say is  
 44       that, it's basically ingrained in the social fabric of  
 45       Tasmania a kind of hierarchical deference and a culture of  
 46       silence that's self-protective and also driven by shame,  
 47       and so, there's all kinds of reasons why you're not going

1 to call out something that might be getting you into  
2 trouble or bringing you into kind of problematic  
3 relationships with elites that have traditionally been, you  
4 know, the person to whom you might have been required to  
5 doff your hat.

6  
7 And that, if you take the lower socio-economic group  
8 that Richard was talking about who have been here all  
9 along, you know, who have been here for generations,  
10 they've got historical memory of keeping shtum, they've got  
11 historical memory of this kind of abuse; they've got  
12 historical memories of being brutalised and spat upon and  
13 looked down on and talked about in terms of their inherent  
14 stain, their inherent stain on the value of the State,  
15 right.

16  
17 MS BENNETT: Could I ask - sorry.

18  
19 PROF PYBUS: People who come through that historical  
20 experience are not people who are going to be readily going  
21 off to the local police station or writing letters to the  
22 minister and saying, you know, "I've got concerns about  
23 what happened to my daughter or my son".

24  
25 MS BENNETT: Let me ask you about that. Can I ask the  
26 operator to bring up a document, COM.0004.0001.2023. It's  
27 a newspaper article from a couple of years ago, and we've  
28 sent you a copy in case you can't see it. I wanted to ask  
29 you a question about this line that appears on the  
30 following page, and it's in the middle under the photograph  
31 and it reads:

32  
33 *It is a relic of our convict past, this*  
34 *fear of speaking out. It is a straight*  
35 *line from "Don't upset the overseer" to*  
36 *"Don't trouble the Minister".*

37  
38 PROF PYBUS: A straight line.

39  
40 MS BENNETT: Yes, is that part of what you're saying here?

41  
42 PROF PYBUS: It is exactly what I'm saying. It is exactly  
43 what I'm saying. You know, in the convict past which isn't  
44 so long ago, and of course, after the convicts were gone  
45 the emancipated class were still a very exploited  
46 underclass if they remained in Tasmania, but whilst they  
47 were still under the penal system, making a complaint

1 against the person you were assigned to, or the equivalent  
2 of an overseer I suppose, would probably get you  
3 re-incarcerated or at least a good solid whipping.

4  
5 MS BENNETT: Could I ask you, Professor Eccleston, from  
6 your political science perspective, how does that comment  
7 land with you? "A straight line from, don't upset the  
8 overseer to don't upset the Minister".

9  
10 PROF ECCLESTON: I mean, there are multiple  
11 interpretations, because we don't want to discuss history  
12 although it's clearly relevant. Again, the other side of  
13 that is that, particularly with emancipated convicts, that  
14 Tasmania's got an anti-authoritarian streak and a  
15 disrespect for authority, but perhaps there is a difference  
16 between how you live your lives and also employment and  
17 economic relations. So, clearly I think in any small  
18 jurisdiction then there are sensitivities around disclosure  
19 and about criticising and disrupting perhaps the status  
20 quo.

21  
22 MS BENNETT: You make some comments about accountability  
23 and governance and about the relationship between the way  
24 that departments and Ministers operate and interact with  
25 each other, can you tell the Commissioners a little bit  
26 about that?

27  
28 PROF ECCLESTON: I can, and it is in the witness  
29 statement, I don't know how central it is to the  
30 Commission, but I guess that's for the Commissioners to  
31 decide.

32  
33 My concerns about the machinery of government, the  
34 structural organisation of government and its relationship  
35 to the executive and Parliament in Tasmania is really about  
36 policy coordination and efficacy, but it is clear that we  
37 have developed a relatively complicated agency structure in  
38 Tasmania, and particularly the relationship to Ministers  
39 and the executive is complicated. Whether that's posing  
40 systematic accountability issues around issues that are our  
41 concern here, I'm not sure; I don't think there's strong  
42 evidence of that.

43  
44 The other thing I should note is that this was  
45 identified in the Watt review and, you know, incremental  
46 reforms designed to improve coordination across State  
47 Service around complex issues have been proposed, including



1 heads of agencies taking collective responsibility for  
2 outcomes.

3

4 COMMISSIONER BENJAMIN: Can you give an example of what  
5 you mean by "the complicated agency structure"?

6

7 PROF ECCLESTON: So, for example - and I don't have the  
8 portfolio structures in front of me, but in a cabinet of  
9 eight Ministers I think - there have been a few reshuffles  
10 recently - you know, six or seven Ministers relied on the  
11 Department of State Growth for part of their portfolios, so  
12 there's not that clear relationship between ministerial  
13 portfolios and agency structures.

14

15 So, heads of agencies, and particularly those with  
16 broad portfolios, are grappling - are dealing with six and  
17 seven Ministers, whereas in a lot of smaller jurisdictions,  
18 and I cite briefly the ACT as an example but noting that's  
19 a city state where you've got a very simple and stable sort  
20 of six portfolio structure and agencies or directorates as  
21 they call them that sit below that.

22

23 Having said that and clearly of relevance to this  
24 Commission of Inquiry are some of the recent changes in  
25 terms of the machinery of government and departmental  
26 structures, and that is bringing education and child and  
27 youth wellbeing into one aligned portfolio, so in theory  
28 that should at the bureaucratic level help facilitate  
29 coordination and effective policy.

30

31 MS BENNETT: Another part arising from the Watt review in  
32 part concerned investigation discipline procedures like  
33 ED5, the Employment Direction 5 process which I think you  
34 say at 41 of your statement was considered to be overly  
35 prescriptive compared to similar arrangements. Can you  
36 talk to us about how that might impact upon some of the  
37 issues that we've been talking about?

38

39 PROF ECCLESTON: That element of my statement is drawn  
40 directly from the Watt review, it's not based on my  
41 research or expertise, but in terms of this broader pattern  
42 about lower turnover rate, longer periods of service, you  
43 know, Dr Watt did come to the conclusion that, relative to  
44 other jurisdictions, the number of public service employees  
45 terminated because of misconduct is proportionally lower in  
46 Tasmania, and that that is partly due to the complexity of  
47 the process. That doesn't really speak to the issue around

1 reporting and disclosure, but even where it seems that  
2 where there is a prima facie case of misconduct, not many  
3 State servants or relatively few State servants are  
4 terminated on that basis.

5

6 MS BENNETT: I think you say in your statement or reflect  
7 Dr Watt's view in your statement that the highly unionised  
8 nature of the workforce contributes to that in some way?

9

10 PROF ECCLESTON: Yes, although clearly - you know, we're  
11 talking about cultural and systemic cultural change, aren't  
12 we? And, I'm sure that, in terms of the important work  
13 that unions do in protecting and defending employee rights,  
14 that they too must be, and I'm sure are willing to be part  
15 of the solution in terms of dealing with some of these  
16 issues around conduct and criminal abuse.

17

18 MS BENNETT: Professor Pybus, I'd like to ask you about  
19 how we effect cultural change coming from where we are. Is  
20 that something that you feel that you can talk to the  
21 Commissioners about?

22

23 PROF PYBUS: Well, a little bit. I think this Commission  
24 is part of it, we're witnessing it, and Richard in his  
25 opening remarks made the point about how rapidly the  
26 demographics of Tasmania are changing in the 21st Century.

27

28 Now, I really do make a very strong distinction  
29 between what I've been talking about in the 19th and 20th  
30 Century and our current situation, and I feel very positive  
31 about this because I've been observing what happened in  
32 Ireland as if this closed, tight society that was based on  
33 secrecy and staying silent suddenly kind of burst open and  
34 did remarkable things very quickly because, you know, they  
35 suddenly had - you know, they always had known what it was  
36 that was going on, but there was a sense that joining the  
37 European Union, having all of those people from the  
38 European Union coming to Ireland just kind of blew the  
39 powder keg.

40

41 Now, I see the same thing happening here, that there's  
42 suddenly this realisation that the world is a different  
43 place, and we all feel it in Tasmania, we feel that  
44 Tasmania has changed decidedly in the last two decades, and  
45 that the amount of people coming here, the younger people  
46 coming here, the kind of people staying here and not going  
47 or, if they go, they come back again, the demographics are

1 changing dramatically and with it is coming a breakdown of  
2 the kind of traditional cultural relationships that have  
3 kept a sort of code of silence and a kind of - yeah, the  
4 things that I've been talking about which ... (Zoom  
5 connection drops out) ... until the end of the 20th Century  
6 as your Commission knows. I think that's very promising  
7 but that we do - and I think - or truth-telling to refer to  
8 something else that's going on at the moment is terribly  
9 important.

10  
11 You know, we really have to make it clear that what  
12 we're dealing with here is not some kind of rare anomaly,  
13 this is something that's been going on in Tasmania from the  
14 time of its European history and that we have to set in  
15 place - we have to recognise that and set in place the  
16 processes that are going to make it, you know, shine the  
17 sun on it, make it clear that this is, (a) unacceptable and  
18 that it does happen and that we have to be prepared for  
19 ways of dealing with it, instead of just turning away and  
20 pretending it isn't happening or whatever.

21  
22 Yeah, I mean, I'm very positive about where we're  
23 going in Tasmania, I'm thrilled about it, but at the same  
24 time I'm very aware on multiple levels of an unexamined  
25 dark past which of course relates to the Aboriginal  
26 experience, but it also relates to the experience of a lot  
27 of Tasmanians who have been here for generations as well.

28  
29 MS BENNETT: Professor Eccleston, I'll ask you the same  
30 question if you feel able to answer: how do you shift some  
31 of the culture or does the demographic changes bring with  
32 it inevitable cultural shift?

33  
34 PROF ECCLESTON: I think the demographic changes are  
35 clearly part of it and I think Ireland is an interesting  
36 parallel in lots of ways, but I think this process, and  
37 Professor Pybus was talking about the really important  
38 truth-telling process, it is important in terms of our  
39 broader community consciousness and reflection, saying that  
40 there really is a problem and it's partly about trying to  
41 redress and support victims in the past, but you know, it  
42 really is about promoting the awareness.

43  
44 So, look, I'm not a sociologist or a cultural  
45 historian, but I do see it as being an important albeit a  
46 challenging part of the process, and look, there's a long  
47 history and literature about the importance of

1 truth-telling in terms of dark parts of the histories of  
2 all communities and nations.

3  
4 MS BENNETT: Are there any other matters you'd  
5 specifically like to draw to the Commissioners' attention?  
6 I'm about to say, I'm conscious that Professor Eccleston  
7 has another commitment shortly and I'm about to conclude my  
8 questioning. Are there any other matters that you think  
9 the Commissioners need to know beyond what's in your  
10 statement?

11  
12 PROF ECCLESTON: No, I just hope the statement and  
13 evidence was valuable and all the best for your ongoing  
14 work.

15  
16 MS BENNETT: Commissioners, those are the matters, but I  
17 think Professor Eccleston has a couple of minutes if  
18 Commissioners have any questions.

19  
20 COMMISSIONER BROMFIELD: I actually do. I'll try and be  
21 brief. I've sat here and been incredibly interested but  
22 also a little bit nervous because I don't want this  
23 Commission to be seen to be denigrating Tasmania or  
24 Tasmanian culture, and Professor Eccleston, I've noticed  
25 how carefully you've answered and been careful to point out  
26 the flipside, the positive side, to some of this close and  
27 connected culture.

28  
29 I guess, I wonder if, again theorising and in the  
30 hypotheticals, are there things that we don't want to lose,  
31 things that this Commission should be careful not to erode  
32 in its recommendations, and happy for Professor Pybus to  
33 comment on this as well, are there then things that we can  
34 be doing to I guess scaffold the negative flipside, the  
35 risks, whilst maintaining some of those strengths of  
36 Tasmanian culture and connectedness?

37  
38 PROF ECCLESTON: Look, I think that's a really insightful  
39 analysis, and isn't that the challenge, is trying to  
40 address destructive and prevent destructive behaviour,  
41 support victims, but also retain what is strong about this  
42 community. And, you know, I don't like using the language  
43 of "disadvantaged communities"; working and spending time  
44 in these communities, there are real strengths there, and  
45 it's part of what is actually attracting migrants in terms  
46 of the lifestyle, the amenity, but also that strength in  
47 community. And this is one of our global challenges in the

1 21st Century living in this sort of digital secular age,  
2 you know, what makes us human: it's about the strength of  
3 those social connections and the strength of community.  
4

5 I think your challenge is to make sure that, and the  
6 government's challenge in terms of responding to the  
7 Commission, is to be very mindful of the context that we're  
8 working in in terms of what the best strategy is, and  
9 obviously that's something for the Commission and for  
10 people with deep expertise around the appropriate  
11 legislative and regulatory and policy responses to child  
12 sexual abuse.  
13

14 COMMISSIONER BROMFIELD: Thank you. Professor Pybus, did  
15 you have any comment on that and whether perhaps  
16 truth-telling and enabling truth-telling is part of I guess  
17 scaffolding against the risk whilst not breaking down the  
18 fabric of connection?  
19

20 PROF PYBUS: I couldn't have said it better than what  
21 Richard said. I probably would add that truth-telling is a  
22 very positive thing, it's something that we all need to  
23 engage in, all societies need to engage in. Other  
24 societies have engaged in it much better than Australians  
25 have, we've felt we like to tell ourselves folktales about  
26 ourselves instead. It's a very positive thing to examine  
27 an aspect of our past that has perhaps caused us to be, not  
28 scrutinised - not scrutinise organisations, not scrutinise  
29 things as well as we might because we avert our eyes  
30 basically.  
31

32 I'd be the last person to want to denigrate Tasmania,  
33 I love Tasmania, and, you know, despite its problematic  
34 past, its past is no more problematic than other people's  
35 pasts, it's just that this one hasn't really been given a  
36 great deal of examination. I mean, it is very interesting  
37 that the whole convict issue was completely shut down in  
38 Tasmania until the late 20th Century: you know, you  
39 couldn't even get into the archives to look at the  
40 fantastic information that's in there about a lot of abused  
41 children, amongst other things, because, you know, that was  
42 the stain.  
43

44 Now, we need to kind of talk about these things  
45 because we need to understand that this is something we  
46 have to kind of move beyond, you know, we have to reconcile  
47 ourselves to and move beyond into a more open society, a

1 more open society. And, I think that this can all be  
 2 couched in very positive terms but I think truth-telling  
 3 about the past is an important part of the whole business  
 4 about moving forward and that we all should do it. I mean,  
 5 that's as an Australian speaking, of course, you know.

6  
 7 "The past is never dead, it's not even past", as the  
 8 great writer William Faulkner once said. And I think  
 9 there's been a tendency in Australia generally and very  
 10 pointedly in Tasmania to say, "Well, that's all in the  
 11 past; sure, there's no Aborigines, they've all gone, but  
 12 that was all in the past". But, of course, we now  
 13 understand from the work that the Aboriginal community has  
 14 done in Tasmania that that's not the past, that's the  
 15 present, and we have to engage with it and I think the time  
 16 has come to engage with some other aspects of our dark past  
 17 as well and the way in which they may have contributed to  
 18 the issue that you're engaged to look at.

19  
 20 COMMISSIONER BROMFIELD: Thank you, that was really  
 21 helpful.

22  
 23 COMMISSIONER BENJAMIN: Thank you.

24  
 25 PRESIDENT NEAVE: Thank you so much, this has been an  
 26 absolutely fascinating session. Thank you both and I think  
 27 the dialogue and the conversation worked beautifully, so  
 28 thank you very much indeed and we'll take a short break  
 29 now.

### 30 31 **SHORT ADJOURNMENT**

32  
 33 MS BENNETT: Commissioners, the next witness is the  
 34 Auditor-General for the state of Tasmania, I'd ask him to  
 35 come to be sworn in.

36  
 37 <RODNEY JAMES WHITEHEAD, sworn: [11.34am]

38  
 39 <EXAMINATION BY MS BENNETT:

40  
 41 MS BENNETT: Q. Mr Whitehead, please tell the  
 42 Commissioners your full name and professional address?

43 A. Rodney James Whitehead, Level 8, 144 Macquarie Street  
 44 in Hobart.

45  
 46 Q. You've provided some answers to questions to assist  
 47 the Commission before today; is that right?

1 A. That's correct.

2

3 Q. Have you reviewed those lately?

4 A. Yes, I have.

5

6 Q. Are they true and correct?

7 A. Yes, they are.

8

9 Q. Commissioners, I might refer to those a little bit but  
10 for the most part they provide helpful background.  
11 Mr Whitehead, you're the Tasmanian Auditor-General; is that  
12 right?

13 A. That is correct.

14

15 Q. And your powers are generally set out in the Audit  
16 Act?

17 A. That's right.

18

19 Q. The Auditor-General is associated generally with the  
20 audit of the state's finances but it's a role that has some  
21 other parts to it, can you tell the Commissioners about  
22 that?

23 A. Yes, I can. So, under the Audit Act I have fairly  
24 broad powers to conduct examinations and investigations.  
25 Section 23 of the Audit Act sets out what those powers are,  
26 and there's a broad range of activities that I can  
27 undertake examining aspects of financial statements of  
28 State entities; I can undertake performance audits, I can  
29 undertake compliance audits, I can look at various  
30 activities of the employer's functions and activities, the  
31 employer being the Premier of the State of Tasmania as  
32 employer for Tasmanian state servants. And again, the  
33 wording of the Act is such that the investigations and  
34 examinations that I can do are quite broad.

35

36 Q. Your powers include examining the compliance of a  
37 state entity or subsidiary of a state entity; is that  
38 right?

39 A. Yes, that's right.

40

41 Q. Can you tell us what an example is of a subsidiary of  
42 state entities might be?

43 A. So a subsidiary of a state entity would be an entity  
44 that is wholly controlled or wholly-owned by another state  
45 entity. An example might be where there might be a  
46 government business that has companies set up underneath  
47 that government business to conduct other activities.

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Q. Could you give us an example of one?

A. Look, I think the most common examples are Hydro Tasmania which has roughly 14 or more wholly-owned companies or other joint venture entities which conduct various activities that aren't incorporated into the main government business enterprise of Hydro Tasmania.

Q. So your powers actually include examining compliance of a state entity or a subsidiary entity with written laws or its own internal policies. Can you tell us about what the scope of that involves?

A. Yeah, so it's quite broad because many state entities have to comply with various laws and regulations. In addition to that there might be various regulations or policies that apply across the entire Tasmanian State Service, and in addition to that entities have their own internal policies and procedures that they establish which they require employees within that agency to comply with.

Q. Where are the lines around this? What if an organisation doesn't have a policy around something, would that be something that you could enquire into?

A. That would be something that we would enquire into. For example, if we were doing an audit looking at a particular area across a number of agencies and we felt that a policy should be in place to guide employees in how they might deal with a particular matter; if one agency had an absence of a policy or had a policy that we felt had deficiencies in it, then we would probably highlight that within the course of the audit.

Q. So it's like the policy space, and whether it's inhabited by a policy or not, you're able to review whether or not - or the way that organisation is operating?

A. Correct.

Q. What about compliance with laws, that obviously doesn't mean individuals complying with laws, does it?

A. No, it's generally the agencies themselves and how they comply with the requirements that are imposed upon them.

Q. Can you give us some examples about the kinds of laws, the way you might examine a state entity's compliance with laws?

A. Yes, one recent audit that we did as an example is we



1 looked at the recruitment of general managers within local  
2 government. The Local Government Act has certain  
3 requirements about how that recruitment process should be  
4 conducted by councils and we looked at whether or not the  
5 councils complied with those requirements.

6  
7 Q. Are you restricted then to compliance with Tasmanian  
8 laws?

9 A. Broadly we look at compliance with Tasmanian laws,  
10 although we might look at what occurs in other  
11 jurisdictions within Australia or more broadly to get  
12 examples of what exists in other jurisdictions to help  
13 guide some of our recommendations that we might wish to  
14 make.

15  
16 Q. For example, when you're thinking about employment  
17 practices, would you be thinking about whether or not an  
18 organisation is complying with the Fair Work Act or just  
19 Tasmania's discrimination act, a random example?

20 A. Probably a broad range of those matters, yes.

21  
22 Q. How do you identify potential areas for investigation?  
23 A. Okay. There is a requirement under the Audit Act for  
24 me to put an annual plan of work together as a draft which  
25 goes to the Parliamentary Standing Committee of Public  
26 Accounts. I need to do that each year by 31 March. They  
27 then have a couple of months to consider that plan of work  
28 and provide me with any comments that they might wish me to  
29 consider in finalising that plan of work, and then I need  
30 to finalise that plan of work by 30 June each year.

31  
32 That plan of work under the Act has to set out the  
33 audits, examinations and investigations that I intend to  
34 undertake for the following 12-month period.

35  
36 Q. What feeds into how you identify what's going into the  
37 plan for the 12 months?

38 A. Okay. We have a broad range of activities that we  
39 undertake to help formulate that particular plan. Part of  
40 it's informed by various meetings that I have with  
41 secretaries of agencies across state entities, also general  
42 managers of councils, Mayors of councils, I also meet with  
43 chairs of the boards of the government businesses and  
44 state-owned companies as well as the CEOs, so that informs  
45 my understanding of what's actually happening across the  
46 Tasmanian state entities.

47

1 I also look at what's happening across other  
2 jurisdictions in terms of the work that other  
3 Auditors-General are looking at and that covers Australasia  
4 but also international jurisdictions. I also keep abreast  
5 of what's happening within media reports to ascertain  
6 whether or not there might be an examination or an  
7 investigation that might be warranted to be conducted in  
8 regard to matters that might be reported in broader media.  
9

10 Q. So, can media reporting of particular issues in effect  
11 arouse your interest enough to think that someone should  
12 look at that?

13 A. Yes, they can, yes. And in some cases we also have a  
14 mechanism whereby members of the public can raise matters  
15 with my office which are then brought to my attention. For  
16 example, through the website there's an ability for people  
17 to make either anonymous or actually attribute their  
18 identity to matters that they want to raise with us and  
19 then we'll do an assessment about whether there's something  
20 that warrants investigation or examination.  
21

22 Q. Let me see if I understand, there are basically three  
23 streams that flow into this creation of a workstream: we've  
24 got briefings by different government departments; they  
25 tell you what they're doing and you identify whether any of  
26 those things warrant investigation. Is that one of the  
27 ways that you --

28 A. That's correct.  
29

30 Q. Another is through media and what's reported as  
31 matters of public interest and whether that identifies a  
32 few things that should be examined?

33 A. Correct.  
34

35 Q. And the third is public engagement; people raising  
36 issues with you that might identify systemic issues to do  
37 with - that could fall within your role; is that right?

38 A. Correct, and I probably wouldn't limit it to three, I  
39 think there are broader mechanisms as well and I suppose  
40 one of the other streams is that I have a mandate to  
41 undertake the financial audit of all state entities and in  
42 undertaking those financial audits also gives us an  
43 opportunity to have a look at the various activities of  
44 state entities, and that's another source of information  
45 that might inform our performance audit examination  
46 program.  
47

1 Q. So if in the course of carrying out a financial audit  
2 you see - and this is entirely a made up hypothetical I  
3 hasten to add - you see significant payments made to a  
4 particular consultancy or you see lots of payments being  
5 made to settle lawsuits; you might say, "I wonder what's  
6 going on there, I'd like to have a further look". Is that  
7 right?

8 A. That's an illustrative example, yes.  
9

10 Q. And I hasten to add it is only an example. Is it fair  
11 to say it's a mix of proactive and reactive operations?

12 A. Correct.  
13

14 Q. In terms of your public engagement, I think you  
15 mentioned a website, is that right?

16 A. Yes, the Tasmanian Audit Office website.  
17

18 Q. Are there proactive community engagement to tell  
19 people about the availability of that web website and that  
20 portal?

21 A. I wouldn't say there's public engagement to make them  
22 aware of that. We do with various parties that we might  
23 make presentations to about the work of the office and make  
24 them aware of the fact that there is that mechanism  
25 available but it's not something that we broadly advertise  
26 to the broader community.  
27

28 Q. I'd like to come in now to the terms of this  
29 Commission. Now, if organisations had or did not have  
30 policies and procedures concerning the identification or  
31 response to child sexual abuse in Tasmania, that's  
32 something that you could examine within the terms of your  
33 Act?

34 A. It is something that I could examine within the terms  
35 of my Act.  
36

37 Q. And, before you were to do that, and just to pause  
38 there, that's not something you've ever had cause to  
39 undertake?

40 A. No.  
41

42 Q. If you were to consider such a review, would you think  
43 about whether there were other bodies better placed than  
44 you or more appropriately placed than you about to carry  
45 out such a review or enquiry?

46 A. Yes I would consider who is the most appropriate  
47 Tasmanian agency to undertake that type of work or

1 investigation or examination.

2

3 Q. Do you have a view about where responsibility for  
4 those kinds of reviews or examinations resides in Tasmania?

5 A. Look, I do. Often when I talk to people about the  
6 role of the Tasmanian Audit Office and the role of the  
7 Auditor-General I often frame it in the context of the  
8 broader integrity framework that exists within Tasmania.  
9 There are a number of other integrity-type agencies. The  
10 role of my office, I tend to frame it in the context that,  
11 although our mandate is quite broad in terms of the things  
12 that we may examine or investigate, to a large extent  
13 people associate the role of my office as being more  
14 related to financial-related matters or management-related  
15 matters.

16

17 We also have the Integrity Commission in Tasmania,  
18 that is more concerned about misconduct. So, if someone  
19 asks me about a misconduct-related matter I would probably  
20 say that probably fits within the domain of the Integrity  
21 Commission.

22

23 You've also got situations where there might be  
24 concerns or complaints about administrative decisions made  
25 by Tasmanian Government entities and that potentially falls  
26 within the domain of the Ombudsman. There are also other  
27 events that might occur which are criminal-related matters  
28 which are probably more appropriately dealt with by the  
29 Tasmania Police

30

31 Q. So there's an ecosystem, if you like, of bodies  
32 capable of responding depending on the way the issue is  
33 raised and framed, is that a fair summary?

34 A. That is a fair summary.

35

36 Q. Is there any concern, Mr Whitehead, that that could  
37 lead to some confusion for people thinking about how they  
38 want to have these matters reviewed?

39 A. I think it can in some circumstances because people  
40 aren't necessarily clear about what the mandate or the  
41 powers or the functions of each of the particular integrity  
42 bodies might be. I think the way that people address that  
43 is that in some cases they'll address their concern or  
44 their complaint to all integrity bodies, and in some cases  
45 even approach the Tasmania Police with their concerns.

46

47 Q. And so, assuming that each of the integrity bodies

1 receives the same letter, how do you communicate? Do you  
2 communicate about who should respond?

3 A. Look, we have on occasions done that. We do interact  
4 and I must say that my agency probably tends to interact  
5 more with the Integrity Commission more so than some of the  
6 other integrity bodies. We don't tend to interact with the  
7 Tasmania Police about some of the investigations that they  
8 might be doing, but if in the course of our work we came  
9 across something of a criminal nature we would certainly  
10 consider reporting that through to the police. But through  
11 some of the referrals that we have received in our office  
12 we have reached out to the other integrity bodies to ask  
13 the question whether they've received something similar,  
14 and on occasions we have all met to collectively discuss  
15 how we might respond to that.

16  
17 Q. So, that's an ad hoc response but not a necessary  
18 response; is that fair?

19 A. Correct.

20  
21 Q. I mean no criticism of you, Mr Whitehead, but is it  
22 possible that things could fall through the cracks when  
23 it's left to an ad hoc approach in that way?

24 A. I'm not sure that I'd say that things would fall  
25 through the cracks because I think for example in my case  
26 I've got discretion about what things I may investigate or  
27 not investigate. So, again, people might perceive that the  
28 fact that I don't investigate something is something  
29 falling through the cracks, but again, it just comes down  
30 to the fact that we have so much resources to do the work  
31 that we need to do.

32  
33 Q. Let's talk about that. How much capacity does your  
34 office have to carry out investigations beyond your  
35 statutory obligations to audit the finances of the State?

36 A. Sorry, if you reframe the question because I'm not  
37 quite sure whether you're talking about the scope of the  
38 work that we can do or the resources we have available to  
39 us.

40  
41 Q. You're obliged to carry out an audit of the finances  
42 of the State of Tasmania as part of your work?

43 A. So the mandatory function that I have is to audit the  
44 financial statements of Tasmanian State entities and also  
45 the annual report of the Treasurer.

46  
47 Q. So that's a set part of your work program each year

1 and takes a significant part of the resources allocated to  
2 your office, is that fair?

3 A. Yes, that is correct. And that work is funded by the  
4 agencies themselves that we audit so we actually charge  
5 them for the financial statement audits that we undertake.

6

7 Q. They have no option about whether that happens?

8 A. That happens, correct.

9

10 Q. So there's that category of work, and then what we've  
11 been talking about, the investigations into policies and  
12 procedures, are a separate bucket of work; is that right?

13 A. That's right, a separate stream of work for which we  
14 are funded to undertake through an appropriation from the  
15 Parliament.

16

17 Q. What I'm trying to understand is, that's a finite  
18 amount of funding?

19 A. Yes.

20

21 Q. And you have a finite amount of resources?

22 A. Yes, so for the current financial year the funding was  
23 \$2.17m, and that amount has to cover both the direct  
24 employees that are involved in performing those  
25 examinations and investigations and undertaking performance  
26 and compliance audits, but it also covers a proportion of  
27 the overhead of the office including administrative and  
28 support staff.

29

30 Q. And so, does that cause a limit on the extent to which  
31 your office can carry out investigations of this kind?

32 A. Correct, yes.

33

34 Q. Can you tell us a little bit about how many full-time  
35 equivalent staff you have available to you?

36 A. Within the office as a whole, full-time equivalent  
37 staff is approximately 45 people. In terms of total head  
38 count there's slightly more because we have some people  
39 working on a part-time basis. Within that performance  
40 audit area we have approximately 10 or so people, and that  
41 equates to our ability to undertake around six or seven  
42 performance audits or compliance audits each year.

43

44 Q. Has it ever happened that there's an issue that you  
45 felt needed investigated but you've lacked the resources to  
46 do it?

47 A. Probably two parts to that question: one is the need

1 to do something, and I do have discretion to actually  
2 undertaking something if I feel there's a compulsion to  
3 actually undertake that investigation or examination. In  
4 terms of the resources, the Act does give me the ability to  
5 actually engage people outside of employees, so I can  
6 engage other experts, other audit service providers to  
7 undertake particular work.

8  
9 Q. And would that be separately funded again or is  
10 that --

11 A. No, that would be within that appropriation amount.

12  
13 Q. Is there a limit on the extent to which you can carry  
14 out your functions by reference to your funding?

15 A. There is a limit, but at the same time if there was  
16 something that I felt compelled to undertake it would be at  
17 the expense of another planned piece of work which would  
18 need to be deferred.

19  
20 Q. I was going to ask, how solid is the plan? How much  
21 flexibility can there be in the plan if something arises in  
22 the year that you think needs to be responded to quickly?

23 A. Look, there is the flexibility in the plan. Again,  
24 it's broadly at my discretion whether I modify the plan.  
25 In such circumstances I would normally engage with the  
26 chair of the Public Accounts Committee to have the  
27 discussion with them to inform them that I'm intending to  
28 modify the plan to undertake a particular piece of work.

29  
30 Q. You're an independent statutory officer; is that  
31 right?

32 A. That is correct.

33  
34 Q. Your reports are tabled in Parliament, is that fair?

35 A. That's correct, yes.

36  
37 Q. And you're ultimately accountable to Parliament?

38 A. Yes. Yes.

39  
40 PRESIDENT NEAVE: Can I just ask a question there?

41  
42 MS BENNETT: Yes.

43  
44 PRESIDENT NEAVE: Going back to your process of putting  
45 your plan to the Parliamentary Committee; can a  
46 Parliamentary Committee say to you, "We don't think you  
47 should look at this area or we should elevate one

1 particular issue above another issue?" How does that work,  
2 how does that relationship work, or is it via pleasant  
3 conversation?

4 A. Yes, that's a very good question and in fact that does  
5 happen from time to time. A recent example was just when  
6 the COVID outbreak first arose back in January 2020. We'd  
7 just been preparing our annual plan of work and when I  
8 tabled the draft of that to the Public Accounts Committee  
9 for their review and comment it didn't have any  
10 COVID-related audits or examinations on that. By the time  
11 I received the response back from the Public Accounts  
12 Committee they suggested that I consider doing a program of  
13 work or some activity looking at the Tasmania government's  
14 response to COVID-19. Now, I took that request on board  
15 and I decided to actually include a series of COVID-related  
16 examinations and audits looking at various aspects of the  
17 Tasmania Government's response to COVID-19.

18  
19 Q. You used the word "suggested"?  
20 A. Correct.

21  
22 Q. That is, the committee suggested. Let us assume that  
23 you had a situation where you did not agree with the  
24 suggestion; I assume that as an independent statutory  
25 officer you could nevertheless go ahead and do it. Is that  
26 right or not?

27 A. That is correct. Again, under the Act no-one can  
28 direct me in regards to the audit work that I undertake,  
29 although I have a very strong relationship with the  
30 Tasmania Public Accounts Committee.

31  
32 Q. Yes, of course.

33 A. There's a specific provision within the Audit Act that  
34 says that I can undertake requests at the suggestion of the  
35 Treasurer from the Public Accounts Committee, from the  
36 Integrity Commission, from the Ombudsman, and I can also do  
37 audits in conjunction with other Auditors-General across  
38 Australia. So, there are these other avenues for me to  
39 actually get suggestions to undertake potential audits or  
40 examinations, but at the end of the day it's my discretion  
41 as to whether I undertake those.

42  
43 Q. Subject, of course, to your funding and does that  
44 Parliamentary Committee - what power does it have to alter  
45 your funding? Let's assume you went feral and decided that  
46 you would investigate something that the Parliamentary  
47 Committee didn't agree with, how would that affect your



1 funding?

2 A. Yes, that's another very good question. I'm not sure  
3 that the Parliamentary Public Accounts Committee would be  
4 inclined to take funding away from us, I think it's  
5 probably more the opposite, they're more inclined to assist  
6 us in securing more funding. The funding appropriation is  
7 really determined by the Cabinet Budget Committee, and we  
8 have been having discussions with the Parliamentary Public  
9 Accounts Committee about how they might support my office  
10 in securing additional funding to undertake additional  
11 work.

12

13 PRESIDENT NEAVE: Thank you.

14

15 COMMISSIONER BENJAMIN: Q. Sorry, I'll lean forward and  
16 speak up, I've been told, and rightly so. I think you said  
17 you had an appropriation of about \$2.7m; is that right?

18 A. \$2.17m.

19

20 Q. You've got a staff of about 45?

21 A. Correct.

22

23 Q. That's a pretty tight budget --

24 A. The 45, that includes the financial audit staff, so  
25 they are funded by us invoicing the entities.

26

27 Q. That was the question I was going to ask because I  
28 think you said earlier that each institution will pay you a  
29 fee or pay the Auditor-General a fee for undertaking the  
30 audit, so your \$2.17 is bolstered to a degree by income the  
31 Auditor-General will get from undertaking its statutory  
32 functions?

33 A. And that's around about \$5.5m.

34

35 Q. So, your overall budget of your office is about eight  
36 or something like that or?

37 A. There's also a third element of funding as well which  
38 is reserved by law appropriation which covers my salary  
39 cost, travel cost on top of that.

40

41 COMMISSIONER BENJAMIN: Thank you.

42

43 MS BENNETT: Q. I'd like to continue with the theme of  
44 independence which I think is what the Commissioners are  
45 driving at. Can you tell us, are there any parts of your  
46 role that you find are difficult in terms of your  
47 independence?

1 A. Look, at times it can be. I think in terms of making  
2 the decisions around which audits I undertake, look, there  
3 is a lot of thought and consideration that goes into that  
4 because we are again spending the public's money in terms  
5 of the work that we undertake. I'm very conscious that  
6 both the Parliament and members of the community have  
7 certain expectations around the types of activities of  
8 government that we should scrutinise or examine, so I'm  
9 very conscious of making sure that the work that we do  
10 actually does hold the government to account, does also  
11 look at examining activities of various state entities all  
12 with the objective of actually improving the operations and  
13 activities of the Tasmanian State Service and other state  
14 entities.

15  
16 Q. Have you ever received, for example - has a minister  
17 ever called you and said, "I don't want you to investigate  
18 this"?

19 A. I've never had a call from a minister, I've had some  
20 robust discussions with heads of agencies about particular  
21 audits that we're looking to undertake. I've also had  
22 discussions with representatives from local government  
23 about some of the audits that we propose to undertake.

24  
25 Q. How do you see those as walking the line between  
26 respecting your independence and informing you about your  
27 function?

28 A. Look, I think it comes down to the relationship that  
29 we have with the parties that we're working with to  
30 undertake those audit activities. Look, if there are  
31 legitimate reasons as to why I should defer the  
32 commencement of an audit, then I certainly take those  
33 circumstances into account in determining the timing of  
34 when we might commence an audit. If there are reasons that  
35 someone put forward as to why we should not undertake an  
36 audit that I had originally planned to undertake, I would  
37 again assess the merits of those arguments before making a  
38 decision whether I continue to undertake that audit or not.

39  
40 Q. Do you ever feel anyone's tried to inappropriately  
41 pressure your office?

42 A. I wouldn't say "inappropriately pressure". Again,  
43 we've had some robust discussions about some of the work  
44 we've undertaken and I think an example would be the  
45 decision to undertake a series of COVID-related  
46 examinations and investigations at a time when the  
47 government was heavily involved in responding and

1 recovering from the impacts of COVID-19. That did cause  
2 some concern amongst some of the leaders within government  
3 about whether we would be a disruption to some of those  
4 response and recovery activities.

5  
6 Q. I'm interested in developing the elements of your  
7 independence. From your point of view what are the key  
8 elements of your independence? Can I suggest so far you've  
9 got a set budget and you've got the protection of your Act?

10 A. Correct.

11  
12 Q. And you've got a direct line to the Parliament. Are  
13 there other matters that you see as critical to your  
14 independence?

15 A. Look, I think it's enshrined that no-one can actually  
16 direct me in terms of what audits we may undertake or in  
17 regard to the conduct of an audit. So, again, every  
18 decision that we make in respect of an audit comes down to  
19 my discretion.

20  
21 Q. Where do you get your legal advice from?

22 A. The Office of the Solicitor-General.

23  
24 Q. Are you required to get your legal advice from the  
25 Office of the Solicitor-General?

26 A. Technically the way that the office is structured we  
27 are a government department, so I think in the first point  
28 of call for us in terms of seeking legal advice would be to  
29 go to the Office of the Solicitor-General, much as other  
30 government departments and other certain State entities do  
31 do. So, yes, that would - my answer to the question would  
32 be, yes, I feel that I should go to the Office of the  
33 Solicitor-General in the first instance.

34  
35 Q. Now, the Office of the Solicitor-General of course is  
36 the main legal advisor to the State of Tasmania. If you  
37 had a concern that you couldn't get independent advice  
38 because of that role, what would you do?

39 A. Look, it's a discussion I'd probably need to have with  
40 that office as to whether there's the ability for me to go  
41 and seek external legal advice.

42  
43 Q. And, has that ever come up?

44 A. Not during my tenure as Auditor-General.

45  
46 Q. I just want to go back a little bit to the funding  
47 from the cabinet budget committee just to clarify one

1 point. Does that mean that your funding is in the hands of  
2 the government of the day?

3 A. Correct.

4  
5 Q. Is there a risk that, if you displease the government  
6 of the day, you might find that reflected in your future  
7 budgetary allocation?

8 A. That is certainly a risk.

9  
10 Q. That's a risk to the independence of your office,  
11 isn't it?

12 A. Some - yes, it would be a risk to independence.

13  
14 Q. And that requires that - that's not fatal to your  
15 independence plainly, it's just a factor that you take into  
16 account; is that fair?

17 A. That's correct. It really is a question of the  
18 breadth of work that we can undertake; it doesn't impact on  
19 the type of work that we undertake.

20  
21 Q. I'd like to talk about some of the work that you've  
22 undertaken to date, if we can understand some of your  
23 insights based on your role into the approach of the  
24 Tasmanian State Service, for example, but I'd like to start  
25 at a high level and just to understand, have you heard  
26 concerns around reprisals for people who might speak up to  
27 integrity bodies? Has that been something that's been said  
28 to you at any stage, people are concerned to speak up to  
29 you because they're worried about the effect on their  
30 career or similar?

31 A. No, I've never heard any direct suggestions along  
32 those lines.

33  
34 Q. You've undertaken some investigations into - I'm going  
35 to go to a couple of them: in 2018 you did a report into  
36 rostering specialists in major hospitals; is that right?

37 A. Correct.

38  
39 Q. Now, that was tabled in Parliament; that was mainly  
40 concerned with rostering of specialists rather than nurse  
41 level staff; is that right?

42 A. That is correct.

43  
44 Q. I want to ask you about some of your findings there.  
45 You found suggestions around the concentration of power in  
46 leadership roles. Can you tell the Commissioners what you  
47 found around that?

1 A. Yes, what we found, when we undertook that particular  
2 audit it was in response to a matter that had been referred  
3 to us from a party that was - made particular allegations  
4 about the way in which rostering occurred of specialists  
5 within a particular government department. We decided to  
6 have a look at the matter, but rather than focus on an  
7 individual department we selected a number of departments  
8 to have a look at across the major hospitals in Tasmania to  
9 understand how medical specialists were rostered to work  
10 within those departments.

11  
12 What came out of that particular audit was the way in  
13 which heads of departments were actually appointed and the  
14 sorts of training and support that those heads of  
15 departments receive in undertaking those managerial  
16 responsibilities.

17  
18 So, the observation that we found is that there was -  
19 they didn't necessarily always go through a proper  
20 recruitment process to become a heads of department. In  
21 some cases it was a question of who expressed interest in  
22 taking on that particular role, and what we also found was  
23 because they were also specialists themselves there was  
24 often a conflict between their role as a specialist and  
25 their administrative and managerial responsibilities that  
26 they were taking on as the head of that particular  
27 department. In some cases there wasn't necessarily  
28 specific training provided by the hospitals to support  
29 those heads of departments in taking on those additional  
30 responsibilities. And in fact some of the personal  
31 development that those specialists undertook tend to be  
32 more related to their specialisation, medical  
33 specialisation, as opposed to being necessarily directed  
34 towards managerial-type training.

35  
36 Q. To paraphrase that report, I think you said that a  
37 significant portion of the managers didn't believe that  
38 under-performance by staff was effectively understood or  
39 managed in the Tasmanian State Service. Can you tell the  
40 Commissioners what led to that observation, was that an  
41 accurate observation?

42 A. Yes, that is an accurate observation, so this relates  
43 to another piece of work that we did that looked at the  
44 management of under-performance within the Tasmanian State  
45 Service. What was reported was that both managers and  
46 staff within the Tasmanian State Service, a high proportion  
47 of them, felt that there wasn't a common understanding

1 around what under-performance looked like, nor a common  
2 understanding as to how that was actually - or whether it  
3 was effectively managed across the Tasmanian State Service  
4 for the agencies that we looked at within the scope of that  
5 audit.

6  
7 Q. And that was a review that took place before the Watts  
8 review?

9 A. Correct.

10  
11 Q. That review also I think identified a low level of  
12 trust in management and a culture where under-performance  
13 might be considered too difficult. Can you tell the  
14 Commissioners about that?

15 A. Yes. Part of the finding there related to the way in  
16 which managers were supported to actually deal with  
17 under-performance. I think during the course of the audit  
18 we did hear about one situation where one manager had up to  
19 16 direct reports, so when you've got that type of ratio  
20 between a manager and the people that they're responsible  
21 for, it probably does call into question their ability to  
22 actually manage the performance of all those individuals as  
23 well as their other duties and responsibilities that they  
24 may have. But what became evident through the course of  
25 the audit was there was some concerns expressed by managers  
26 in particular about the level of support and training that  
27 they had received to actually properly manage employees  
28 that they were responsible for. And also particularly  
29 employees where under-performance was a particular issue.

30  
31 Q. That could undermine, could it not, the faith that  
32 employees have in the consistency of a response to the  
33 issues that they raise; is that a fair --

34 A. That's correct, because the way in which  
35 under-performance is managed fundamentally comes down to  
36 the capability capacity and experience of the individual  
37 manager in terms of managing under-performance.

38  
39 Q. Is there any reason to think under-performance would  
40 be radically different to discipline or misconduct?

41 A. I think you can draw an analogy between the way in  
42 which under-performance might be managed and the way in  
43 which other more difficult human relations matters might be  
44 managed within agencies.

45  
46 Q. Can the Commissioners take it that that raises a  
47 concern that it has some relevance for the variability in

1 response to, for example, boundary violations or  
2 disciplinary breaches which could be precursors to  
3 inappropriate contact with children? I don't expect you to  
4 comment about the contact with children point, but what I'm  
5 trying to get at is whether or not there's an analogy to be  
6 drawn between the variability of management response in  
7 under-performance and whether or not it responds in a  
8 similar way to breaches of codes of conduct?

9 A. Yes, I think you could draw that association. I think  
10 in the context of some managers or even staff being unaware  
11 about how under-performance is managed could be equally the  
12 situation where you're dealing with cases of misconduct.

13  
14 Q. Your office also completed a report concerning special  
15 care packages for Out-of-Home Care; is that right?

16 A. Yes, we did.

17  
18 Q. That was about 2018?

19 A. That is correct.

20  
21 Q. You talk about an alarming situation for young people  
22 in Out-of-Home Care. Can you tell us what you mean by  
23 that?

24 A. Look, that particular audit arose from a Four Corners  
25 programme that was aired called "Broken Homes". It  
26 actually focused on a provider of Out-of-Home Care services  
27 to children here in Tasmania. We received a request from  
28 the Public Accounts Committee to actually have a look at  
29 the allegations raised within that programme, and in  
30 deciding to undertake that examination we met with the then  
31 Department of Health and Human Services to understand the  
32 circumstances around the particular provider referred to  
33 within that program, but more broadly looking at how  
34 children in Out-of-Home Care, particularly those on  
35 specialised care packages were actually being managed and  
36 monitored by the department.

37  
38 Q. Broadly speaking, can you tell us about what you  
39 found?

40 A. Look, what we found is that the department at that  
41 particular point in time had already undertaken its own  
42 examination into how children in Out-of-Home Care, and  
43 particularly those on special care packages were being  
44 provided for or managed. They had instigated some of their  
45 own reforms in response to some of the matters that they  
46 found from their own internal investigation. On top of  
47 that there was a broader strategy being revised in respect

1 of how Child Safety Services was being managed, and our  
2 overall conclusion coming out of that particular audit was  
3 that we felt that the department was adequately responding  
4 to the allegations that were referred to within the Four  
5 Corners programme, but we felt that the department needed  
6 more time to actually implement the other reforms it was  
7 looking to undertake before we'd do a broader investigation  
8 into how those children were being managed in that  
9 Out-of-Home Care environment.

10  
11 Q. And then it's a matter for the department to implement  
12 after your audit, is that right, recommendations arising?

13 A. Correct.

14  
15 Q. Do you have any insight into how consistently your  
16 recommendations get implemented?

17 A. We do because a lot of our recommendations arising  
18 from our reports are either monitored by the agencies  
19 themselves internally, they often report through to  
20 committees, for example audit and risk committees, about  
21 the status of implementations and recommendations that we  
22 might raise within both our financial audit work and our  
23 performance audit work. In addition to that the  
24 Parliamentary Public Accounts Committee also follows up  
25 recommendations that are made within our reports and they  
26 actually seek information from the agencies to confirm that  
27 they're actually implementing our recommendations, and in  
28 addition to that we undertake our own follow-up reviews for  
29 agencies to assess whether or not they're actually  
30 implementing our recommendations.

31  
32 Q. That was going to be my question. So, do you have the  
33 power to step in and ask about the progress of  
34 implementations?

35 A. Yes, we do.

36  
37 Q. Is that effectively a new review? Are you then  
38 looking into whether or not the agency is complying with  
39 the policies and procedures insofar as they comply with the  
40 recommendations they've undertaken to implement?

41 A. Yes. Yes, we do.

42  
43 Q. Is that your common practice, to carry out reviews of  
44 that kind?

45 A. It is, although there are again budgetary constraints  
46 as to which ones we will follow up. I think in an ideal  
47 world we will follow up either between ourselves or the



1 Parliamentary Public Accounts Committee, we will follow up  
2 all the recommendations coming out of all of our,  
3 particularly performance audit reports, but in reality they  
4 select which ones they wish to follow up; we'll select some  
5 that we wish to follow up and inevitably there are some  
6 audits where simply because of resources we don't have the  
7 ability to follow up the recommendations.

8  
9 Q. Just to be clear, no department is required to accept  
10 your recommendations; is that right?

11 A. That is correct.

12  
13 Q. So, if they elect to adopt them, how do they tell you  
14 that?

15 A. Normally we have discussions with them in terms of  
16 framing our recommendations to understand that there is  
17 a degree of agreement around the recommendation. I think  
18 for us to make recommendations that an agency has no intent  
19 to implement would not actually derive any benefit, so  
20 throughout the audit process there is a degree of  
21 discussion about the recommendations, and I suppose it's  
22 beneficial for us to understand that the recommendations  
23 are implementable.

24  
25 Q. So, before you finalise recommendations is it your  
26 practice to provide draft or tentative views about --

27 A. Yes, it is.

28  
29 Q. And you receive response from a department?

30 A. We do, we go through an informal response process  
31 where we might get or seek comment on the findings of an  
32 audit and examination, and that happens at the completion  
33 of our fieldwork. We will then draft a report and also go  
34 through a process to seek their comment on the findings at  
35 that particular stage, and once our report's finalised we  
36 then send it to the agencies involved in the audit but also  
37 the Ministers for a formal response on the report.

38  
39 Q. Do you find agencies are open to criticism?

40 A. I'm not quite sure that you'd always call it  
41 criticism, but opportunities for improvement might be  
42 another way of framing it as well. But look, certainly  
43 some agencies are very accepting of the fact that they can  
44 do things better in certain circumstances; on other  
45 occasions there are discussions around what we might be  
46 saying and in some cases it might be a misinterpretation of  
47 information that we might have received and there's often a

1 discussion around that, but broadly most agencies accept  
2 the fact that there are sometimes room for improvement or  
3 if they had their time again they might have done things  
4 differently. The nature of our work is that we've always  
5 got the benefit of hindsight in terms of examining the  
6 performance and activities of state entities.

7  
8 Q. In that informal response process, is that  
9 confidential, that informal exchange of potential  
10 recommendations, is that a confidential --

11 A. We say it is because we don't want that information  
12 being leaked to the media or leaked to anyone prior to us  
13 tabling a report in Parliament on that subject matter.

14  
15 Q. And that's because you might have recommendations in  
16 mind to which there is a barrier that you're not aware of  
17 at the time? Or why does that need to be confidential, let  
18 me put it that way?

19 A. Look, I think it's more to protect us in terms of  
20 Parliamentary privilege which applies once we've tabled our  
21 report within Parliament.

22  
23 Q. So the statutory protections for your office attach to  
24 the final report; is that right?

25 A. Correct.

26  
27 Q. You've got a general, if I remember your Act, you've  
28 got a general immunity in your Act for your role and those  
29 carrying out functions connected with their role in your  
30 office; is that right?

31 A. Yes, that is correct.

32  
33 Q. And that doesn't depend upon the tabling of the  
34 report?

35 A. No. But there are certain other provision within the  
36 Act that relate to confidentiality, so we need to be  
37 mindful of those as well.

38  
39 Q. What are the restrictions on you sharing information  
40 obtained in the course of your investigations before you've  
41 tabled to Parliament?

42 A. There are certain provisions and I haven't got the  
43 exact provisions directly in front of me, I think it's  
44 section 46 of the Audit Act I think from memory, but  
45 essentially information gathered by employees of the  
46 Tasmanian Audit Office or other audit providers that we've  
47 engaged to assist in undertaking an audit, they have to

1 respect the confidentiality of that particular material and  
2 only use it in connection with the performance of the  
3 audit. There are provisions within that confidentiality  
4 clause that do give me the ability to share information  
5 where I determine it's in the public interest to do so.

6  
7 Q. I wanted to ask you about information sharing. So, if  
8 you're finding something in the course of your audits which  
9 is systems focused; is that a fair summary, it's a systems  
10 focused audit?

11 A. Yes, but not always systems focused audits, yes.

12  
13 Q. If you find something that you feel needs to go  
14 police, how does that work?

15 A. Look, if I found something that related to a criminal  
16 matter then I certainly would go to the police and raise it  
17 with them, and an example would be in the conduct of a  
18 financial audit, if we found instances of where a fraud  
19 might have been committed then certainly we would refer  
20 that matter to the Tasmanian Police.

21  
22 Q. And that's not something you need a memorandum of  
23 understanding about, it's simply part of your role?

24 A. Correct.

25  
26 Q. Would the same be true of your communications with  
27 other integrity bodies?

28 A. Look, yes, if we found something relating to serious  
29 misconduct for example, that would be something we would  
30 raise with the Integrity Commission and they would make  
31 then an assessment whether that's something that they would  
32 investigate.

33  
34 Q. What about in the context of the Department of  
35 Education, or would you share information with the Teachers  
36 Registration Board?

37 A. Probably haven't been any circumstances where we've  
38 needed to do that in the context of the audits that we've  
39 undertaken.

40  
41 Q. Are there any barriers to you doing that?

42 A. Look, again, there is that provision within the  
43 clause that if I felt it was appropriate to make  
44 information available to someone, then I've got that  
45 ability to do that.

46  
47 Q. A number of broad discretions in that Act?

1 A. Yes, correct.

2

3 Q. The same would then go for other regulators that you  
4 felt were appropriate to receive that information?

5 A. Correct.

6

7 Q. That would include the Working With Vulnerable People  
8 Check units?

9 A. It would be. If we were doing an audit that involved  
10 children, for example, and we had concerns about the safety  
11 of children, then there would be that ability to refer  
12 something through to the advice Advice & Referral Line, for  
13 example.

14

15 Q. I'm interested that you mentioned the Advice  
16 & Referral Line. Now, that's an area that you're  
17 undertaking an audit about presently; is that right?

18 A. That is correct.

19

20 Q. Commissioners, we won't interfere with the  
21 Auditor-General's work in that respect, I just note it.  
22 Mr Whitehead, we'd like to extend the invitation to discuss  
23 with us your findings when you've completed that audit. Is  
24 that something you'd be open to?

25 A. Yes, I'd be very happy to do that.

26

27 Q. Thank you. I wanted to ask you about, go back to your  
28 hospitals report from 2018/19 and that's the performance of  
29 Tasmania's four major hospitals in the delivery of  
30 emergency department services; I want to take a moment to  
31 read an extract from that report. Now, it's an extract of  
32 an extract.

33

34 So, in that report you extracted some words from a  
35 2014 report by The Commission on Delivery of Health  
36 Services in Tasmania and it says, and it's quoted here:

37

38 *"The influence of local political interests*  
39 *on health system decisions has been a*  
40 *consistent source of frustration. Reforms,*  
41 *particularly with regard to overarching*  
42 *issues of governance, cannot be enacted*  
43 *where opportunistic political interference*  
44 *can intrude into the reform process.*

45

46 *Healthcare is a political issue but*  
47 *political concerns must not interfere with*

1           the implementation of reforms once those  
2           reforms have been accepted at a government  
3           level.

4  
5           There can be no effective governance and  
6           therefore no genuine and sustainable reform  
7           if clinicians or administrators believe  
8           that they can circumvent or redirect reform  
9           by making use of political connections and  
10          short-term political tactics. Such tactics  
11          are a product of a culture in which too  
12          many decisions are made on the basis of  
13          what is politically convenient and one  
14          where self-interest is placed before the  
15          interests of patients".

16  
17          Now, does that reflect, to the extent that your work  
18          has covered areas that intersect with those observations,  
19          can you tell the Commissioners your reflections on them?

20        A.    Look, that particular extract there was in reference  
21        to a review that had been undertaken in respect of the  
22        Tasmanian Health Service. I think we raised or included  
23        that excerpt within the report in the context of the way in  
24        which the Tasmanian Health Services had implemented  
25        recommendations arising from previous reports, but also it  
26        touches on the culture within the Tasmanian Health Service  
27        in terms of its ability to effectively implement  
28        recommendations and reform more broadly within the hospital  
29        system.

30  
31        Q.    Is that something that's come up for you in your work?

32        A.    It certainly did in the context of that particular  
33        audit because it was evident to us that there had been a  
34        number of reviews, specifically - and the scope of that  
35        audit was looking at emergency departments within the  
36        Tasmanian major hospitals - there'd been a number of  
37        previous reviews raising a number of recommendations for  
38        implementation and it was evident to us that a lot of those  
39        recommendations had not been implemented.

40  
41        Q.    Do you agree with the proposition that political  
42        interference is going to be harmful to the development of a  
43        positive culture of compliance and integrity?

44        A.    Look, the extract there did make reference to  
45        "political interference", I don't think our report actually  
46        makes a statement along those lines, but obviously the  
47        Minister does have responsibility for decisions relating to

1 the health service. Again, we make no comment within that  
2 particular report about decisions made by the Minister --

3  
4 Q. Sorry I've misspoke, I meant to your office, to your  
5 role; it requires independence to carry out properly,  
6 doesn't it?

7 A. Yes, it does, yes.

8  
9 Q. And as I understand your evidence, you consider you  
10 have that independence?

11 A. Yes, I certainly do, yes.

12  
13 MS BENNETT: Thank you. Commissioners, those are the  
14 matters that I wanted to cover with the Auditor-General  
15 today.

16  
17 PRESIDENT NEAVE: Thank you, Ms Bennett.

18  
19 COMMISSIONER BROMFIELD: Q. Mr Whitehead, thank you for  
20 your evidence today. I just wanted to bring you back to  
21 the report you did on the special care packages in  
22 Out-of-Home Care. This Commission this week has heard  
23 evidence from Professor Donald Palmer about total  
24 institutions; other witnesses have also told us about total  
25 or closed institutions.

26  
27 I note that that evidence that we heard wasn't new  
28 evidence, it was also heard by the National Royal  
29 Commission which was drawing to its end of five years in  
30 2017 when you were looking at the special care packages.

31  
32 I just was wondering, when you were looking at the  
33 policies around Out-of-Home Care oversight, whether there  
34 was consideration about the additional risks of closed  
35 institutions and what monitoring might be required?

36 A. Okay. Perhaps for my clarification, the definition of  
37 "closed institutions"?

38  
39 Q. A closed institution refers to an institution where it  
40 is closed to public scrutiny, so there's limited community  
41 incidental engagement with that institution; in the past  
42 those institutions were often isolated geographically or  
43 physically in terms of walls, or by policy. So, for  
44 example, Youth Detention centres where you have to have  
45 special permission to access the site, people can't just  
46 walk into the site; those are kind of some of the key  
47 features, there's some cultural features as well in terms

1 of the relationship between the people running the  
2 institution and the people in it, for example, carers and  
3 children, that they are in some way going to be changing or  
4 transforming those residents of the institution.

5 A. Okay. I think in the context of our audit that we  
6 looked at or examination at that particular point of time  
7 the Out-of-Home Care special care packages were being  
8 administered by non-government organisations, so there's  
9 probably questions there about the level of scrutiny that  
10 applies and even questions about my ability to actually  
11 scrutinise those types of entities who are delivering  
12 services on behalf of the government.

13  
14 Now, my interpretation is that my Act does give me  
15 that ability to actually scrutinise entities that are  
16 delivering performing services on behalf of the government,  
17 so we do have the ability to actually look at the  
18 activities of those particular organisations.

19  
20 But the question also comes down to the - any that's  
21 engaging those types of organisations, the way in which  
22 they engage them, the way in which they monitor the  
23 performance of those particular entities and the nature of  
24 the relationship in terms of how they've engaged them.

25  
26 I think in the community services space there was a  
27 view in some cases where grants were provided that, as long  
28 as they met the conditions of the grant agreement or the  
29 acquittal arrangements then that was sufficient, as opposed  
30 to a contract for service where there's perhaps more  
31 intensive monitoring of what that organisation is doing on  
32 behalf of the government department or agency.

33  
34 COMMISSIONER BROMFIELD: Thank you.

35  
36 PRESIDENT NEAVE: Sorry, can I just clarify that? So, in  
37 the context of grant - do you take the view that your role  
38 enables you to look at provision of grants to a  
39 non-government organisation to provide a service as opposed  
40 to a contractual relationship?

41 A. Probably both. So, we believe that we've got the  
42 ability to look at how public money and public property is  
43 being used not only by state entities but entities that  
44 have been provided with public money and property to  
45 provide services on behalf of the government.

46  
47 Q. So that might include, for example, scrutinising the

1 terms of a contract entered into between a government  
2 department and a provider of services?  
3 A. It certainly would include that type of arrangement,  
4 yes.

5  
6 Q. And if it's a grant then your view is that your Act  
7 doesn't allow you --  
8 A. No, we can look at the grant but I'm talking about the  
9 actual activities of the third party entity itself.

10  
11 PRESIDENT NEAVE: Thank you, I understand, thank you.  
12 Thank you very much, that was very helpful.

13  
14 MS BENNETT: If this witness could be excused, the next  
15 witness will be taken by Ms Darcey and I'll accede the  
16 lectern to her. Thank you.

17  
18 PRESIDENT NEAVE: Thank you, Ms Darcey.

19  
20 MS DARCEY: Yes, our next session today is a panel of two  
21 members from the Tasmanian Council of Social Services Inc,  
22 or TasCOSS for short, and I believe the witnesses are  
23 Dr Charlie Burton and Ms Adrienne Picone are in the witness  
24 room, if they can be called, thank you. Both witnesses  
25 will take an affirmation.

26  
27 <ADRIENNE ELIZABETH PICONE, affirmed: [12.27pm]

28  
29 <CHARLIE ARTHUR BURTON, affirmed and examined:

30  
31 <EXAMINATION BY MS DARCEY:

32  
33 MS DARCEY: Q. Thank you very much. If I could start  
34 with you, Ms Picone, could you tell the Commissioners  
35 please your full name.

36  
37 MS PICONE: Yep, my name's Adrienne Elizabeth Picone.

38  
39 MS DARCEY: And your current occupation.

40  
41 MS PICONE: I'm currently employed as the CEO of the  
42 Tasmanian Council of Social Service, TasCOSS.

43  
44 MS DARCEY: Is it the case that you provided a statement  
45 dated 12 April 2022 for the assistance of the Commission?

46  
47 MS PICONE: That's correct.



1  
2 MS DARCEY: That can be found at tab 15 of your hearing  
3 bundle, index C, Part 2. Do you have a copy of that  
4 statement in front of you?

5  
6 MS PICONE: I do, yes.

7  
8 MS DARCEY: Are you satisfied that the contents of that  
9 document is true and correct?

10  
11 MS PICONE: Yes, I am.

12  
13 MS DARCEY: In that statement at paragraphs 5 to 7 you  
14 outline your qualifications and professional background.  
15 Would you please provide us with some detail?

16  
17 MS PICONE: Sure. Yes, I trained as an early childhood  
18 teacher and, from that, I became involved and worked in a  
19 number of early intervention programs, so working with  
20 families and young children, and then from there moved to  
21 Volunteering Tasmania where I was the State Services  
22 Manager and then later the CEO, so I was with that  
23 organisation about nine years. And then, from that, I  
24 moved to Canberra as the CEO of Volunteering Australia for  
25 three and a half years and then moved back to Hobart in the  
26 beginning of 2020 to take up the position of CEO of  
27 TasCOSS.

28  
29 MS DARCEY: Thank you. Dr Burton, would you please tell  
30 the Commissioners your full name?

31  
32 DR BURTON: Charlie Arthur Burton.

33  
34 MS DARCEY: Thank you. And your current occupation?

35  
36 DR BURTON: I'm the policy manager at TasCOSS.

37  
38 MS DARCEY: Dr Burton, you've made a statement also dated  
39 12 April 2022 to assist the work of the Commission, is that  
40 correct?

41  
42 DR BURTON: Yes.

43  
44 MS DARCEY: You have a copy of that statement with you?

45  
46 DR BURTON: I do.

47

1 MS DARCEY: I understand that there are two small  
2 amendments to be made to the statement at paragraphs,  
3 firstly, 21, if we could deal with that first.

4  
5 So, paragraph 21, at the top of page 5, after the  
6 words "and evaluate" could we insert a further sentence  
7 which says:

8  
9 *... up until the Tasmanian Government's*  
10 *Fourth Annual Progress Report insufficient*  
11 *details were provided to assess the*  
12 *Government's responses against the National*  
13 *Royal Commission recommendations.*

14  
15 And the balance of that paragraph can be deleted.

16  
17 PRESIDENT NEAVE: I'm sorry, what was deleted, Ms Darcey?

18  
19 MS DARCEY: So, after the word "and evaluate" as the  
20 paragraph currently reads, everything after that point can  
21 be deleted.

22  
23 PRESIDENT NEAVE: Thank you.

24  
25 MS DARCEY: This statement was created prior to the fourth  
26 annual report and action plan becoming available.

27  
28 PRESIDENT NEAVE: Thank you.

29  
30 MS DARCEY: A related amendment also to paragraph 23.  
31 That paragraph currently reads:

32  
33 *In TasCOSS's submission to this Commission*  
34 *we recommended that the government's*  
35 *reporting on progress on the National Royal*  
36 *Commission's recommendation ...*

37  
38 And after that point we can delete sub-paragraphs (a),  
39 (b) and (c) and insert the words:

40  
41 *... continue with the level of detail*  
42 *provided in the fourth progress report.*

43  
44 Again, simply reflecting the content of the most  
45 recent government report.

46  
47 With those amendments made, are you satisfied,

1 Dr Burton, that the contents of your statement is true and  
2 correct?

3  
4 DR BURTON: I am.

5  
6 MS DARCEY: Thank you. Dr Burton, as part of your  
7 statement you attach as Exhibit 2 a copy of your curriculum  
8 vitae which, Commissioners, is found at Part 2.2 of your  
9 hearing bundle. Are you able, please, just to briefly  
10 outline to the Commission your qualifications and  
11 background?

12  
13 DR BURTON: Yes. I have been at TasCOSS for almost five  
14 years now, initially starting as a policy officer and for  
15 the last four years in the role of manager of policy.  
16 Prior to that, going way back, a degree,  
17 undergraduate degree in politics and a PhD in politics and  
18 international relations, and since that time over the last  
19 20 years or so I've been employed in research and policy  
20 roles mainly, including in the research service in Canberra  
21 on social policy work and other roles in Sydney and  
22 Tasmania.

23  
24 MS DARCEY: Thank you. Ms Picone, in your statement you  
25 adopt the content of relevant paragraphs of Dr Burton's  
26 statement; is that correct?

27  
28 MS PICONE: That's correct, yes.

29  
30 MS DARCEY: Ms Picone, in Dr Burton's statement he  
31 provides some background with respect to TasCOSS; would you  
32 be able to expand on that, please, for the Commission?

33  
34 MS PICONE: Yes. TasCOSS is a not-for-profit  
35 organisation, it was established in 1961. Our role is to  
36 change and challenge the systems and attitudes that create  
37 poverty, disadvantage and exclusion, and we work in sort of  
38 two key ways: the first one is that we represent community  
39 service organisations, but we also work very much with  
40 individuals and represent the needs and the issues that  
41 pertain to poverty, disadvantage and exclusion.

42  
43 So, we don't do direct service delivery within the  
44 community services industry but what we do do is policy  
45 development, advocacy, we work with the media to raise the  
46 issues around poverty and some of the solutions. We also  
47 do community services development, so we work a lot with

1 the community services industry, developing resources, we  
 2 provide workshops and webinars to actually increase the  
 3 skills and the resources within the industry.  
 4

5 We are very much a member-based organisation, so we  
 6 have 241 members across Tasmania; of that, 73 are  
 7 individuals with particular interests in social justice,  
 8 and 168 are organisational members, and those members cut  
 9 across, right across the community services industry, so  
 10 within disability, aged care, family support, housing and  
 11 homelessness, mental health et cetera, and of course we  
 12 have a number of members who work in the family violence  
 13 and child abuse space.  
 14

15 MS DARCEY: Thank you. So, would it be true to say that  
 16 your members are in the business of providing a whole range  
 17 of services to children and young people and, as such, they  
 18 have a significant interest in the recommendations of the  
 19 National Royal Commission that were made back in December  
 20 2017 and also the Tasmanian State Government's response to  
 21 those recommendations?  
 22

23 MS PICONE: Yes, that would be true to say.  
 24

25 MS DARCEY: Thank you. Can you please tell us a little  
 26 bit about the Tasmanian context in which TasCOSS operates  
 27 and the National Royal Commission recommendations that are  
 28 to be considered within?  
 29

30 MS PICONE: Yes, I think we didn't highlight this as much  
 31 in our submission, but we really would like to focus a  
 32 little bit on the context that we find ourselves here in  
 33 Tasmania. We really have got entrenched intergenerational  
 34 poverty here in Tasmania and we really, in terms of risk  
 35 factors we don't - we have some very low factors in that  
 36 area, so we're talking about social economic disadvantage,  
 37 housing stress, neighbourhood disadvantage, physical and  
 38 mental health issues and poverty for example.  
 39

40 So we thought we'd give you a bit of an idea about  
 41 some of the issues that Tasmanians are facing, particularly  
 42 those who are really experiencing disadvantage and poverty.  
 43 So, in Tasmania the number of Tasmanians that are living in  
 44 poverty, it's estimated to be around 66,500 Tasmanians that  
 45 are estimated to be living in poverty. The number of  
 46 Tasmanians living on an inadequate income, so that's around  
 47 117,000 Tasmanians, so we have a significant number of

1 Tasmanians that are really struggling.

2  
3 Our unemployment rate - or as we know nationally our  
4 unemployment rate is sitting at around 4 per cent but here  
5 in Tasmania we have higher levels of unemployment than the  
6 rest of the country, so it's around 4.5 per cent. Also our  
7 incomes are the lowest in the country as well and that's  
8 traditionally been the case. That has been, you know,  
9 offset historically here in Tasmania because we've actually  
10 also had low cost of living and low house prices, but as  
11 I'm sure the Commissioners are aware, our house prices have  
12 risen exponentially over the last sort of two or three  
13 years to the point where it's really pricing many  
14 Tasmanians out of the market, so people are really  
15 struggling just to put a roof over their heads.

16  
17 The rental affordability index, and that's something  
18 that we often don't talk as much about is rental, but  
19 again, it is very difficult for people to find a rental  
20 property, and so what the recent rental affordability index  
21 found was that, of the 714 properties listed for rent  
22 statewide in Tasmania in March, only two were affordable  
23 for a single person on JobSeeker and only four were  
24 affordable for a family with both parents on JobSeeker, so  
25 it's really extreme. We also have about four and a half  
26 thousand Tasmanians on the social housing waiting list and  
27 they're waiting in excess of a year just to get a home, and  
28 what that of course means is that people then get forced to  
29 live in untenable situations, big families get squeezed  
30 into a two bedroom home, they live in tents or live in cars  
31 just to be able to put something over their heads.

32  
33 So, I guess it's really important for us to understand  
34 the levels of disadvantage that we're experiencing, of  
35 course that's offset by a number of opportunities that we  
36 have here in Tasmania as well, but we also do have a lot of  
37 challenges and I think that really does compound in terms  
38 of some of the risk factors.

39  
40 COMMISSIONER BENJAMIN: Q. So, just so it's clear to me,  
41 you're saying about 66,500 Tasmanians live in poverty?

42  
43 MS PICONE: Yes.

44  
45 Q. About 117,000 live in strained financial  
46 circumstances, and that represents about 45 per cent of the  
47 population; is that about right?

1  
2 MS PICONE: That's correct, yes. Yes.

3  
4 COMMISSIONER BENJAMIN: Thank you.

5  
6 MS DARCEY: Yes, thank you. Dr Burton, as part of your  
7 statement you attach as a first exhibit a copy of  
8 submissions made to this inquiry by TasCOSS in July 2021;  
9 is that correct?

10  
11 DR BURTON: That's right.

12  
13 MS DARCEY: Thank you, and Ms Picone, you signed off on  
14 those submissions in your capacity as CEO of TasCOSS, but  
15 is it fair to say that both you and Dr Burton and other  
16 members of the team have contributed to the production of  
17 those submissions?

18  
19 MS PICONE: That's correct, yes.

20  
21 MS DARCEY: Thank you. Dr Burton, there are seven  
22 recommendations that have been made in those submissions  
23 which the Commissioners will be able to read and consider  
24 as part of your statement. It's apparent that as part of  
25 your role you've been reviewing and keeping up with the  
26 Tasmanian Government's annual progress reports and action  
27 plans as they've been released. Have you been able to  
28 glean from the government's fourth action plan, or from any  
29 other place for that matter, whether there's any  
30 implementation plan or timing for the development and  
31 introduction of the Child Youth Safe Organisations  
32 framework?

33  
34 DR BURTON: One of the issues that we have and that our  
35 members are raising with us regularly, is the lack of  
36 implementation timeframes and targets, if you like, around  
37 when some of the recommendations and Tasmanian Government  
38 commitments will be introduced by.

39  
40 One example is standards for Out-of-Home Care which  
41 the Tasmanian Government has been promising essentially to  
42 be introduced. I think the latest annual progress report  
43 says that it aims to have those released in early 2022.  
44 So, I think that's just under two months to go before it  
45 becomes the second half of 2022, so there is concern  
46 amongst our members around the timeliness of the  
47 government's responses in many areas.

1  
2 MS DARCEY: Thank you. Would you agree that one of the  
3 planks of the Child Youth Safe organisation framework is  
4 the proposed Child Safe Organisation legislation, and in  
5 particular the draft bill, the Child Safe Organisations  
6 Bill?

7  
8 DR BURTON: Yes.  
9

10 MS DARCEY: Thank you. As part of your statement you  
11 attach as Exhibit 3 a copy of submissions made to the  
12 Tasmanian Government during the consultation phase of the  
13 Child Safe Organisation Bill by TasCOSS?  
14

15 DR BURTON: (Nods.)  
16

17 MS DARCEY: Thank you, and again, Ms Picone, you signed  
18 off on that document that it was a team effort?  
19

20 MS PICONE: Correct, yes.  
21

22 MS DARCEY: Dr Burton, as far as you know, what is the  
23 status of that legislation? Has there been any progress  
24 that you are aware of since TasCOSS made its submissions  
25 in February 2021?  
26

27 DR BURTON: There's no official status on where that draft  
28 bill now is. The government has acknowledged receiving a  
29 number of submissions and TasCOSS as well as many of our  
30 other members who made submissions on that draft bill are  
31 looking forward to seeing the amended version and are  
32 hoping that many of the shared concerns will be adopted by  
33 the government.  
34

35 And, if I may just explain one core concern with that  
36 bill? The Child Safe Organisations Bill included  
37 standards, child safe standards for organisations. As you  
38 no doubt - or as you are aware, the Royal Commission, there  
39 are national Child Safe Standards that have been drafted  
40 entirely to ensure that there are nationally consistent  
41 standards on this. For reasons that are not clear to us  
42 the government included standards in its Child Safe  
43 Organisations Bill that were quite different to the  
44 National Standards: there were five instead of ten, some  
45 were re-worded, some were merged, and a couple of them went  
46 into the implementation issue, including talking about  
47 codes of conduct, rather than sticking to principles.

1  
2           So, no-one's entirely sure why that occurred and, you  
3 know, speculation, it's either possibly incompetence in  
4 drafting or some other reason why the government did not  
5 want to hold itself to the National Standards.

6  
7       PRESIDENT NEAVE:    I have a question about that.  
8 Presumably in that process of consultation there would have  
9 been some discussion about what the government was  
10 intending to do or not proposing to do; did that give you  
11 any insights into why some of those issues were not going  
12 to be pursued in the Tasmanian legislation?

13  
14       DR BURTON:       No.

15  
16       PRESIDENT NEAVE:    So, the draft appeared, you were  
17 consulted, nothing else has happened since then?

18  
19       DR BURTON:       That's right.

20  
21       PRESIDENT NEAVE:    Thank you.

22  
23       MS DARCEY:       Dr Burton, are you able to explain the  
24 consultation process? Was it simply a matter of written  
25 submissions or was there any direct face-to-face  
26 consultation that occurred?

27  
28       DR BURTON:       As part of the responses to the Royal  
29 Commission as well as the ongoing Strong Families, Safe  
30 Kids redesign there have been ongoing consultations really  
31 between the government and our sector and other interested  
32 stakeholders. So, it's not always easy to differentiate -  
33 while there was a formal consultation on the bill that  
34 involved written submissions, but at various roundtables  
35 and other consultation opportunities on Royal Commission  
36 responses and the Strong Family Safe Kids redesign we  
37 have - TasCOSS and our members have had many opportunities  
38 to advance to the government what we believe should be part  
39 of a framework around keeping children safe.

40  
41       COMMISSIONER BROMFIELD:   Just to be clear, what you put  
42 forward was that that framework should be based on the 10  
43 National Principles?

44  
45       DR BURTON:       That's right.

46  
47       COMMISSIONER BROMFIELD:   Thank you.



1  
2 MS DARCEY: In relation to Recommendation 4 of TasCOSS's  
3 submissions in relation to the Child Safe Organisation  
4 Bill, that was a recommendation that either the bill or a  
5 separate piece of legislation provided for the  
6 establishment of a properly resourced independent oversight  
7 body. Are you able to expand on that point and provide the  
8 Commissioners with an understanding of what you think the  
9 creation of such a body might look like?

10  
11 DR BURTON: Sure, thanks, well, in terms of what the body  
12 should look like I'm absolutely taking the lead from the  
13 Royal Commission itself, and that's in Recommendation 6.11  
14 and there are five elements to a robust oversight body that  
15 the Royal Commission recommended.

16  
17 Going from the latest information that the government  
18 has provided through its Fourth Annual Progress Report, it  
19 doesn't look like it intends to adopt the robust approach  
20 that the Royal Commission recommends. So, obviously we'll  
21 give the benefit of the doubt, we haven't yet seen any  
22 draft bill or had discussions around what an oversight body  
23 would look like yet, but I suppose this does go to an issue  
24 that our members have been concerned about, not only with  
25 the timeliness of the government's responses, but whether  
26 the government is approaching some of the recommendations  
27 with a tick box exercise, if you like, rather than fully  
28 complying with the intent of the Royal Commission.

29  
30 MS DARCEY: Yes, thank you. And, Dr Burton, apart from  
31 this focus in relation to the overarching Child Youth Safe  
32 organisation framework which we've been discussing, I  
33 understand that TasCOSS also has some particular concerns  
34 that are being filtered up from the membership about the  
35 implementation of certain Child Safety system initiatives.  
36 And I note that was the subject of TasCOSS's submission to  
37 this inquiry also.

38  
39 Just a couple of questions in relation to that. Well,  
40 really, what are the concerns that your members are  
41 bringing to you?

42  
43 DR BURTON: Our members, including those who work in the  
44 Out-of-Home Care sector, have regular interaction with  
45 Child Safety and the department that oversees the Child  
46 Safety workers and workforce, and there are two main  
47 concerns there: one is workload, so Child Safety workers

1 being very overloaded and over-stretched, and so, their  
2 responses to issues of concern are maybe not always as  
3 timely as they should be.

4  
5 And also, workforce issues around training, staff  
6 turnover, recruitment and retention. And I do note that  
7 it's not just our members, there was a 2020 Coroner's  
8 report into six infant deaths and one child death that made  
9 these points as well.

10  
11 Our members observe, and again, this is reiterated in  
12 the Coroner's report and in the 2021 Department of  
13 Education report into responses to child sexual abuse, that  
14 a combination of lack of staff training and high workloads  
15 means that there's a very high threshold for reporting and  
16 responding to abuse.

17  
18 A researcher who until recently worked at Social  
19 Action Research Centre at Anglicare has done a lot of work  
20 in the area of responses to unaccompanied homeless  
21 children, Dr Catherine Robinson; her observation is that  
22 the threshold for action or removal is being raped by a  
23 parent.

24  
25 PRESIDENT NEAVE: Sorry, I just didn't catch what you said  
26 then?

27  
28 DR BURTON: Threshold for action or removal of a child is  
29 that child being raped by a parent. That most of - we  
30 would all agree that that threshold is just too high.

31  
32 MS DARCEY: Dr Burton, given what you've just said, how  
33 ready to you think your member organisations are to  
34 implement Child Safe Standards and perhaps participate in a  
35 Reportable Conduct Scheme?

36  
37 DR BURTON: They're more than ready, many of them have  
38 already introduced, they have their own codes of conduct,  
39 Out-of-Home Care providers have drafted - or are working to  
40 their own standards of care. They're begging the  
41 government to give them more guidance on this and to have  
42 consistency across the system.

43  
44 They also are very willing and keen to work under a  
45 broad framework that includes a Reportable Conduct Scheme.  
46 There are concerns around the costs of compliance.  
47 Accreditation, for example, for Out-of-Home Care is

1 expensive, so introducing a robust scheme like this will  
2 involve costs and those costs will need to largely be borne  
3 by the government, but I think in terms of the other costs  
4 that we know that cascade through the system when children  
5 and families are not being supported, it should pale in  
6 comparison.

7  
8 MS DARCEY: Thank you. Are there any other specific  
9 actions that you think might be pursued in relation to  
10 Child Protection and in the Out-of-Home Care space? I'm  
11 looking particularly at paragraph 42 of your statement.

12  
13 DR BURTON: Yeah, so we've already mentioned the need for  
14 standards for Out-of-Home Care, accreditation for  
15 Out-of-Home Care providers, and also a carer's register  
16 that isn't simply a list of names but there is some  
17 oversight and training and accountabilities involved.

18  
19 MS DARCEY: Thank you. I might direct this question to  
20 you, Ms Picone, and I am referencing paragraphs 45 to 47 of  
21 Dr Burton's statement here. In terms of primary prevention  
22 strategies, are any of your members undertaking work in  
23 that space?

24  
25 MS PICONE: Yeah, I think this is really important to  
26 highlight, that there's actually some really excellent  
27 programs out there that have been tried and tested and are  
28 really working and are being developed in consultation with  
29 service users and organisations, and there's a couple that  
30 I would just like to highlight: one is a program that's run  
31 by the Sexual Assault Support Service that's run in  
32 schools, and that's specifically for children but also for  
33 carers, for parents and for guardians and also school  
34 staff. And really, it's about addressing harmful  
35 behaviours and attitudes, but also promoting healthy and  
36 respectful ways of interacting, so it's really highlighting  
37 some of the factors.

38  
39 Then there's another program called Consent Sex and  
40 Respect that's run by Laurel House and that's in the north  
41 and northwest and that's targeting high school students and  
42 talks about consent, respectful relationships and the law  
43 but also healthy and unhealthy relationships, violence and  
44 online safety. There's also another program that's run  
45 with Women's Legal and Laurel House in partnership.

46  
47 MS DARCEY: Yes, thank you. I just have one final

question, I'm not sure who might like to answer it. There was a review undertaken by Dr Ian Watt in July 2021 of the State Service. Recommendation 5 is that the government task some or all heads of agency collectively with addressing a small number of whole-of-government or across-government priorities that require a collaborative approach to facilitate better delivery of outcomes.

Do you think that this is something - or a model that would be appropriate to deal with the issue of child sexual abuse in the Tasmanian context?

MS PICONE: I think this recommendation goes to the heart of this issue. You know, I think really we need to see child safety and wellbeing being, not just the government's priorities but all of our priorities and, if children aren't our priority, then who are? You know, we're the adults here that should be the ones that are making sure that children are safe.

I think we need to acknowledge that, you know, no one program or service, no one piece of legislation is going to fix all the problems, but each of us really I think can make a contribution towards this and it's incumbent on all of us that we build a better system for the children that have been let down in many ways by the systems and the adults that should be supporting them.

MS DARCEY: Dr Burton, do you have anything to add?

DR BURTON: No, fully agree with that.

MS DARCEY: That's great, I'll leave you in the hands of the Commissioners if there are any further questions.

COMMISSIONER BENJAMIN: Just one question, or a couple of questions, sorry. I've read somewhere that Tasmania's functional illiteracy rate runs between 40 and 50 per cent. Is that something you understood, Dr Burton?

DR BURTON: Yeah, that's based on - it's almost a decade old now, but that's based on international research, and the figure was about 48 per cent, so one in two Tasmanians.

COMMISSIONER BENJAMIN: And that collates roughly with the levels of poverty and financial stress that you told me about or told us about, Ms Picone, earlier on. Those

1 combinations must create significant or substantial  
2 challenges, just not to government, but to non-government  
3 organisations as well?  
4

5 MS PICONE: Absolutely, because you've got people  
6 experiencing multiple vulnerabilities needing to access a  
7 range of services, yeah.  
8

9 COMMISSIONER BENJAMIN: Thank you.  
10

11 DR BURTON: And I'd just add to that as well, it's  
12 becoming exacerbated with high levels of digital exclusion  
13 in Tasmania, so it's not just literacy around language and  
14 numbers, but digital literacy involving access to the  
15 internet and digital skills with so many government and  
16 other services going online, many Tasmanians struggle to  
17 get the help that they need.  
18

19 COMMISSIONER BENJAMIN: So, is what you're saying, that  
20 with those high levels and the switch by government and  
21 non-government agencies to online access, it creates a  
22 whole new level of lack of information for significant  
23 parts of the Tasmanian community?  
24

25 DR BURTON: Correct.  
26

27 MS PICONE: Yes, lack of information but also lack of  
28 access. So, what we say is that 65,000 Tasmanians are not  
29 able to access services online. What we saw during COVID  
30 of course, and these things could happen again, was that  
31 many service providers delivered their service online. So,  
32 not only were people not able to pay their bills, but they  
33 weren't able to, you know, see their counsellor or see  
34 their service provider.  
35

36 COMMISSIONER BENJAMIN: And I guess then those people with  
37 limited resources don't have mobile telephones with their  
38 vaccination status or any of those aspects which many of us  
39 use on a daily basis?  
40

41 MS PICONE: Correct, yes.  
42

43 PRESIDENT NEAVE: Did you say 65,000?  
44

45 MS PICONE: 65,000.  
46

47 COMMISSIONER BENJAMIN: I think it was 65,500, you said

1 live in poverty; is that right?

2

3 MS PICONE: That's correct.

4

5 COMMISSIONER BENJAMIN: And 177,000 - 117,000.

6

7 COMMISSIONER BROMFIELD: 66,500 and 117,000.

8

9 COMMISSIONER BENJAMIN: And that totals 243,500.

10

11 DR BURTON: I will just clarify that. The poverty figures  
12 that we use are based on, we define living in poverty as  
13 being on 50 per cent - the threshold of 50 per cent the  
14 median household income; living on an inadequate income is  
15 60 per cent of the median household disposal income, so  
16 combined it's almost 120,000 people living in poverty or on  
17 an inadequate income.

18

19 COMMISSIONER BENJAMIN: So, my mathematics are incorrect  
20 in that I've added the two together, but the 117 is a  
21 cumulative figure?

22

23 DR BURTON: Correct.

24

25 COMMISSIONER BROMFIELD: That's a very helpful  
26 clarification, thank you. Was that your questions?

27

28 I wanted to come back to your comment that, while the  
29 community service sector were kind of ready and willing to  
30 implement the National Standards for Child Safety and a  
31 Reportable Conduct Scheme, you had some concerns about the  
32 cost of compliance. I wondered if you had any views about  
33 what would help with compliance?

34

35 DR BURTON: So, going back to the Royal Commission  
36 recommendations around the oversight body, for example, and  
37 we know this is being implemented really quite successfully  
38 in Victoria; that the oversight body also has a role in  
39 educating and capacity building amongst the organisations  
40 that fall under the Child Safe Standards, so that's very  
41 well resourced and that's been operating for a little while  
42 now, long enough for Tasmania to be able to look to  
43 Victoria, learn some useful lessons around where the  
44 resourcing is needed and where the gaps are and, yeah, we'd  
45 really encourage the Tasmanian Government to be looking to  
46 that model and not re-inventing the wheel.

47

1 COMMISSIONER BROMFIELD: Thank you, and just a second  
2 question, I just got a little bit confused. Is there  
3 currently an Out-of-Home Care accreditation process? You  
4 mentioned it's costly?

5  
6 DR BURTON: Some Out-of-Home Care providers undertake off  
7 their own bat, if you like, accreditation, but it's not  
8 mandated by the government.

9  
10 COMMISSIONER BROMFIELD: And that is accreditation for  
11 Child Safe Organisations, not accreditation as an  
12 Out-of-Home Care provider then?

13  
14 DR BURTON: No, as an Out-of-Home Care provider, whether  
15 or not Child Safe Standards are included in those - as an  
16 aspect of that accreditation, I can't say.

17  
18 COMMISSIONER BROMFIELD: Is it your view that Out-of-Home  
19 Care accreditation is something that should be in place  
20 across all providers?

21  
22 DR BURTON: Our members would like that, they know then  
23 that they have clear standards, clear expectations, and  
24 consistently cross the jurisdiction they're being held to  
25 the same account.

26  
27 COMMISSIONER BROMFIELD: Following on from that then, if  
28 there were Out-of-Home Care accreditation standards and  
29 Child Safe Organisation accreditation standards, I assume  
30 that your members would be better to line up the  
31 accreditation process for both to avoid duplication of  
32 administration?

33  
34 DR BURTON: Yes.

35  
36 COMMISSIONER BROMFIELD: That's all my questions, thank  
37 you.

38  
39 PRESIDENT NEAVE: Thank you very much indeed, that's been  
40 very helpful, and we will now take a break.

41  
42 **LUNCHEON ADJOURNMENT**

43  
44 MS BENNETT: Commissioners, this afternoon we're going to  
45 hear more of the integrity ecosystem that started with this  
46 morning's Auditor-General session. Before I call the three  
47 witnesses who will form this afternoon's panel, I'd just

1 like to put in context the purpose of this panel. It is to  
2 complete the picture of this ecosystem and to understand  
3 the structure, purpose and effect of the integrity system  
4 in Tasmania.

5  
6 As has been the case with other witnesses that the  
7 Commissioners have heard from, we expect that in subsequent  
8 weeks we will speak to some or all of the individuals now  
9 called about specific examples or specific issues about  
10 which this Commission hears. Today, however, is more about  
11 those high level matters and, to the extent that we need to  
12 go into anything more detailed, it will do so most likely  
13 into future weeks.

14  
15 With that brief overview, Commissioners, I'd like to  
16 ask that Commissioner McLean; the Ombudsman, Mr Connock;  
17 and Mr Easton of the Integrity Commission to come to be  
18 sworn in.

19  
20 <MICHAEL DAVID EASTON, affirmed: [1.53pm]

21  
22 <RICHARD ANTHONY CONNOCK, affirmed:

23  
24 <LEANNE DELANY MCLEAN, affirmed:

25  
26 MS BENNETT: Thank you all for attending to give evidence  
27 today. I'd like to start by just identifying who each of  
28 you are and what your roles are. So I'll start first with  
29 you, Commissioner. That's Commissioner McLean, can you  
30 tell the Commissioners what your role is?

31  
32 MS McLEAN: I am the Commissioner for Children and Young  
33 People in Tasmania.

34  
35 MS BENNETT: Thank you. And, how long have you held that  
36 role?

37  
38 MS McLEAN: Since November 2018.

39  
40 MS BENNETT: What were your previous roles?

41  
42 MS McLEAN: Prior to being Commissioner I had a range of  
43 advisory and chief of staff roles in the Tasmanian  
44 Government. Prior to that I had quite a long career in  
45 policy in the Department of Education originating working  
46 with children and young people who are at risk in the  
47 community.



1  
2 MS BENNETT: Thank you. Mr Ombudsman, I call you  
3 Mr Ombudsman but you in fact have a number of positions.  
4 Can you tell us what they are?

5  
6 MR CONNOCK: Yes, I'm the Parliamentary Ombudsman as it's  
7 known, which is the oversight agency for the administrative  
8 actions of public authorities. I'm also the Health  
9 Complaints Commissioner and can take complaints about the  
10 provision of health services in both the private and public  
11 sector. I have functions under the Energy Ombudsman Act.  
12 There's not in fact in the entity known as the energy  
13 ombudsman, but as Ombudsman I have functions under that  
14 Act.

15  
16 I am the de facto Information Commissioner under the  
17 Right to Information Act. My office is final external  
18 review on decisions on right to information. And I'm also  
19 the custodial inspector. I also have various other little  
20 functions here and there of inspecting and auditing  
21 documentation and so forth, listening at devices and that  
22 sort of thing.

23  
24 MS BENNETT: Thank you. And how long have you held -  
25 well, when did you start to hold any of those roles?

26  
27 MR CONNOCK: I commenced as Ombudsman in July 2014. I had  
28 acted in the role a couple of times prior to that for a  
29 number of months while the position was vacant. I am a  
30 fixed term of five years, and that was extended again in  
31 2019. So I'm in the office until July 2024 now.

32  
33 MS BENNETT: What were your previous roles, broadly?

34  
35 MR CONNOCK: Prior to that, I was the director of the  
36 office of the Ombudsman, which is sort of like a de facto  
37 deputy. There isn't currently a Deputy Ombudsman in this  
38 State, although we're about to get one, thankfully. Prior  
39 to that I was - well, I was initially a lawyer in private  
40 practice in Melbourne, I practised as a solicitor and a  
41 barrister, moved to Tasmania in 2000 and took up more  
42 consultancy work doing investigations and mediations and  
43 that sort of thing for various government agencies.

44  
45 MS BENNETT: Before I move to you Mr Easton, Commissioner,  
46 can I just return to you. The Ombudsman noted that he's in  
47 a fixed position. Are you in the same boat?

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MS McLEAN: Yes.

MS BENNETT: When does your fixed position expire?

MS McLEAN: November 2023.

MS BENNETT: And that's your first appointment?

MS McLEAN: Yes.

MS BENNETT: Mr Easton can you tell the Commissioners your role?

MR EASTON: I'm the Chief Executive Officer of the Tasmanian Integrity Commission.

MS BENNETT: How long have you held that role?

MR EASTON: Most recently for two years, so I was appointed for a five-year term in April 2020, but I was actually acting CEO for 20 months between 2015 and 2017.

MS BENNETT: I'll start with you, to just identify some of your core functions or the core functions of your office, because there is a statutory office holder in your office, isn't there?

MR EASTON: Yes.

MS BENNETT: And that's not you? Or tell me about your statutory function, let me put it.

MR EASTON: I am a statutory officer. So, my statutory function is, from a management perspective, to manage the entity that is the Integrity Commission, of course, but in a more specific sense it's to deal with misconduct and to bring the public sector to a point where somewhere down the road we all agree that all public sector officials and entities are behaving with propriety and ethically.

MS BENNETT: Can you tell us about how the Integrity Commission, the Office of the Integrity Commission, goes about doing that? What are its specific powers or methods?

MR EASTON: Most people automatically assume it's the investigative side that I might start with, but I would

1 actually start with our education and prevention side; it's  
2 a very fundamental part of what we do, because if we're not  
3 preventing misconduct then we're never gonna get to that  
4 point down the road.

5  
6 So we have a very strong emphasis on education and  
7 engagement with public sector entities and individuals, but  
8 we're trying to work with the entities as a whole; we want  
9 to build their capacity to deal with misconduct and to  
10 educate their employees about misconduct and misconduct  
11 risks.

12  
13 So, that's the educative side, and then we have our  
14 operational side where we deal with complaints about  
15 misconduct. There's a range of statutory processes built  
16 into the Act for how we do that. It's a very prescriptive  
17 act, that being the Integrity Commission Act. And on top  
18 of dealing with complaints, we also receive notifications  
19 and information reports from public sector entities or  
20 individuals or even sometimes from our own staff about  
21 misconduct risks and potential misconduct areas, and we  
22 will deal with those as well. And, when I say "deal", I  
23 guess there's a range of ways we might address a matter.  
24 Some are prescribed; some we have worked out for ourselves  
25 as to how we might address a report of misconduct.

26  
27 MS BENNETT: And your office can develop standards and  
28 codes of conduct for public offices; is that right?

29  
30 MR EASTON: That's right. So, under section 8 of the Act  
31 it outlines our functions and powers. And you will find  
32 that that section begins with the educative and preventive  
33 side, and one of the key areas for us is exactly that,  
34 preparing and monitoring/reviewing codes of conduct. We  
35 can't do that for everyone, of course, but, for example, we  
36 had a very strong role in the development of the  
37 ministerial code of conduct for State Government MPs and  
38 then also for State Government MPs themselves. And that  
39 finally got endorsed a couple of years ago. So we have  
40 that role as well.

41  
42 MS BENNETT: All right. So just to check - sorry to  
43 interrupt. And I just wanted to clarify that you can also  
44 conduct enquiries into complaints that you receive; is that  
45 right?

46  
47 MR EASTON: That's right. That's the end point of how we

1 might deal with a complaint or even an own motion  
2 investigation; we can - yeah, it's Part 7 of the Act and we  
3 can carry out tribunals. Probably wouldn't look unlike  
4 this.

5

6 MS BENNETT: So you can develop standards and codes of  
7 conduct. And are public authorities/public sector officers  
8 required to comply with those standards and codes of  
9 conduct?

10

11 MR EASTON: Well, we hold them accountable to it, so of  
12 course as a State Service employee the public sector are  
13 required to, yeah, conform with that code of conduct, and  
14 then we might get a complaint where we will hold them  
15 accountable against that code of conduct.

16

17 MS BENNETT: You educate the public and you educate  
18 members of the state public service; is that right?

19

20 MR EASTON: Yes.

21

22 MS BENNETT: You receive and assess complaints and you  
23 conduct enquiries, is that about a reasonable summary?

24

25 MR EASTON: Yes.

26

27 MS BENNETT: Mr Ombudsman, I won't go through all of your  
28 powers, but I'd like to identify at a high level your role  
29 as Ombudsman is really responsive to administrative actions  
30 by public authorities; is that fair?

31

32 MR CONNOCK: That's fair.

33

34 MS BENNETT: And you can carry out your own motion  
35 investigation or investigations based on complaints?

36

37 MR CONNOCK: Yes.

38

39 MS BENNETT: But they're tethered to administrative action  
40 by public authority?

41

42 MR CONNOCK: That's right.

43

44 MS BENNETT: And you carry out investigations generally in  
45 private; is that right?

46

47 MR CONNOCK: Generally, yes.

1  
2 MS BENNETT: At what point do you publish anything  
3 publicly?  
4

5 MR CONNOCK: Once an investigation, a formal investigation  
6 that is, is concluded, we will prepare it. And  
7 particularly if we are making recommendations, we will  
8 prepare a report of the investigation and the  
9 recommendations and publish that.  
10

11 MS BENNETT: So the limitations that you have, you can't  
12 investigate a minister's decision or a court decision; is  
13 that right?  
14

15 MR CONNOCK: No, lawmakers are all excluded. So officers  
16 like the Solicitor-General, the Director of Public  
17 Prosecution and the courts are excluded from our  
18 jurisdiction.  
19

20 MS BENNETT: So it's really the administrative decisions  
21 and public servants are open to you?  
22

23 MR CONNOCK: Not individual public servants. We can only  
24 look at public authorities. So, if somebody has a problem  
25 with a public servant, we look at how the authority has  
26 managed that problem or its role in it, if it has one.  
27

28 MS BENNETT: That would include those operating the  
29 Out-of-Home Care scheme?  
30

31 MR CONNOCK: It would, but again it would only be the  
32 administrative actions of that. If it's a public  
33 authority. I mean, there are some private providers  
34 that --  
35

36 MS BENNETT: Private providers publicly funded would not  
37 fall within your scope?  
38

39 MR CONNOCK: It depends upon the relationship between the  
40 private entity and the government. We can look at a lot of  
41 Housing Tasmania stock is now owned by private companies,  
42 but our jurisdiction extends to those providers. That's  
43 because of the relationship between government and then.  
44

45 MS BENNETT: And administrative decisions of the  
46 Department of Education would fall within your scope?  
47

1 MR CONNOCK: Would fall within my scope.

2

3 MS BENNETT: And so, decisions whether or not to initiate,  
4 for example, ED5 investigations, would that fall within  
5 your scope? Or no?

6

7 MR CONNOCK: Not really. We're not involved in the ED5  
8 process. That's the State Services management office is in  
9 charge of that. If we had - there is a provision in our  
10 Act that if we are of the view that there has been  
11 something that might warrant that, we can refer it. But we  
12 wouldn't actually - we're not involved in the ED5 process.

13

14 MS BENNETT: Is it not an administrative decision by the  
15 agency to conduct such an investigation?

16

17 MR CONNOCK: Could be, could be, yes, but that's - yeah,  
18 it's not something that we would ordinarily - it's a bit -  
19 yeah, I can take that on notice if you like and review  
20 that. We've not been had to do it, but we don't play a  
21 part in the ED5 thing. And that's usually an internal  
22 thing within whichever agencies employs the person.

23

24 MS BENNETT: Commissioner McLean, I should have said  
25 earlier you made a statement for the assistance of the  
26 Commission; is that right?

27

28 MS McLEAN: Yes, I did.

29

30 MS BENNETT: Have you read your statement recently?

31

32 MS McLEAN: Yes, I have.

33

34 MS BENNETT: And is that statement true and correct?

35

36 MS McLEAN: Yes, it is.

37

38 MS BENNETT: Thank you, Commissioner. Now, Commissioner,  
39 your general functions include advocating for all children  
40 and young people in the state generally; is that fair?

41

42 MS McLEAN: Yes, that's right.

43

44 MS BENNETT: You're particularly directed to being an  
45 advocate for a detainee under the Youth Justice Act; is  
46 that right?

47

1 MS McLEAN: Yes, to clarify, my advocacy function broadly  
2 is for children and young people generally as a group. I  
3 don't undertake any individual advocacy unless it is for a  
4 child or young person detained under the Youth Justice Act.  
5

6 MS BENNETT: I see, so generally speaking when you're  
7 talking about general advocacy functions, it's for all  
8 children in Tasmania? It could be in whatever context?  
9

10 MS McLEAN: That's right, under 18.  
11

12 MS BENNETT: Under 18. For children in custody, they are  
13 considered a "vulnerable child" under section 4?  
14

15 MS McLEAN: They are. But there is also a specific  
16 section of the Act, section 10, that describes my role as  
17 the individual advocate for young people detained under the  
18 Youth Justice Act.  
19

20 MS BENNETT: And that involves, I think you explain in  
21 your statement, that that's where you can involve yourself  
22 with the specific circumstances of a child in particular?  
23

24 MS McLEAN: Yes, that's right.  
25

26 MS BENNETT: How does that differ to how you might  
27 advocate more broadly in the community?  
28

29 MS McLEAN: So I cannot advocate on an individual matter.  
30 So, for example, if somebody were to come to me with an  
31 issue in relation to their care or their protection, I  
32 cannot advocate for them specifically; I can advocate on  
33 systemic matters for children generally as a group, just as  
34 I cannot undertake an individual - assess an individual  
35 decision.  
36

37 MS BENNETT: I'd just like to explore a little bit about  
38 how that interacts with Out-of-Home Care. So, Out-of-Home  
39 Care is a system which provides care and shelter for  
40 children; is that fair?  
41

42 MS McLEAN: That's right, yes.  
43

44 MS BENNETT: Can you tell the Commissioners about your  
45 oversight role in relation to that system?  
46

47 MS McLEAN: Yes. So, in 2016 in response to

1 recommendations made by a previous Commissioner, the  
2 government provided additional funding to the Commissioner  
3 for Children and Young People to undertake an independent  
4 systemic monitoring program of the Out-of-Home Care system  
5 in Tasmania. There are no specific functions in the  
6 Commissioner for Children and Young Peoples Act in relation  
7 to that Out-of-Home Care monitoring function; it is  
8 achieved through the existing general functions of the Act  
9 and is very systemic in nature. So, I am not able to  
10 investigate an individual decision. It is my view that  
11 I am unable perhaps to investigate an individual  
12 organisation who is providing a particular type of care,  
13 and I am unable to investigate organisations who may be  
14 providing care to Tasmanian children outside of Tasmania.

15  
16 MS BENNETT: I just want to go back to - you can't  
17 investigation an organisation providing services to  
18 children?

19  
20 MS McLEAN: Arguably, if it is a particular matter in  
21 relation to a particular organisation. The word "general"  
22 features in the Act, which I think - you know, my view is  
23 that would benefit from specificity and clarification as to  
24 how I undertake Out-of-Home Care monitoring for Tasmania.

25  
26 MS BENNETT: But just so I understand, sometimes - I think  
27 we've heard some evidence this week that sometimes one  
28 issue can be an indicator of larger systemic issues; would  
29 you accept that?

30  
31 MS McLEAN: Yes, it can.

32  
33 MS BENNETT: And so, sometimes in the Out-of-Home Care  
34 context an issue with one child might indicate a systemic  
35 problem with that provider; would you accept that?

36  
37 MS McLEAN: Yes.

38  
39 MS BENNETT: Would you then have the power to make  
40 enquiries about what that provider is doing around that  
41 issue?

42  
43 MS McLEAN: As a part of the system, yes. I can undertake  
44 a systemic enquiry that could be informed by an individual  
45 matter; could come to my attention through an individual  
46 matter.



1 MS BENNETT: What is the ambiguity with which you're  
2 concerned? When you said earlier that it's unclear but you  
3 understand it to be the case that there's a limitation  
4 there; what is it?

5

6 MS McLEAN: It's probably best demonstrated by giving a  
7 hypothetical example.

8

9 MS BENNETT: Yes.

10

11 MS McLEAN: We are a small jurisdiction, so there are  
12 cases where particular types of care - for example,  
13 therapeutic residential care, which is a large part of the  
14 system in itself - are delivered by a single organisation.  
15 So, I think the question remains how I frame any questions  
16 or requirements for information about a particular  
17 organisation in that scenario has to be in a systemic way.  
18 And you can very quickly tie yourself up in knots; it would  
19 be much easier if my role in relation to Out-of-Home Care  
20 monitoring was much clearer, I think.

21

22 MS BENNETT: With respect, do you think that's causing a  
23 barrier to you doing your job as you would like?

24

25 MS McLEAN: I think it makes it more complicated than it  
26 needs to be.

27

28 MS BENNETT: Returning then to your statutory basis,  
29 you've got the power to undertake an investigation if  
30 you're requested to do that by the Minister. In what other  
31 circumstances can you carry out an investigation?

32

33 MS McLEAN: So I can investigate, based on my own motion,  
34 systemic issues. Outside of my jurisdiction, which is  
35 outlined in the Act, the Minister can ask me to investigate  
36 individual matters or individual decisions.

37

38 MS BENNETT: And you can compel the provision of  
39 information, can't you, to your office?

40

41 MS McLEAN: Yes, I can.

42

43 MS BENNETT: Is that from state providers only, from state  
44 entities only?

45

46 MS McLEAN: Yes.

47

1 MS BENNETT: Mr Easton, is that the same for you? You  
2 were talking before about having inquiries much like this  
3 one. Can you call for documents?  
4

5 MR EASTON: What, sorry?  
6

7 MS BENNETT: Call for documents?  
8

9 MR EASTON: Yes, absolutely.  
10

11 MS BENNETT: And you can require people to give evidence  
12 on oath?  
13

14 MR EASTON: Yes.  
15

16 MS BENNETT: Mr Ombudsman, are you in the same position?  
17 Can you call for documents?  
18

19 MR CONNOCK: If I'm doing a formal investigation, yes.  
20 The Act confers on the powers of a commission of inquiry  
21 when I'm conducting a formal investigation.  
22

23 MS BENNETT: Are there any limitations to your powers that  
24 are a matter of concern to you?  
25

26 MR CONNOCK: Not really. I mean, the models have been the  
27 same always. The one thing about an Ombudsman and a Health  
28 Complaints Commissioner is the office is not designed to  
29 have coercive powers. It's a recommendatory thing. So, if  
30 we come to a conclusion, we tend to - well, when  
31 formulating our recommendations we negotiate with the  
32 agency concerned to make sure that they can comply. But  
33 no, in general the jurisdictions that we administer are  
34 fairly well-established and operate pretty well.  
35

36 MS BENNETT: As custodial inspector you have  
37 responsibility for custodial inspections?  
38

39 MR CONNOCK: Yes.  
40

41 MS BENNETT: And reporting the matters in the public  
42 interest?  
43

44 MR CONNOCK: Yes.  
45

46 MS BENNETT: You can visit any custodial centre at any  
47 time you see fit and you can obtain access to any documents

1 when you do; is that right?

2

3 MR CONNOCK: Yes.

4

5 MS BENNETT: Does that include Ashley Youth Detention?

6

7 MR CONNOCK: It does.

8

9 MS BENNETT: And any custody facility in the state?

10

11 MR CONNOCK: That's right.

12

13 MS BENNETT: As Health Complaints Commissioner, you have  
14 the role of reviewing issues arising out of complaints and  
15 suggest ways of improving health services and preserving  
16 and increases health rights. Is that a reasonable summary?

17

18 MR CONNOCK: That's a reasonable summary. We also try to  
19 resolve health complaints without the need for them to  
20 progress it to a higher level of formality than they might  
21 need. So a lot of our focus is on conciliation when we're  
22 dealing with those. But yeah, it's like an Ombudsman;  
23 we're look at improving the system of government. In  
24 health, we're also looking to improve the provision of  
25 healthcare services.

26

27 MS BENNETT: All right. So let me see if I understand  
28 where everyone sits. Commissioner, all children in  
29 Tasmania broadly fall within your remit and if there is a  
30 systemic concern in relation to their welfare, you are able  
31 to call for documents, carry out an enquiry, make a report;  
32 is that a fair summary?

33

34 MS McLEAN: Yes.

35

36 MS BENNETT: And you have particular responsibility for  
37 children incarcerated; is that right?

38

39 MS McLEAN: Yes.

40

41 MS BENNETT: And that includes visiting and advocating for  
42 those children?

43

44 MS McLEAN: Yes.

45

46 MS BENNETT: And that's the exception to the rule that you  
47 will generally only act systemically?

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MS McLEAN: That's right. That's my understanding.

MS BENNETT: Thank you. Mr Ombudsman, as custodial inspector, you have some overlap with the Children's Commissioner because you have some responsibility in relation to the children at Ashley Youth Detention as well; is that right?

MR CONNOCK: That's right.

MS BENNETT: And that's because you can access that centre at any time, can't you?

MR CONNOCK: Yes.

MS BENNETT: And you can enquire into any matter at that centre as well?

MR CONNOCK: Yes.

MS BENNETT: So the key difference between you might be - and I'll ask you first, Mr Ombudsman, and then you, Commissioner - that your role is one of oversight of administrative decisions of those who are operating Ashley; is that fair?

MR CONNOCK: Yeah. As Ombudsman, yes.

MS BENNETT: And as custodial inspector? Sorry, as custodial inspector. Tell me about that?

MR CONNOCK: As custodial inspector, I inspect prison facilities and the Youth Detention centre against an established set of standards. So it's not complaint-driven, it's not looking at individual cases. It's looking at how compliant a centre is with those established standards, which are published on our website.

MS BENNETT: And are you looking at those established standards as well to see if they comply with a particular standard?

MR CONNOCK: No, we have developed those. When the custodial inspector was established four or five years ago, we worked with the first independent custodial inspector, which is the one in Western Australia. And we had some

1 assistance from the deputy inspector over there, who was  
2 also at the same time working with New South Wales, which  
3 was trying to establish an inspectorate. So we all worked  
4 together on these standards, trying to get as much  
5 uniformity between the various jurisdiction as we could,  
6 but we could only achieve that at a very high level. I  
7 mean, Western Australia is a vastly different landscape in  
8 terms of prisons than we are. We --

9  
10 MS BENNETT: I won't ask you further about that.

11  
12 MR CONNOCK: No, okay.

13  
14 PRESIDENT NEAVE: Can I have a follow-up on that? When  
15 you say "standards", obviously there would be standards  
16 about the building and all of those sorts of things?

17  
18 MR CONNOCK: And security, yeah. We cover just about  
19 everything.

20  
21 PRESIDENT NEAVE: But what about practices? So, for  
22 instance, let's assume that in certain situations children  
23 are secluded and there are standards about how long they  
24 can be secluded for.

25  
26 MR CONNOCK: We'd look at those, yes.

27  
28 PRESIDENT NEAVE: You would invest - you --

29  
30 MR CONNOCK: Report on that. If we do an inspection and  
31 we find non-compliance, for example - compliance or  
32 non-compliance, at the end of an inspection we will prepare  
33 a report which we then send to the responsible department  
34 for comment. Once they have done that, we forward it to  
35 the Minister who then can retain that for 30 days and make  
36 comment on the report but can't change it. And then the  
37 report must be tabled. So, if we find non-compliance,  
38 sooner or later that will get into the public sphere  
39 through our reporting.

40  
41 MS BENNETT: So, you develop those standards?

42  
43 MR CONNOCK: Yes.

44  
45 MS BENNETT: And then you examine the practices to see if  
46 they comply with the standards?  
47

1 MR CONNOCK: Practices, infrastructure, all aspects of the  
2 prison or Youth Detention centre.

3  
4 MS BENNETT: Would I be right to call them "systems"?

5  
6 MR CONNOCK: Yes, usually systems. Yes.

7  
8 MS BENNETT: So in the context of Ashley Youth Detention,  
9 in that context it's the custodial inspector that looks to  
10 the systems and the propriety of the systems, and the  
11 Children's Commissioner who looks to the individual  
12 welfare? Is that a fair summary?

13  
14 MS McLEAN: I also have an advocacy role in relation to  
15 Youth Justice. So I'm very interested and constantly  
16 advocating for the reform of Youth Justice generally in  
17 Tasmania, but also have a role as the individual advocate  
18 for detainees.

19  
20 MS BENNETT: And you can investigate individual matters as  
21 they concern Youth Justice?

22  
23 MS McLEAN: No. That is not my understanding.

24  
25 MS BENNETT: But coming back to your youth advocacy role,  
26 you can advocate for individual detainees, young people?

27  
28 MS McLEAN: Yes.

29  
30 MS BENNETT: They're vulnerable people within your Act?

31  
32 MS McLEAN: That is right.

33  
34 MS BENNETT: Can you not investigate how they are being  
35 treated?

36  
37 MS McLEAN: I can, but I cannot investigate a decision  
38 made about them. So, I can facilitate or help them to make  
39 a complaint to the Ombudsman about a decision that has been  
40 made about their care while they are in Youth Justice  
41 detention or their treatment. I cannot investigate that  
42 decision myself; that is my understanding.

43  
44 MS BENNETT: What if that were to disclose, let's use the  
45 President's example of the use of seclusion. A young  
46 person in the course of you carrying out your advocacy  
47 function says to you, "I'm secluded each day for an hour

1 for no reason". That's a hypothetical. You hear that from  
2 the young person and you say, "There's a problem with the  
3 use of seclusion at Ashley", for example.

4  
5 MS McLEAN: That's right, yes.

6  
7 MS BENNETT: Now, can you do anything about the use of  
8 seclusion, having had that report from an individual child?

9  
10 MS McLEAN: Yes, I can raise that as advocacy matter with  
11 the management of the facility, I can raise it with the  
12 heads of the department, I can raise it with the Minister.  
13 So I am an advocate, so it's my job to beat that drum. But  
14 in terms of a review of those decisions, I would support  
15 that young person to make a complaint to the Ombudsman  
16 about their treatment.

17  
18 MS BENNETT: But can you investigate the use of seclusion  
19 at the centre?

20  
21 MS McLEAN: I think I can look into the records around  
22 seclusion generally, but in relation to an individual, the  
23 decisions made about an individual, I don't think I could  
24 investigate those individual decisions.

25  
26 MS BENNETT: I'm perhaps not being clear, because I'm not  
27 interested in - I'm not investigating whether or not  
28 Mr Smith was properly secluded or not. Having had the  
29 report from Mr Smith, the child, that he has been  
30 improperly secluded or potentially improperly secluded,  
31 can't you then enquire into the use of seclusion at Ashley?

32  
33 MS McLEAN: Yes, I can.

34  
35 MS BENNETT: And you can compel information about that?

36  
37 MS McLEAN: I think compelling information about an  
38 individual in my --

39  
40 MS BENNETT: Again I'm not asking about the child any  
41 more, I'm asking about the use of seclusion in the  
42 facility.

43  
44 MS McLEAN: If prompted, I can ask about the use of  
45 seclusion in the facility.

46  
47 MS BENNETT: You can investigate that?

1  
2 MS McLEAN: Yes, I think so. But if the child is making a  
3 complaint about having been secluded in the facility, I do  
4 not take that complaint. I don't have a complaint handling  
5 role.

6  
7 MS BENNETT: I see.

8  
9 MS McLEAN: That rests with the Ombudsman.

10  
11 MS BENNETT: And you facilitate that complaint?

12  
13 MS McLEAN: That's right.

14  
15 MS BENNETT: And then, Mr Easton, you might be called upon  
16 if somebody says there's somebody, let's continue the  
17 Ashley who's inappropriately secluding a child, that  
18 constitutes misconduct; does that fall within your scope as  
19 well?

20  
21 MR EASTON: It does fall within our scope. Would we deal  
22 with it if we got a complaint? I guess if we got a  
23 complaint, we would deal with the complaint on its face.  
24 But I was just look at our principles, and one of our  
25 principles is that we not - well, I'll read it:

26  
27 *Not duplicate or interfere with work that*  
28 *the Commission considers has been*  
29 *undertaken or is being undertaken*  
30 *appropriately by a public authority.*

31  
32 Which could be potentially either of these two  
33 authorities, so we don't duplicate work. So, theoretically  
34 yes, but practically we would look at whether it's being  
35 dealt with and whether another authority has the capacity  
36 to deal with it. We would look at the seniority of the  
37 people involved and the seriousness of what's being  
38 alleged, and decide then whether we need to be further  
39 involved or whether we refer it out to an appropriate  
40 agency or person.

41  
42 MS BENNETT: And to continue with my single hypothetical  
43 example of the rogue prison officer, let's say that  
44 somebody made a public interest disclosure about the  
45 inappropriate use of seclusion. That would then go back to  
46 you, Mr Ombudsman, wouldn't it?

47



1 MR CONNOCK: Could do, yes. That's the only time we can  
2 look at individual conduct.

3  
4 MS BENNETT: Tell the Commission about that.

5  
6 MR CONNOCK: We're one of the reporting entities under the  
7 Public Interest Disclosures Act, as is the Integrity  
8 Commission, and we can investigate disclosures about public  
9 officers under that Act. That's the only time we can look  
10 at individual conduct.

11  
12 PRESIDENT NEAVE: Can I just continue on? I'm the mother  
13 of a child that's in Ashley and I'm very concerned about  
14 this child's mental health. The child has told me that  
15 they've been secluded. What guidance do they get about  
16 where do I go?

17  
18 MR CONNOCK: I was thinking when Leanne was talking. My  
19 office, for example, can take complaints about the  
20 individual and how they're being treated. And what we will  
21 do also on occasions is we will look at that individual  
22 complaint and see how that has transpired and what's going  
23 on there. But if it indicates systemic issues, as  
24 Ombudsman I can also investigate those, and whether I  
25 choose to tie that to the complaint or do it on my own  
26 motion so I can expand the net.

27  
28 PRESIDENT NEAVE: Yes, I understand that.

29  
30 MR CONNOCK: I can do that. And that's different to the  
31 custodial inspector.

32  
33 MS BENNETT: I see. And you need to tell yourself which  
34 hat you're wearing?

35  
36 MR CONNOCK: Which hat you're wearing. But it's  
37 comparatively easy with custodial because that is just  
38 inspecting against standards. If there is an individual  
39 complaint, that might inform an inspection, but it's not  
40 something that we would resolve as custodial inspector.  
41 The office can do that under its other guises. Our biggest  
42 cohort of complainants, for example, in Ombudsman and  
43 Health are prisoners, so we do a lot of work with them.  
44 Mostly adult, I should say.

45  
46 MS BENNETT: To come back to Commissioner Neave's  
47 question, can the mother of the child complain to you and

1 is there some guidance for her?

2  
3 MR CONNOCK: Well, we would try to provide whatever  
4 guidance we could which would be dependant on the  
5 particular circumstances. Our Act requires that the person  
6 who complains must be personally aggrieved by the action  
7 they're complaining of, so that is taken on a case-by-case  
8 basis, we would have to look at the circumstances. And  
9 ordinarily we would say, well, if the young person wants to  
10 make the complaint, and they have capacity, it should  
11 probably come from the young person, but we would treat  
12 everything on a case-by-case as it came on.

13  
14 COMMISSIONER BROMFIELD: Would the mother then complain to  
15 the Integrity Commission?

16  
17 MR EASTON: Yes, there's no limitation on who can complain  
18 to us; it can be anonymous, it can be from anybody.

19  
20 Just while Richard was talking I was thinking about  
21 the PID Act again. The difficulty there is that you have  
22 to be a public officer to make a public disclosure. A  
23 person can be deemed as a contractor under the Act, that's  
24 getting into the complexities, whereas the difference with  
25 our Act is, it can be anybody who can complain to us.

26  
27 MS McLEAN: And if I can just add to that, that the mother  
28 or indeed the family member may have been directed to the  
29 complaining role of the Ombudsman through original  
30 interaction with me as the advocate. So, we do receive,  
31 you know, calls from family members in our office and they  
32 often dovetail with our regular interaction with detainees,  
33 and if there are systemic issues that arise through that we  
34 can look into them, but if it is a complaint we will help  
35 guide them towards the Ombudsman.

36  
37 MS BENNETT: Okay, let's see if I've got this right. For  
38 children, all children will be advocated for by you,  
39 Commissioner?

40  
41 MS McLEAN: Yes.

42  
43 MS BENNETT: In the youth detention context they will be  
44 specifically advocating for. You can launch some  
45 investigations into systemic matters; those systemic  
46 investigations can be triggered by individual circumstances  
47 but not investigate those individual circumstances per se.

1  
2 MS McLEAN: Yes.

3  
4 MS BENNETT: I've gone too fast for the stenographer and I  
5 apologise.

6  
7 Next, Mr Ombudsman, a person could come to you with a  
8 complaint about individual decisions. As custodial  
9 inspector could ask you to look into the standards in the  
10 facility?

11  
12 MR CONNOCK: No, we inspect independently. We have an  
13 obligation to inspect all facilities every three years, so  
14 we do that as of course.

15  
16 MS BENNETT: And, Mr Easton, your office will look at  
17 individual allegations of misconduct or serious misconduct?

18  
19 MR EASTON: That's true, but we can also just look at  
20 policies, practices and procedures if we choose to as well.

21  
22 MS BENNETT: Is that responsive to complaints or  
23 individual complaints?

24  
25 MR EASTON: Can be; complaints are a source of  
26 information. I would say most of our work in policies,  
27 practices and procedures are based on a range of sources of  
28 information and our review of the relative risks of those  
29 issues and then we will look at what is driving those  
30 issues if it becomes systemic, I guess, as opposed to  
31 individual.

32  
33 MS BENNETT: But you will keep hold of it at that point,  
34 you don't --

35  
36 MR EASTON: If we think we're the best agency to deal with  
37 it. There's a lot behind - this is maybe going to your  
38 question, Commissioner. If somebody came in through our  
39 door, it may be almost instantly that we might be talking  
40 to Richard's office, the Ombudsman's Office, to find out  
41 what the intersection with the issue is with his office -  
42 I have not had the opportunity to talk to the  
43 Commissioner's Office on that basis - but we would be  
44 engaging at that informal level to find out who is the best  
45 entity to deal with this, and we may refer it onto the  
46 Ombudsman or somebody else or deal with it ourselves.

47

1 MS BENNETT: I'd like to come back and unpack that process  
2 because I think it's significant. Would you each agree  
3 with me that this is a complex system, Commissioner?  
4

5 MS McLEAN: Yes.  
6

7 MS BENNETT: Ombudsman?  
8

9 MR CONNOCK: Yes.  
10

11 MS BENNETT: Mr Easton?  
12

13 MR EASTON: Yes.  
14

15 MS BENNETT: Is it a difficult system for lay people to  
16 navigate, Commissioner?  
17

18 MS McLEAN: In my experience, yes, people are often  
19 confused about my role.  
20

21 MS BENNETT: Mr Ombudsman?  
22

23 MR CONNOCK: It can be, yes.  
24

25 MS BENNETT: Mr Easton?  
26

27 MR EASTON: I think it's difficult for people to  
28 understand the complexities, but they know - my sense is  
29 the layperson would know they can come to us about  
30 misconduct. They would not understand what I was just  
31 talking about in terms of what we might do with it, but  
32 they would at least know that they can come to us and  
33 that's our job is to deal with it.  
34

35 MS BENNETT: Between the three of you, and I'll start with  
36 Mr Easton and move down the line, do you have a protocol, a  
37 formal protocol about who is best placed to use their  
38 powers in response to any particular issue: Mr Easton?  
39

40 MR EASTON: "Formal protocol". We have letters of  
41 understanding and have memoranda of understanding with  
42 different entities. I don't have one with the Ombudsman's  
43 Office, we haven't needed it, but I have one with police  
44 and I have one with the Auditor-General. And, I guess, we  
45 then deal with the matters on a case basis as to who we  
46 think would be the appropriate entity, and the Act is  
47 actually worded that way, we can refer it to an

1 "appropriate person", so that necessarily envisages that it  
2 may vary, so we don't have that fixed in that sense. Some  
3 pick themselves. So, child sexual assault, it is always  
4 going to be police, whereas other matters, it just depends  
5 on what's being alleged.

6  
7 MS BENNETT: Mr Ombudsman, how do you identify who is best  
8 placed to deal with something that comes to you?

9  
10 MR CONNOCK: It depends on the complaint. I mean, if it  
11 does raise individual conduct rather than systems issues, I  
12 would probably refer it to Michael. And he and I meet on a  
13 regular basis, as I do with the Commissioner, to talk about  
14 arising issues and things that we are facing. So, while  
15 there's no protocol or memorandum of understanding, we all  
16 have a high level of understanding of our various  
17 functions. So we have a good idea, having been doing it  
18 for a while, where things should go. And there is actually  
19 an exception to my secrecy provisions under the Ombudsman  
20 Act; I can refer things to the Integrity Commission and  
21 exchange information. So as the two complaint handlers we  
22 can between us, as amongst ourselves, work out where the  
23 best place to go is. As the Commissioner has said, she  
24 doesn't have the individual complaint handling thing, but  
25 our two offices have a really good relationship, I think,  
26 and a good understanding, and we will take the complaint if  
27 it's within our jurisdiction.

28  
29 MS BENNETT: Commissioner, when a matter arises for you  
30 from a child in your advocacy role, you will refer the  
31 child on to one of - or what will you do to enable  
32 investigation in identifying the proper integrity body?

33  
34 MS McLEAN: So, if the child wants to make a complaint, I  
35 will assist them to make that complaint to the Ombudsman,  
36 which often includes me working with them to write their  
37 complaint down, sign their complaint, and I will often pass  
38 it on for them. And there have been times when I have been  
39 unclear as to whether it would constitute a complaint that  
40 the Ombudsman could look into. And it's those good  
41 relations that we have with Richard and his office that  
42 clear that up. I largely agree with what Richard has said  
43 in that regard; there are no formal arrangements. There  
44 may have been under previous Commissioners, but there  
45 certainly aren't that I'm aware of.

46  
47 MS BENNETT: And is there, Commissioner, a system for the

1 recording of complaints or concerns that you might receive  
2 and refer on?

3

4 MS McLEAN: So, I keep information in my office that I  
5 collect in that role. So, if I, for example, am the  
6 conduit of the complaint, I will keep a record of that  
7 complaint.

8

9 MS BENNETT: And are there safeguards in place to make  
10 sure that it's taken into the next system appropriately?

11

12 MS McLEAN: What do you mean by safeguards?

13

14 MS BENNETT: Well, you might refer the child to the  
15 Ombudsman and they don't follow up. Is there a diary note,  
16 is there something in the system that says you must check  
17 in to make sure that that complaint has reached an officer  
18 who can do something with it?

19

20 MS McLEAN: So, the Ombudsman's Office can and do follow  
21 up with my office on the receipt of a complaint. A young  
22 person in detention may consent to their advocate providing  
23 information directly to the people investigating the  
24 complaint, and that has certainly happened.

25

26 MS BENNETT: At your office are there systems to catch  
27 anything that might otherwise not get referred?

28

29 MS McLEAN: So, we don't have a formal record-keeping  
30 system in that regard, but we do check in with young people  
31 very regularly, including whether or not they have heard  
32 about the progress of their complaint.

33

34 MS BENNETT: Does that make it difficult to monitor the  
35 levels of complaints that you might be receiving?

36

37 MS McLEAN: Not necessarily, but you need to remember  
38 I only know about the complaints that I know about. Young  
39 people can go direct to the Ombudsman, and they can and  
40 they do, so I wouldn't necessarily know about those  
41 complaints.

42

43 MS BENNETT: I meant complaints received by your office  
44 because you're the Children's Commissioner and children  
45 might come to you because they think, "Here's an advocate  
46 for me", and that you refer on. I'm trying to get a sense  
47 of if there is a record of how many children come through

1       that pathway?

2

3       MS McLEAN:    No formal record.  We keep copies of the  
4       complaints.

5

6       MS BENNETT:   Mr Easton, does your office keep records of  
7       all complaints received?

8

9       MR EASTON:    Yes.

10

11      MS BENNETT:    And then how disposed of?

12

13      MR EASTON:    Yes.

14

15      MS BENNETT:    Mr Ombudsman, would that be the same for you?

16

17      MR CONNOCK:   The same for us.  Yes.

18

19      COMMISSIONER BROMFIELD:  Can I ask just two small  
20      clarifying questions, just while it's still present in my  
21      mind?

22

23      MS BENNETT:    Yes.

24

25      COMMISSIONER BROMFIELD:  Commissioner McLean, in the  
26      Ashley example that we're working with, if the young person  
27      raised something with you and decide they didn't want to  
28      raise it themselves as a complaint, they were perhaps  
29      fearful of reprisal while they're still in detention, if  
30      you were concerned about it as an integrity issue, could  
31      you refer it or make a complaint to the Integrity  
32      Commission?

33

34      MS McLEAN:    Yes, I believe I could.

35

36      COMMISSIONER BROMFIELD:  Thank you.  And then, Mr Easton,  
37      in relation to the Integrity Commission, you said that  
38      you - I understood about the referring it to the Ombudsman,  
39      but then you mentioned that you can refer it on to somebody  
40      else and that seemed a fairly - that there's some  
41      flexibility within that.  Is it conceivable then that  
42      somebody else you could refer it to might be, in the Ashley  
43      example, for example, back to the Department of Communities  
44      or to the Ashley Youth Detention Centre to investigate?

45

46      MR EASTON:    Yes.

47

1 COMMISSIONER BROMFIELD: Thank you. That's very helpful.

2

3 MS McLEAN: I would just like to add, I can also refer  
4 matters to the custodial inspector. Sorry to clutter  
5 things even more, but I can.

6

7 COMMISSIONER BROMFIELD: Thank you. I'm trying to draw an  
8 arrow chart in my mind, and it's not working for me.

9

10 MS BENNETT: Mine's colour-coded, and it's a rainbow at  
11 this point.

12

13 Okay, I'd like to turn to child sexual abuse. And I'd  
14 like to talk first of all - well, sorry. Before I go  
15 there, I'd like to just identify levels of reporting that  
16 you're aware of each in your roles of child sexual abuse.  
17 And I'm just trying to get an indication, do you consider  
18 those levels to be high or low? Commissioner, do you have  
19 a sense of the extent to which your office receives - does  
20 it receive complaints concerning child sexual abuse?

21

22 MS McLEAN: So our office, despite not having a complaint  
23 handling function, regularly receives contact from the  
24 public - we call it public inquiry - and in response to  
25 that, we have a protocol in our office on how to deal with  
26 it, which includes referring the people to the appropriate  
27 places to raise it. And also I take a decision in relation  
28 to the safety and wellbeing of a child as to how I act in  
29 relation to that, particularly if something like child sex  
30 abuse is raised.

31

32 MS BENNETT: If something like child sex abuse is raised,  
33 do you have any systems that can cause a red flag to arise  
34 with multiple reports pinning the same institution?

35

36 MS McLEAN: We don't have a system that analyses all  
37 public enquiries to flag risk, no. It would be an  
38 anecdotal or a - it would not be a forensic system.

39

40 MS BENNETT: And Mr Ombudsman, do you have levels of  
41 reporting of child sexual abuse or child sexual  
42 abuse-related matters?

43

44 MR CONNOCK: We get very few, if any.

45

46 MS BENNETT: Mr Easton?

47



1 MR EASTON: I would agree we get very few. We've had a  
2 couple in the 12 years we've been open in terms of  
3 complaints, but we also get notifications and we get far  
4 more of those. But there haven't been many notifications  
5 about child sexual abuse itself apart from recently where  
6 there's been a fillip because of this inquiry and suddenly  
7 all these things are being reported to us.

8  
9 MS BENNETT: Do you see that as being because there's been  
10 an increase in child sexual abuse or an increase in  
11 awareness?

12  
13 MR EASTON: Well, I'd say the latter. I'm not informed  
14 enough to say about the former, but it's clear - I've got  
15 some stats here - since 2017 we've received one or two  
16 notifications per year involving some form of child sexual  
17 abuse, including grooming. But in 2020, suddenly it's nine  
18 and then 2021 it's 24. So it can only be that the  
19 Commission of Inquiry is in existence and suddenly we're  
20 getting those notifications.

21  
22 MS BENNETT: Mr Ombudsman, does it concern you that your  
23 levels of report around these issues are low?

24  
25 MR CONNOCK: If that abuse is happening, yes, it does  
26 concern me.

27  
28 MS BENNETT: I think it probably could be taken as read  
29 that the abuse is happening, couldn't it?

30  
31 MR CONNOCK: Yes, I think so.

32  
33 MS BENNETT: And so, low levels of report might indicate  
34 barriers to reporting; is that fair?

35  
36 MR CONNOCK: I don't think I can really answer that. I  
37 was listening to Michael before. I think most people know  
38 about my office. I don't know why we're not receiving  
39 complaints about it, because we're not getting them. So  
40 nobody is saying, you know, "I was reluctant to bring this  
41 forward because", or whatever, so it's difficult to answer  
42 that question.

43  
44 MS BENNETT: In your general role as an Ombudsman,  
45 standing aside for a moment from child sexual abuse, do you  
46 encounter a reluctance from members of the public service  
47 or the Tasmanian State Service to whistleblowing or calling

1 out potential misconduct?

2

3 MR CONNOCK: The numbers have been historically low, yes.

4

5 MS BENNETT: What do you ascribe that to, Mr Ombudsman?

6

7 MR CONNOCK: Difficult to explain. We did used to think  
8 that it was the definition of misconduct in the Act, which  
9 was a very high bar. The conduct either had to be criminal  
10 or a sackable offence. We changed the definition; we  
11 adopted the Griffith University model in its definition of  
12 misconduct, and still we got very few. We're now getting  
13 more, but still not a lot. I think I think it may be an  
14 awareness thing. But again, that's difficult to answer.  
15 We produce a lot of information in relation to public  
16 interest disclosures. We produce guidelines and so forth.  
17 We go around all the agencies, and we've done this fairly  
18 recently, updating their guidelines. We've produced fact  
19 sheets and guides and all that sort of stuff. I don't know  
20 whether it's a lack of awareness in agencies, because the  
21 thing is it's not for the person who's making a public  
22 interest disclosure to declare it so; it's for the person  
23 receiving to determine whether or not this fits the  
24 definition of a public interest disclosure. A lot of the  
25 time a discloser won't know what those requirements are.  
26 They just want to get this.

27

28 MS BENNETT: What I'm getting to though is, in your  
29 experience and your long experience in integrity in  
30 Tasmania, we've heard some evidence this morning about  
31 potentially a cultural reluctance to call out misbehaviour  
32 in some circumstances; is that consistent with your  
33 observation or experience? I'm interested in your comment  
34 about that.

35

36 MR CONNOCK: Well, again, that's difficult to answer; if  
37 it doesn't come to us, I don't know what's going on out  
38 there. We haven't had a lot of sort of high-level  
39 misconduct type complaints and things, and the  
40 whistleblowing that we do get is not related to substantial  
41 matters in a lot of cases. So, again, it's really  
42 difficult to answer. I don't know why things are not  
43 happening if they're not happening.

44

45 MS BENNETT: I'd like to just speak - I'm conscious of the  
46 time, but I'd like to ask you about your independence. So,  
47 Commissioner, are you independent?

1  
2 MS McLEAN: Yes.

3  
4 MS BENNETT: Can you tell us where that independence is  
5 enshrined?

6  
7 MS McLEAN: In the Commissioner for Children and Young  
8 People Act I'm independent and impartial, and act in the  
9 public interest.

10  
11 MS BENNETT: And so you can't be directed by any minister  
12 or public servant as to what you might look into?

13  
14 MS McLEAN: No. A minister can ask me to investigate an  
15 individual matter, and that's also set out in the Act, but  
16 largely no. I provide the Minister with responsibility for  
17 the administration of the Commissioner for Children and  
18 Young People Act, with a work plan each year - I'm required  
19 to do that by 31 March - and I report annually to the  
20 Parliament.

21  
22 MS BENNETT: And, have you ever been - has a minister ever  
23 contacted you to ask you not to undertake an investigation?

24  
25 MS McLEAN: No.

26  
27 MS BENNETT: Has any senior public servant ever contacted  
28 you and asked you not to undertake an investigation?

29  
30 MS McLEAN: No.

31  
32 MS BENNETT: Mr Ombudsman, the same questions for you.  
33 Are you independent? And how is your independence  
34 protected?

35  
36 MR CONNOCK: Protected by the legislation that we work  
37 under. I am also a separate appropriation when it comes to  
38 budget, so I am in control of my own budget, which is  
39 helpful.

40  
41 MS BENNETT: I should ask the Commissioner the same  
42 question. How is your budget determined and controlled?

43  
44 MS McLEAN: My budget flows through the Department of  
45 Communities Tasmania; I don't have my own separate area of  
46 the budget like Richard.

47

1 MS BENNETT: So there's a public servant who allocates  
2 funding to you from their general allocation?

3  
4 MS McLEAN: You could put it that way. Yes, it is  
5 allocated. It is an output item from the Department of  
6 Communities budget.

7  
8 PRESIDENT NEAVE: And I might be using incorrect language  
9 for Tasmania, but you make a budget bid presumably?

10  
11 MS McLEAN: Yes, I can.

12  
13 PRESIDENT NEAVE: So you make a budget bid and then a  
14 decision is made? A bureaucratic --

15  
16 MS McLEAN: My budget bids flows through the Department of  
17 Communities Tasmania as well, so my understanding is that  
18 they are prioritised with the budget bids of the  
19 department.

20  
21 PRESIDENT NEAVE: And so they then go up to the body that  
22 deals with all budget bids?

23  
24 MS McLEAN: That's right.

25  
26 PRESIDENT NEAVE: Okay, I understand, thank you.

27  
28 COMMISSIONER BROMFIELD: While we're interrupting.  
29 Commissioner McLean, the question that Ms Bennett asked  
30 about whether you'd been contacted by a minister or an  
31 Executive Member of Government about investigations, I just  
32 note that you're not really an investigatory body. I  
33 wonder if you've ever been contacted by a minister or a  
34 member of the - a senior Executive Member of Government  
35 expressing any kind of displeasure in relation to your  
36 advocacy?

37  
38 MS McLEAN: No.

39  
40 COMMISSIONER BROMFIELD: Thank you.

41  
42 MS BENNETT: Mr Ombudsman, could I perhaps phrase it more  
43 broadly in keeping with Commissioner Bromfield's  
44 formulation. Have you received any call from Ministers  
45 expressing displeasure with the functions of your office?

46  
47 MR CONNOCK: No.

1  
2 MS BENNETT: Any senior public servant contacted you or  
3 Executive Member of a relevant department, or any  
4 department, has contacted you to express displeasure in the  
5 way you exercise your functions or propose to exercise your  
6 functions.

7  
8 MR CONNOCK: We have disagreements occasionally but they  
9 don't try and stop me from exercising those functions.

10  
11 MS BENNETT: Mr Easton, I ask you the same question. Has  
12 any Minister or senior public servant called you to seek to  
13 influence the exercise of your statutory powers?

14  
15 MR EASTON: I'd have to answer, no, but as you can imagine  
16 with our work not everyone's happy with what we're doing,  
17 particularly when they're the subject of it. So, I was  
18 trying to formulate an answer in my head. I think I've  
19 certainly had expressions of displeasure from people who  
20 are Ministers of the government when they've found out that  
21 they're being investigated about something. So, they  
22 haven't called me in advance to stop me doing my work or  
23 the Commission doing its work, but when they're the  
24 respondent in a matter they've certainly expressed some  
25 displeasure that we're doing anything, because I guess  
26 they're expressing their innocence to us, there's nothing  
27 to see here, so I'd have to say no, but there is that  
28 scenario. Doesn't stop, we've already done what we're  
29 going to do by that point.

30  
31 MS BENNETT: And in your view is that a legitimate part of  
32 the integrity process?

33  
34 MR EASTON: Well, it's part of our procedural fairness  
35 process so I'd have to say, yes. It's not always  
36 enjoyable, but yes.

37  
38 MS BENNETT: Commissioner, you mention in your statement  
39 that you receive advice from the Solicitor-General. Are  
40 you required to seek advice from the Solicitor-General?

41  
42 MS McLEAN: No, I don't believe I am and I'm not receiving  
43 advice from the Solicitor-General in relation to this  
44 Commission of Inquiry, for example.

45  
46 MS BENNETT: And so, Mr Ombudsman, what about you, do you  
47 receive advice from the Solicitor-General's office?

1  
2 MR CONNOCK: Only when I ask for it, but unlike other  
3 agencies I'm not bound to comply with that advice.  
4

5 MS BENNETT: And you're free to go to any lawyer for your  
6 advice?  
7

8 MR CONNOCK: Yes, I think so.  
9

10 MS BENNETT: Mr Easton, are you required to seek advice  
11 from the Solicitor-General's office?  
12

13 MR EASTON: I can seek advice, and I do. I don't have  
14 that ability to not conform or comply with the advice;  
15 I believe we're beholden to that advice, but actually, we  
16 can't go and actively seek external advice without the  
17 approval of - it may be the Premier or it may be the  
18 Attorney-General.  
19

20 MS BENNETT: Is that the case even when you're considering  
21 the scope of your power to investigate members of the  
22 government?  
23

24 MR EASTON: Yes.  
25

26 MS BENNETT: And the primary legal adviser of the  
27 government is the Solicitor-General?  
28

29 MR EASTON: Yes.  
30

31 MS BENNETT: Does that cause concern for you?  
32

33 MR EASTON: Has done.  
34

35 MS BENNETT: Commissioner McLean, are you bound by  
36 Solicitor-General advice?  
37

38 MS McLEAN: I don't believe that I am. The staff in my  
39 office are public servants, so they are, so it's murky as  
40 to how that advice applies to me or applies to them. I'm  
41 not a state servant, and reflecting on my previous answer  
42 where I am - the Solicitor-General is not providing legal  
43 advice for this Commission of Inquiry, I did liaise with  
44 the Solicitor-General about that and legal advice that I  
45 have obtained was arranged through that liaison with the  
46 Solicitor-General, so it could be said that it is still  
47 through the Solicitor-General's office that that advice is

1 facilitated.

2

3 MS BENNETT: What I'm interested in is whether the advice  
4 about regulating the state is coming from the State's own  
5 lawyer; is that your experience to date in your role;  
6 that's where it's coming from?

7

8 MS McLEAN: Yes.

9

10 MS BENNETT: And that's your experience, Mr Easton?

11

12 MR EASTON: It is and it has concerned us concern at times  
13 in various matters.

14

15 MS BENNETT: Can you tell us about that concern please?

16

17 MR EASTON: Well, exactly, I think what you're talking  
18 about, that there's a potential conflict there if we're  
19 investigating a government representative and they're  
20 seeking advice from their lawyer, which is the  
21 Solicitor-General, and we're required to get advice from  
22 that source as well or get - and I think, thinking through  
23 it now, I think it's the Solicitor-General who can give me  
24 approval to get external advice. But he or she may say no.

25

26 MS BENNETT: So, which integrity body do you go to to talk  
27 about your concern? If you've got a concern that there  
28 might be a conflict, which integrity body is there - who  
29 guards the guards, Mr Easton? Who can you go to?

30

31 MR EASTON: Well, the Integrity Commission Act establishes  
32 the Joint Standing Committee on integrity so that is an  
33 option for us to raise it through them. To be honest, I've  
34 had these discussions with the former Solicitor-General  
35 himself and he recognises the issue, and he has in one  
36 matter given us approval where we asked for it to have an  
37 external legal representative, and that occurred and we  
38 were provided funding because that all becomes an issue for  
39 us as well, we have to pay for it.

40

41 MS BENNETT: I've just got one final line of questioning,  
42 before I accede the lectern to Ms Norton and that concerns  
43 the next panel which concerns the media and journalists.

44

45 Starting with you, Mr Easton, does your office have a  
46 relationship with the media?

47

1 MR EASTON: Well, yes.

2

3 MS BENNETT: Do you find that to be a cooperative or  
4 difficult relationship?

5

6 MR EASTON: We're very cautious about that relationship.  
7 Our approach is, when we speak we have something to say and  
8 otherwise we wouldn't be speaking. As we know, once you  
9 speak publicly or in the media you've lost control of it,  
10 so we're very aware of that. But equally, one of our key  
11 objectives under our Act is to enhance public confidence  
12 that misconduct is being dealt with, and how else do we do  
13 that but by speaking publicly and producing reports.

14

15 So, it's a necessary relationship, but there's been  
16 times where I guess I've realised they might want a comment  
17 from us more than we need to put a comment out, and so we  
18 won't.

19

20 MS BENNETT: Mr Ombudsman, do you have any comments about  
21 your office's relationship with the media?

22

23 MR CONNOCK: Similar to what Michael was saying. I think  
24 in the past we were overly cautious and didn't engage a lot  
25 at all. I tend to much the same view that our publications  
26 and our reports speak for themselves and that's the  
27 conclusion that we have reached and there's nothing really  
28 to add to that. But what we've started doing in  
29 recent years is, when we publish reports putting out press  
30 releases, because we used to find in the past that the  
31 media would cherry pick little things out of the reports  
32 and some of the important stuff was not being addressed, so  
33 we've now started putting out at press release every time  
34 we publish a report, and that's been very positive from our  
35 point of view.

36

37 MS BENNETT: If your office was the subject of media  
38 coverage, would you engage with a journalist about it?

39

40 MR CONNOCK: I have a media representative that liaises  
41 with the journalists.

42

43 MS BENNETT: But you personally wouldn't?

44

45 MR CONNOCK: Not as a general proposition, no.

46

47 MS BENNETT: Have you?



1  
2 MR CONNOCK: No.

3  
4 MS BENNETT: Commissioner McLean, what's your view of the  
5 media's role in oversight in the state?

6  
7 MS McLEAN: It's a very powerful role. My relationship  
8 with the media is different than the two previously  
9 described; I'm an advocate first and foremost, so the  
10 relationship with the media for me is very important and  
11 largely proactive I've got to say. The media are quite  
12 receptive to many of the opportunities we provide them.

13  
14 MS BENNETT: And so, would you engage directly with the  
15 media?

16  
17 MS McLEAN: I hire, I contract media services who engage  
18 directly with the media on my behalf, and if we take a  
19 decision to do a press conference or provide an interview,  
20 that is arranged through that contractual arrangement.

21  
22 MS BENNETT: Is media a legitimate avenue for  
23 whistleblowers in your view?

24  
25 MS McLEAN: Oh, that's a very interesting question. I  
26 think it has been in Tasmania. I'm not sure if  
27 "legitimate" is the right word, I think "effective" would  
28 be another word.

29  
30 MS BENNETT: Have you directly engaged with journalists  
31 about their coverage of child-related reporting in  
32 Tasmania?

33  
34 MS McLEAN: I have responded to their requests for my  
35 opinion on matters.

36  
37 MS BENNETT: Have you ever proactively called a journalist  
38 to talk about their coverage of child-related issues?

39  
40 MS McLEAN: I have interacted with an editor of a local  
41 paper about their coverage of some child-related matters.

42  
43 MS BENNETT: Was that to express concern about the nature  
44 of the coverage?

45  
46 MS McLEAN: The concern - and I have published statements  
47 on this as well - the concern that I have about the

1 coverage of highly vulnerable children is the concern for  
2 them and for their families. So, if I could expand, in  
3 relation to Ashley Youth Detention Centre, for example, as  
4 the individual advocate of the children who reside there I  
5 have witnessed that it is often very, very difficult for  
6 them to see a place that for much of their life may have  
7 been their home portrayed sometimes in the way it is  
8 portrayed, even though it is so important that we bring  
9 these issues to light, we have to find a balance. We have  
10 an obligation to the safety and wellbeing of individual  
11 children and their families and we must do everything we  
12 can to make this system better, more accountable, but we  
13 must also think about them. That is where my primary  
14 concern comes from when I'm talking to the media.

15  
16 MS BENNETT: And so, your concern, in this instance you're  
17 referring to was to make sure that coverage was  
18 appropriately protective of children; is that right?

19  
20 MS McLEAN: That's right.

21  
22 MS BENNETT: And it was limited to that?

23  
24 MS McLEAN: I would ask that people think about children  
25 in their media coverage.

26  
27 MS BENNETT: My question was, was it limited to that?

28  
29 MS McLEAN: I have had a further conversation with an  
30 editor of a local paper in relation to their commentary  
31 about my involvement as the Commissioner or the role of the  
32 Commissioner for Children and Young People; I was fairly  
33 cranky during that conversation, I'm happy to share with  
34 the Commissioners. I always am very concerned when an  
35 independent statutory office is thrown into the middle of a  
36 political or media fray for the reasons that it was at that  
37 time. I didn't think that was fair, I didn't think that it  
38 was productive and I made those views clear at the time.

39  
40 MS BENNETT: Please the Commission, those are the  
41 questions I have for this panel.

42  
43 PRESIDENT NEAVE: Thank you, any questions?

44  
45 COMMISSIONER BROMFIELD: I have one question and really,  
46 Mr Easton, I've been contemplating your answer about  
47 potentially referring matters back to the organisation for

1 investigation, and your other comment that might not be  
2 evident to the public. While they may be clear that they  
3 can come to the Integrity Commission and make a complaint,  
4 that they might not necessarily know that you'd refer it  
5 on. Do you think that could be problematic at any point in  
6 time, that a person might be concerned if the complaint  
7 they made about an organisation was referred back to that  
8 organisation?  
9

10 MR EASTON: Yeah, I would say, yes, people are regularly  
11 concerned about that but it's a reality that we work with.  
12 One of our roles is to build capacity of agencies to deal  
13 with misconduct and prevent misconduct, we cannot do it all  
14 by ourselves and we want strong public institutions to do  
15 that.  
16

17 As a complainant, yeah, I would say in the first  
18 instance they don't understand that we might but, when we  
19 do, we tell them so they know that we're doing it and we  
20 explain why; doesn't always make it any more palatable for  
21 the complainant, but at least we've put that forward as to  
22 why we're doing it and that we can then - or we will then  
23 follow up with the agency where we refer it out. So, our  
24 complaint management system will flag that, we have  
25 processes in place for doing that, and we will always  
26 follow up with those agencies as to how they've dealt with  
27 that matter and we can audit that and pick it up again if  
28 we choose to.  
29

30 COMMISSIONER BROMFIELD: Would you refer that back to an  
31 organisation to investigate if the individual expressed any  
32 fear of reprisal?  
33

34 MR EASTON: It would be a factor for us, but that fear of  
35 reprisal at that point could be real, it could have already  
36 happened, or could be speculative, and there's protections  
37 in place under our Act, not very good ones I must say for  
38 protections against reprisal. If it's a public interest  
39 disclosure then there's protections under that Act: they're  
40 not that great either. So, it's a real factor, but what  
41 we'd be looking at really is the seniority of the people  
42 involved, the seriousness of it, and whether it's systemic,  
43 and, can the agency deal with it if we do refer it to them,  
44 because we're not just going to do it knowingly that they  
45 can't deal with it.  
46

47 I should say that that ability to refer matters can

1 happen at a number of stages along the path of our dealing  
2 with complaints; it's not just at one point, it can happen  
3 at various points  
4

5 COMMISSIONER BROMFIELD: Ms Bennett put the idea that  
6 could confusion or lack of information contribute to lack  
7 of reporting, but could fear under those - what you've said  
8 as some weak protections there for people lead to lack of  
9 report?  
10

11 MR EASTON: Absolutely. Yeah, I didn't get asked that  
12 question. I'd probably be a lot firmer, I don't have the  
13 evidence. It's my observations and we've put this in our  
14 submission in September. Yeah, it's our view based on our  
15 experience that people will not report things for fear of  
16 retribution or for fear of ostracisation as a  
17 whistleblower, kind of thing. But equally people won't  
18 report things because they don't understand the process  
19 within their agency of reporting things, or they won't  
20 report things because they don't think they have to. So,  
21 there's some mandatory reporting requirements under other  
22 legislation, but it is not a requirement of a public  
23 official to report a criminal offence even. There's some  
24 people that have to, but not everyone. It's not even a  
25 requirement for public authorities to report to the police,  
26 so they're barriers, they're blockages.  
27

28 COMMISSIONER BROMFIELD: If we think about protecting  
29 children as something that needs a safety net, from what  
30 you're saying it sounds like we have the inverse of that,  
31 that we've actually got holes at multiple levels that may  
32 be contributing to a lack of reporting.  
33

34 MR EASTON: Maybe. I'm speaking, I'm giving my opinion, I  
35 guess, I don't know enough about all of those potential  
36 holes, it's just our experience through not just our  
37 complaint work, but we engage regularly with agencies, we  
38 educate and people come and talk to us and tell us things,  
39 so I guess we're working at that informal level as well.  
40

41 COMMISSIONER BROMFIELD: And I was only making that  
42 conclusion from the things that you identified, the lack of  
43 understanding, the complicated systems, the fear, so you  
44 actually identified several different, I guess, potential  
45 missed opportunities there for people to understand how to  
46 report.  
47

1 MR EASTON: That's right, and I would add to that or  
2 reinforce the lack of a requirement particularly in  
3 relation to criminal offences.

4  
5 COMMISSIONER BROMFIELD: Thank you, that's all my  
6 questions.

7  
8 PRESIDENT NEAVE: I have one last question. You have  
9 power to hold public inquiries, and I don't think the  
10 Integrity Commission has ever done so; is that correct?

11  
12 MR EASTON: That's correct. So, the inquiries themselves  
13 are not public.

14  
15 PRESIDENT NEAVE: Yes.

16  
17 MR EASTON: It's if the inquiry or the Integrity Tribunal  
18 who runs an inquiry, they may hold hearings and the  
19 hearings are public unless it's decided not to. But,  
20 you're right, we haven't held an inquiry to this point.

21  
22 PRESIDENT NEAVE: Is there a reason for that?

23  
24 MR EASTON: There is, the board of the Commission who make  
25 that decision have criteria in place for determining  
26 whether they will consider an inquiry and they've decided  
27 at this point that none of the investigations that we've  
28 completed have required us to take that next step into an  
29 inquiry, and there's a lot of positives and negatives from  
30 having not just inquiries but public hearings. One of the  
31 criteria essentially has been have we got sufficiently to  
32 the bottom of the matter through our investigation to be  
33 able to refer it back to an appropriate person to deal  
34 with, and I guess the response to the board would be,  
35 they've been satisfied that they have with all the matters  
36 to date.

37  
38 PRESIDENT NEAVE: Thank you for that.

39  
40 COMMISSIONER BENJAMIN: It's a two-step process, isn't it?  
41 First of all your first one is to determine whether you  
42 should make an enquiry at all or whether it goes back to  
43 the department or institution from whence it came; is that  
44 the process?

45  
46 MR EASTON: So, I'll try and simplify it. At the end of  
47 an investigation the board has to make a decision, they can

1 dismiss a matter, they can refer a matter back to an agency  
2 but it may not have come from that agency.

3

4 COMMISSIONER BENJAMIN: It may have come from somebody  
5 else about that agency, yes.

6

7 MR EASTON: That's right, or it can make a decision to  
8 hold an integrity tribunal. It can also send it back to us  
9 to investigate it further, but that's the point, it makes  
10 the decision, is it going to hold a tribunal. If it does,  
11 or hold an inquiry; if it does then an integrity tribunal  
12 will run that inquiry.

13

14 COMMISSIONER BENJAMIN: So, what are the three options?  
15 (1) have an integrity inquiry; (2) refer it back to the  
16 instrumentality or refer it to the instrumentality, or (3)  
17 get you to do more work in relation to it? Are they the  
18 three options essentially?

19

20 MR EASTON: No, it's actually more than that; I'm sorry,  
21 but it's in section 58. Essentially at 58 the board can  
22 dismiss it. The board can refer it and then there's five -  
23 six different types of entities that it could refer it to,  
24 so it's not just the agency, we could refer it to the  
25 police, we could refer it to the DPP, we could refer it to  
26 the responsible minister or a person who the board  
27 considers appropriate. On top of that the board can  
28 recommend that a commission of inquiry be established if it  
29 so chooses: that hasn't happened. It can require further  
30 investigation or it can determine that an integrity  
31 tribunal inquiry occur through the Commission, as in, the  
32 Integrity Commission.

33

34 COMMISSIONER BENJAMIN: And how long has the Commission  
35 been in place?

36

37 MR EASTON: Twelve years.

38

39 COMMISSIONER BENJAMIN: And there's not been one referral  
40 for an inquiry, has there, in that 12 years?

41

42 MR EASTON: That's right.

43

44 PRESIDENT NEAVE: Thank you.

45

46 MS BENNETT: We might adjourn for a break before convening  
47 the next panel.

1  
2 PRESIDENT NEAVE: Yes, thank you.

3  
4 **SHORT ADJOURNMENT**

5  
6 PRESIDENT NEAVE: Ms Norton.

7  
8 MS NORTON: Good afternoon, this afternoon we have two  
9 journalists to speak to the Commission and I ask that they  
10 come up, Ms Camille Bianchi and Ms Emily Baker.

11  
12 <CAMILLE SYDNEY BIANCHI, affirmed: [3.24pm]

13  
14 <EMILY JANE BAKER, affirmed and examined:

15  
16 <EXAMINATION BY MS NORTON:

17  
18 MS NORTON: Ms Bianchi, can I just ask you again to state  
19 your full name please?

20  
21 MS BIANCHI: Camille Sydney Bianchi.

22  
23 MS NORTON: And your occupation?

24  
25 MS BIANCHI: Journalist.

26  
27 MS NORTON: And is it the case that you're a freelance  
28 journalist?

29  
30 MS BIANCHI: Yes.

31  
32 MS NORTON: And so, you don't have a professional address  
33 as such?

34  
35 MS BIANCHI: Not for this purpose, no.

36  
37 MS NORTON: And, Ms Baker, your full name please?

38  
39 MS BAKER: Emily Jane Baker.

40  
41 MS BENNETT: And your occupation and professional address?

42  
43 MS BAKER: Journalist at 1-7 Liverpool Street in Hobart.

44  
45 MS NORTON: Commissioners, Ms Baker and Ms Bianchi have  
46 not prepared statements. You might have seen an outline  
47 that they've prepared; they're going to speak to you today

1 about their personal experiences of reporting on child  
2 sexual abuse in Tasmania.

3

4 Ms Bianchi, can I start by asking you just to outline  
5 for the Commissioners and the people here today your  
6 professional background in journalism?

7

8 MS BIANCHI: It's quite varied and most of my background  
9 has been in broadcast and that can be - I mean as Emily  
10 knows, that can be anything, so you sort of show up and it  
11 runs the gamut from court reporting to state politics if it  
12 was in a regional setting, et cetera, et cetera, so it's -  
13 and then later on was real estate and finance, which is the  
14 closest I would say I have to a specialty.

15

16 MS NORTON: And you've been a journalist for 12 years or  
17 thereabouts?

18

19 MS BIANCHI: Yes.

20

21 MS NORTON: During that time, your background as a  
22 journalist includes a stint reporting for Southern Cross TV  
23 in Launceston?

24

25 MS BIANCHI: Yes.

26

27 MS NORTON: Was that in about 2012/13?

28

29 MS BIANCHI: Yeah, it was a short one, it was just shy of  
30 a year in that time.

31

32 MS NORTON: You've also worked as a journalist in  
33 Queensland and New South Wales?

34

35 MS BIANCHI: Yes.

36

37 MS NORTON: And I think as you said, to the extent you  
38 have an area of specialty it's in daily news, finance,  
39 those areas?

40

41 MS BIANCHI: Yes.

42

43 MS NORTON: Ms Baker, can you tell us about your  
44 professional background?

45

46 MS BAKER: So, I was lucky enough when I was 19, I got a  
47 cadetship in my hometown newspaper, The Examiner, in



1       Launceston. I was at The Examiner for about three years  
2       and then moved to The Canberra Times where I covered  
3       education, then moved back to Tasmania to work at The  
4       Mercury where I was the state political reporter for about  
5       a year and I've been at the ABC for the past almost three  
6       years.

7  
8       MS NORTON: As part of your role at the ABC you've been  
9       reporting on child sexual abuse for the past two years or  
10      thereabouts?

11  
12      MS BAKER: Yeah I'd say that's roughly correct.

13  
14      MS NORTON: You referenced getting a cadetship at your  
15      hometown newspaper. Is it the case that you grew up in  
16      Launceston?

17  
18      MS BAKER: That's right, so I grew up in Launceston, my  
19      whole family's in Launceston, I spent my whole life until I  
20      was 23 in Launceston and still spend a lot of time there.

21  
22      MS NORTON: Thank you. Ms Bianchi, I'd like to talk about  
23      The Nurse podcast. You're the journalist behind that  
24      podcast, which I think was first released in 2020 and ran  
25      for two seasons; is that correct?

26  
27      MS BIANCHI: Yeah, so October 2020 and season one, I think  
28      there were eight episodes which I put out weekly and then  
29      season two was about six months later and that was much  
30      more ad hoc in terms of the publication, and then that last  
31      episode was I think 1 July 2021.

32  
33      MS NORTON: The podcast, it takes its name "the Nurse",  
34      it's a reference to a former paediatric nurse at Launceston  
35      General Hospital, James Griffin. The podcast doesn't just  
36      concern the Launceston General Hospital; are you able to  
37      talk to the Commissioners in general terms about the topics  
38      that you've looked at in the podcast.

39  
40      MS BIANCHI: Yes, and I'm not sure how clear I've made  
41      this within the making of it, but it all sort of became  
42      bigger and bigger and it certainly wasn't the case that I  
43      sort of came in with a wide lens but it became so by the  
44      end of that period.

45  
46                So, I just got more and more information that sort of  
47      traversed different state departments, different

1 victim-survivors and different alleged perpetrators and the  
2 scope increased naturally from there.

3

4 MS NORTON: Given your background as a daily news and  
5 finance reporter based in Sydney, how was it that you came  
6 to prepare a podcast about sexual abuse in a Tasmanian  
7 hospital and Tasmanian institutions?

8

9 MS BIANCHI: I still don't know. No, I got a tip and then  
10 what quickly became apparent was that, or at least it  
11 seemed so at the time, that the only avenue in which  
12 victim-survivors, including Keelie McMahon who was  
13 wonderfully courageous and came to me would have the chance  
14 to do so publicly, was through media. They wanted to tell  
15 their stories because the Griffin matter wouldn't proceed  
16 to court because he had died and that stymied all sorts of  
17 different processes, and so, began, yeah, a good seven,  
18 eight, nine months of trying to work out how to tell that  
19 story and even if I could, yeah.

20

21 MS NORTON: Were you the first port of call for your  
22 sources or had your sources attempted to tell these stories  
23 or to raise their concerns elsewhere before they came to  
24 you?

25

26 MS BIANCHI: I think I was the last port of call, and I  
27 certainly wouldn't have imagined, as I said, it wasn't on  
28 my radar personally in 2020 early when I first got that  
29 call. Yeah, the feeling that I got was that there was -  
30 well, at least the perception was that there was no other  
31 outlet, and I'm aware that other journalists - I mean, I've  
32 been told other journalists were told, and I know that the  
33 journalists who originally broke the story, without naming  
34 Griffin, Sarah Aquilina of the Examiner at the time, it was  
35 a matter of limited resources et cetera, et cetera, an  
36 incredibly complex case to cover legally, and it sort of  
37 disappeared into the ether, so no, I was not the first.

38

39 MS NORTON: I'd like to come back to the question of local  
40 reporting, but just to give the Commissioners and those  
41 here present today a sense of the exposure that your  
42 podcast got; as I understand it, it was a self-funded  
43 podcast; is that right?

44

45 MS BIANCHI: Entirely, yes.

46

47 MS NORTON: Do you have a sense of how many times it's

1       been downloaded?

2

3       MS BIANCHI:    No, I have exact numbers. I say that and now  
4       I don't know. I think as of today it would be just shy of  
5       1.3 million, but yeah.

6

7       MS NORTON:    Do you know where the downloads take place?

8

9       MS BIANCHI:    Yeah, so, I mean that's really, really slowed  
10      in the last nine months, but almost all from Sydney and  
11      Melbourne, and the US, and then in different degrees  
12      different states of Australia, but they give you a  
13      breakdown of cities around the world.

14

15      MS NORTON:    And what about in Tasmania?

16

17      MS BIANCHI:    It was picked up a little later, but also, I  
18      mean podcasts, it's sort of a certain generation, so I  
19      mean, 80 per cent of the listener breakdown of mine are  
20      women true crime enthusiasts around 40 to 50 years old, but  
21      then I was told by Acast who I produced it through that  
22      Tasmania doesn't have a huge podcast audience and not for  
23      true crime, anyway in 2020 that was the case. So, it was a  
24      comparatively small audience, but also population-wise it's  
25      quite difficult to compare, yeah.

26

27      MS NORTON:    Can I throw a question open to both of you.  
28      You referred then, Ms Bianchi, to a journalist at the  
29      examiner who had originally broken the Griffin story, and  
30      I'm conscious, Ms Baker, that you had also along with other  
31      local reporters been reporting about the Griffin story and  
32      other concerns about institutional child sexual abuse in  
33      Tasmania prior to the podcast. That reporting doesn't seem  
34      to have got the same traction as the podcast. Do either of  
35      you or both of you have a view about why that might have  
36      been the case?

37

38      MS BAKER:    I'm not sure, just to correct you, I'm not sure  
39      that I had reported on Griffin before The Nurse podcast so  
40      that was actually the first time it came to my attention  
41      except for a conversation with a friend in Launceston who  
42      wondered why the media wasn't covering it, that he had been  
43      walked out of the LGH. This was after The Examiner had  
44      covered it and after he had died.

45

46                   In terms of why it didn't get traction, I would  
47      probably agree with what Camille has said, I think about a

1 newspaper like The Examiner which faced tremendous cuts  
2 while I was there and, and has been cut and cut and cut  
3 since, it is a legally complex story and as I'm sure we'll  
4 hear, took Camille months and months and months to get the  
5 information that she needed to proceed with the story. I  
6 would say that at a place like The Examiner when you're  
7 reporting on daily events as they happen and you're  
8 basically treading water, they don't have the time to do  
9 that frankly. I've said that I heard about this in a  
10 conversation with a friend, I believe that was actually  
11 after the nurse came out because she said, "I can't believe  
12 you guys didn't report it", "you guys" being the ABC. I  
13 don't know a single person at the ABC who was aware of it,  
14 which may be a reflection on us or it may be a reflection  
15 on the distrust I think of local media that some of the  
16 community feel.

17  
18 MS NORTON: Do you have a sense of why there's a level of  
19 mistrust for local media?

20  
21 MS BAKER: I think there's a few reasons, maybe as a  
22 primary one is, I mean, there's distrust in journalists  
23 generally which we see around the world. And I think it's  
24 particularly prominent in Tasmania, maybe the culture of  
25 secrecy that you've been talking about today is part of  
26 that, but I have the sense, when I talk to people they are  
27 trying to figure out who I know in Launceston, whether they  
28 might be connected to, say, the LGH, whether I have  
29 relatives working there or for a particular department or  
30 whatever it may be, and I've had that question directly  
31 asked of me before, and "will you tell anyone", you know,  
32 "Your certain relative works here, will you tell them what  
33 I've told you?" I think that's a really big factor, how  
34 small Tasmania is and a concern - you know, maybe a  
35 misunderstanding of how journalists treat sources or good  
36 journalists treat their sources and what we might do with  
37 that information.

38  
39 MS NORTON: Can you offer any reflections on local  
40 perceptions about the role of the media when reporting on  
41 Tasmania?

42  
43 MS BAKER: I get the sense, and I mean this is backed up  
44 by trusty Facebook, for example, that there's a belief that  
45 feels particularly pronounced in Tasmania that the role of  
46 the media is to champion Tasmania, and that's a view  
47 expressed by the community often and that's a view

1 expressed by the government often. Stories that talk down  
2 Tasmania are likely to attract negative criticism and often  
3 quite negative commentary.  
4

5 MS NORTON: You said in your answer just then that this  
6 idea that the role of the media is to champion, not  
7 denigrate Tasmania and that that's a view expressed by the  
8 government. Can you expand for the Commissioners and the  
9 people here today how that view is expressed by government?  
10

11 MS BAKER: I think a pretty clear example is the only  
12 recently former Premier Peter Gutwein often at a press  
13 conference will say, "Well, you might want to talk down  
14 Tasmania but I don't", and you might be asking a basic  
15 question about funding to something or whatever it may be,  
16 a really basic question, you're interrogating an  
17 announcement, you're wondering where money is going to come  
18 from for this big thing that we're planning on building,  
19 and the response will be, "You might want to talk down  
20 Tasmania but I don't", and that's the end of story.  
21

22 MS BENNETT: No, please.  
23

24 MS BAKER: No, I've lost the stream on that.  
25

26 MS NORTON: Well, can I throw this out there and ask for  
27 your comment on it, I've certainly heard it myself and I'd  
28 be interested in your view, the slogan, "Ashley's good for  
29 jobs". Do those sorts of attitudes affect your reporting  
30 on Ashley Youth Detention Centre?  
31

32 MS BAKER: Particularly, Tasmania's fiercely parochial and  
33 that affects the state I think in all sorts of ways, we're  
34 talking about a disjointed health system, tension between  
35 the north and south, we have a Federal election happening  
36 right now where funding gets concentrated in areas where  
37 it's easier - an unfair thing to say - where people would  
38 like to win seats and you play up, you know, we're here for  
39 the north, we're good for Bass, we're good for Braden,  
40 whatever it is. Working for something like The Examiner  
41 certainly - and I haven't worked there for a long time -  
42 but certainly the sense was, we're here to champion the  
43 north, we're here to talk up the north, we'll tell good  
44 stories about the north and I do think that's an important  
45 role that a local newspaper plays, you're part of the  
46 community's identity and you should be of course telling  
47 the good stories that come with that.

1  
2 Sometimes there are not good stories though, and if we  
3 think about something like the Ashley Detention Centre, and  
4 again, I would say no-one at The Examiner was aware of the  
5 extent of the abuse that's been alleged at Ashley Youth  
6 Detention Centre, but the way Ashley was framed was that  
7 it's good for jobs in Deloraine. It is a jobs hub in  
8 Deloraine and it was seen as political poison to talk about  
9 closing Ashley. Indeed the 2016 Noetic report which  
10 recommended the closure of Ashley, you know, replacement  
11 with the two purpose-built centres which now seems to be  
12 happening, that became this political football of, well,  
13 labor wants to shut down Ashley, loses local jobs; not what  
14 is the best outcome for the children in this situation.  
15

16 MS NORTON: Are you aware of any attitudes within the  
17 Tasmanian community about newspapers reporting on child  
18 sexual abuse?  
19

20 MS BAKER: It's still - I know one particular publication  
21 did not report on child sexual abuse for some time because  
22 it was a topic that readers don't like and, of course they  
23 don't like it, we don't like talking about it either.  
24 There is a sense I think in Launceston still that these are  
25 private matters and, when we talk about the Griffin matter  
26 in particular, that this is a private matter and it's  
27 wrong, it's wrong for the media to keep talking about it.  
28

29 MS NORTON: Ms Bianchi, can I invite you to comment on the  
30 reflections that Ms Baker's just offered?  
31

32 MS BIANCHI: Yeah, that holds true. So, certainly, I  
33 mean, the feedback I had from many Tasmanians, especially  
34 probably fair to say older Tasmanians would be a little bit  
35 like, "Okay, this is done now, why are you still talking  
36 about it?" Or almost as if you're glorying in it and it's  
37 like Emily said, it's the hardest thing to report on, I  
38 mean, even just logistically, legally, every element of it,  
39 emotionally, it has an incredible burden that you place on  
40 everyone you speak with, which you have to be conscious of  
41 to be a decent human being as well as a journalist, but it  
42 was definitely a sense of, "This isn't nice, this isn't  
43 productive, this isn't helpful", and all you're doing is, I  
44 mean, I had this said directly and indirectly was, "You're  
45 doing harm", was basically it.  
46

47 MS NORTON: And the people who came forward to you, they

1 obviously took a different attitude, and no doubt were very  
2 disturbed about the matters that they were coming forward  
3 with and would have preferred not to have felt like they  
4 needed to come forward. What motivated them to come and  
5 speak with you?

6  
7 MS BIANCHI: It was different for a different one. So,  
8 for victim-survivors a couple of whom came forward and I  
9 don't want to name one and forget someone - anyway, they're  
10 such outstanding courage I'll never be able to even fathom  
11 that. But, they didn't - they all said the same thing  
12 predominantly, which was, "This can't happen to anyone  
13 else, and we're not certain these people who were in  
14 state-run institutions, we're not certain that enough has  
15 changed since in the years since this happened to me that  
16 it won't happen to someone else". That was the predominant  
17 thing, and then the other reason that people gave was a  
18 sense of justice not done and they felt stuck in their  
19 lives. There was this hurdle that they couldn't overcome  
20 and, "I hope, I hope speaking helped".

21  
22 MS NORTON: In your experience, was coming forward an easy  
23 or a straightforward thing for those people or was that a  
24 difficult thing for your sources to do?

25  
26 MS BIANCHI: Again, it's so different. So, for people  
27 that I dealt with that hadn't gone to media before it was  
28 incredibly - I mean, I can't speak for them, but my sense  
29 was that they were comfortable with speaking with me, but  
30 they had a lot of fear around what would happen - I mean,  
31 as you'd expect - what would happen reputationally; you  
32 know, it depended on how much time had passed really and  
33 how much they had sort of come to terms with what had  
34 happened, I suppose, depending on how they felt.

35  
36 MS NORTON: Can I ask you about that fear and I'll invite  
37 you to comment as well, Ms Baker, because I know in the  
38 last month or two you've published an article where you  
39 talk about being not the first port of call for sources.  
40 Can you share with the Commissioners your reflections on  
41 the fears that sources have coming forward?

42  
43 MS BAKER: I think in a small place like Tasmania there's  
44 a fear about personal repercussions, professional  
45 repercussions, what the broader community might think of  
46 them, that they won't be believed, you know that that thing  
47 will be reinforced that they won't be believed, that

1 nothing will change. And, as Camille said, it's a huge  
2 thing to talk to a journalist, it's completely outside the  
3 realm of what most people every day have to even think  
4 about doing. To think about going on television, talking  
5 about the most traumatic event of your life is a huge  
6 decision to make.

7  
8 You know, I've done stories with people where they  
9 don't leave the house for a week, they're too scared,  
10 they're worried people on the street will recognise them  
11 and know them as this person that this terrible thing has  
12 happened to. But often there's immense strength and  
13 courage in the people who decide to do that and the people  
14 who don't. You know, we talked to people who - I'm  
15 assuming, I certainly talked to people who get partway  
16 through wanting to tell their story and decide that's not  
17 for them and I respect that as well and their bravery and  
18 making the right choice for them.

19  
20 MS NORTON: Can I ask you about your process. When a  
21 source comes forward with a story they'd like to share with  
22 you, what sort of discussions do you have with them about  
23 the process that you're about to engage in?

24  
25 MS BAKER: I always try to be very honest and up-front  
26 with people who come to me, and of course empathetic as  
27 well, that goes hopefully without saying. We need to be  
28 able to - we need evidence of - that the allegations are  
29 true, and that can be really difficult if we're talking  
30 about historical child sexual abuse, and it might be as  
31 simple as talking to another family member, a person's  
32 friend from the time, that sort of thing. But it is, it's  
33 a really rigorous process. So, you know, I can't speak to  
34 Camille's process, but it's asking for paperwork, any  
35 documentation, did you keep a diary at the time, would you  
36 sign a statutory declaration, would you appear with me in  
37 court if I'm sued for publishing this story, who can back  
38 up your story? Then, you know, I tell them, these are the  
39 things we have to go through and it might be that we can't  
40 tell the story if you can't produce those things. It's a  
41 really rigorous and difficult process.

42  
43 MS NORTON: Ms Bianchi, is your process similar to that  
44 described by Ms Baker?

45  
46 MS BIANCHI: It is, and I had my own lawyer, I mean, she  
47 has excellent judgment in that and it was always, there



1 were thresholds that she wouldn't accept in terms of  
2 evidence that I would present to her with my scripts and  
3 things that she checked, so numbers of sources. Paperwork  
4 is very helpful, all that stuff. And also with the court,  
5 sort of the caveat that if this goes ahead will you testify  
6 in court?

7  
8 MS NORTON: You said earlier on in the session that you  
9 began looking at events surrounding James Griffin at  
10 Launceston General Hospital but the scope increased as more  
11 information came to you. Applying the sort of thresholds  
12 that you've just described, have you told in the two series  
13 of the podcast all or most of the accounts that have come  
14 to you, or is there material that's unpublished?

15  
16 MS BIANCHI: A very small portion has been able to be  
17 published. So, I am - I'm loath to put a percentage on it  
18 because it wouldn't be accurate, I can't sort of really. I  
19 mean, I know at least half but it's more than half of what  
20 I've had, probably much more than half I can't report on,  
21 for very many reasons, including sources disappearing,  
22 et cetera, et cetera, but mostly it's because of evidence  
23 thresholds.

24  
25 MS NORTON: You've both talked about the fears that  
26 sources have in coming forward, fears related among others  
27 things to professional consequences. Currently, and  
28 distinct from some other jurisdictions whistleblower  
29 legislation in Tasmania doesn't provide protections to  
30 whistleblowers who come to professional journalists. Do  
31 you have any views on whether those sorts of protections  
32 are a good idea and might make the process of coming  
33 forward easier for your sources?

34  
35 MS BAKER: I think those fears would remain and, at the  
36 risk of doing myself out of a job or whatever, my personal  
37 preference would be the existing systems actually work,  
38 that they're strengthened and - I mean, of course, I would  
39 love people to be protected if they talked to a journalist  
40 but I recognise that that's not necessarily an ideal  
41 scenario, but we're not living in an ideal scenario right  
42 now, so I think that, yes, adding journalists to that level  
43 of protection would be a wonderful thing but there are so  
44 many things before that I think that need to happen before  
45 that as a matter of priority.

46  
47 MS NORTON: Can you speak to the Commissioners about what

1 those things are?

2

3 MS BAKER: Well, I'm sure you would have read so much  
4 evidence of people trying to make change within  
5 institutions, they go through the right channels, they go  
6 through the right channels again, they try a different  
7 office, they try an integrity office. Wouldn't it be  
8 wonderful if someone alerts someone in their workplace to  
9 serious misconduct, and we're talking about the worst kind  
10 of misconduct, and that's acted upon.

11

12 MS NORTON: So, you're referring to processes within  
13 institutions rather than processes that involve the media?

14

15 MS BAKER: I am, yeah, I'm talking about, I would love for  
16 these institutions to work.

17

18 MS NORTON: Do you have anything you'd like to add to  
19 Ms Baker's comments, Ms Bianchi?

20

21 MS BIANCHI: Yeah, I 100 per cent agree, I mean, I can  
22 only speak for myself, but I don't think people should have  
23 to go to media. I don't think it's an easy or even a great  
24 outcome. Like, I worry every day that people will regret  
25 coming forward. Like, you know, because every time I speak  
26 with someone I'm exposing them to all the things that come  
27 with it. I mean, good for me, I get to tell a story, but  
28 for them, wouldn't it be better if they could go safely  
29 within their workplace and not feel as though there would  
30 be some sort of punitive outcome if they were to report  
31 things higher? And also, a little bit more transparency  
32 and clarity around where they can go. I mean, so many of  
33 my sources, and at times I don't know what the appropriate  
34 course is in terms of which Commission, which Ombudsman,  
35 integrity, whichever, whichever; I can't imagine how  
36 confusing it must be.

37

38 MS BAKER: Could I just add something, sorry, if we talk  
39 about something like - I mean there are times I will talk  
40 people out of doing a story with me because I am too  
41 conscious of the potential repercussions for them, and they  
42 may be, you know, if they want to do it, obviously people  
43 are consenting adults and that's fine, but there are times  
44 where I'll say "I think this is too risky and I'll talk  
45 them out of it."

46

47 What I actually meant to say was - I then might try to

1 refer them to, well, again, like Camille, I'd struggle to  
2 know where someone should go, so often I would suggest the  
3 Ombudsman, for example. But I know, or it appears, that  
4 that office is chronically under-resourced and therefore  
5 limited in the actions it can take in a timely manner.

6  
7 MS NORTON: It sounds like you both feel a real  
8 responsibility when people come forward to share their  
9 stories with you; both a responsibility that is squarely  
10 within your professional realm, but one that strays beyond  
11 it as well. Is that a fair characterisation?

12  
13 MS BAKER: Oh, absolutely, I take it incredibly seriously.  
14 You know, it's a great responsibility to tell these stories  
15 and any story, for someone to trust you with often very  
16 sensitive and personal information and not just with this,  
17 but in many other topics that I've covered should be  
18 treated like it's the huge responsibility it is.

19  
20 MS NORTON: We've been talking about your interactions  
21 with sources, I'd now like to ask you about your  
22 interactions or dealings with Tasmanian institutions. Can  
23 I ask you, and perhaps I'll start with you, Ms Baker, as  
24 the local journalist, to talk to the Commissioners about  
25 your experience of dealing with government departments and  
26 other agencies when you're making enquiries as a  
27 journalist.

28  
29 MS BAKER: It's an experience that's changed over time.  
30 So, I think, as I said at the beginning, I started - I  
31 didn't go to university, so I came straight out of  
32 Launceston College, I'm working at The Examiner, I was 19,  
33 and at that time I was not treated well, I think it would  
34 be fair to say by government media officers, and there was  
35 a short period where Labor was in government and then  
36 Liberals came into government.

37  
38 What has been a common theme - I'm treated with more  
39 respect now, I would say, and I don't know whether that's  
40 because we've had several different Premiers since then and  
41 things keep changing and whatever that may be, cultural  
42 change I don't know, or whether I'm just more experienced  
43 so people don't bother. But what hasn't changed is, I  
44 think, a general hostility towards the media. Obstruction  
45 of even the most basic requests, crazy hurdles thrown in  
46 your way for no reason or completely ignored.

47

1 MS NORTON: Can I just ask you there, can you give an  
2 example of what you mean by basic requests?

3  
4 MS BAKER: I wrote these down because I knew my mind would  
5 go blank. It's outside the scope of --

6  
7 MS NORTON: Sure.

8  
9 MS BAKER: So, I'm talking really basic requests. For  
10 example, when we started having the quarantine hotels, so  
11 who's the contractor? Apparently it wasn't our business.  
12 It wasn't a whole story in itself even, it was meant to be  
13 a line in a TV story. We've got quarantine hotels popping  
14 up in Tasmania, I wasn't allowed to know who the contractor  
15 was. I've asked how many children in Ashley are the  
16 subject of Out-of-Home Care orders; I can't quite remember  
17 the right phrasing there. I ended up doing an RTI, I don't  
18 think I got that back either. I remember asking a question  
19 on when Minister Jaensch was alerted to specific  
20 allegations within Ashley: didn't receive a response; talk  
21 about incidents happening at the LGH when I was at The  
22 Examiner: no response. I could do this all day.

23  
24 MS NORTON: Thank you, you've answered my question, thank  
25 you. Can you contrast that experience of dealing with  
26 local institutions with your experience when you were at  
27 the ACT of dealing with government institutions there?

28  
29 MS BAKER: It was really shocking. I mean, moving from  
30 Launceston to Canberra was a cultural shock in a lot of  
31 ways. But every time you make a request for information  
32 here, and again I'm talking about from the most basic  
33 request to ones that I would acknowledge are more  
34 potentially hairy for a government: it is why do you need  
35 that information, what are you doing with it, what are you  
36 writing, what's your angle, argue, argue, argue, it's  
37 5 o'clock, it's too late, sorry, everyone's gone home.

38  
39 When I moved to the ACT I was shocked, happily  
40 shocked, that I could ask for, say, I said I was an  
41 education reporter. What are the school attendance  
42 figures? Oh, here you go. It's like, oh now what? I have  
43 to write a story on it, you know. It was a very different  
44 attitude, and it doesn't mean that it wasn't combative  
45 sometimes or they would try to prevent you from getting  
46 information or it was this beautiful utopia that everything  
47 I wanted I received, absolutely not, but the attitude was

1 very different

2

3 MS NORTON: Ms Bianchi, would you like to comment on your  
4 experience dealing with Tasmanian institutions?

5

6 MS BIANCHI: Yeah, so I'll put RTI stuff to the side for a  
7 moment.

8

9 MS NORTON: We'll ask you about that shortly.

10

11 MS BIANCHI: But just in terms of my perception in  
12 general, and I have a lot of doubt in this because I have a  
13 really shallow pool of experience in Tasmania and it's such  
14 a narrow sort of scope of experience and I am asking really  
15 troubling questions of departments. I mean, the biggest  
16 thing that I kept sort of coming back to was just  
17 non-replies and baffling lapses in time that were  
18 attributed to things like, you know, COVID or this or that,  
19 and then I had time, so I was okay. And then I'd come back  
20 and then just, it would just be like, "Oh, you know, thanks  
21 for your enquiry but no, we won't be answering it". It was  
22 like, this is really serious, I would have thought, you  
23 know, in different jurisdictions I've dealt with there'd be  
24 a call that was sort of, you know, a formal call and then  
25 trying to get the scope of what you're saying and how it  
26 can be responded to and an answer quite swiftly. And I was  
27 dealing with a Regional Queensland hospital about  
28 six months ago for something; I mean on the level with this  
29 seriousness, it wasn't child sexual abuse but it was really  
30 serious, and it was dealt with in a way that I expected.  
31 They weren't thrilled and they certainly didn't hand me  
32 over a bunch of information straight away but it felt  
33 professional and it didn't feel like a game.

34

35 I came away from a lot of this reporting with a sense  
36 that it was - like I was going crazy and it was this sort  
37 of back and forth that got more and more bizarre and more  
38 and more time passing and then all these nos, and yeah, you  
39 do, you sort of - almost fatigue, and I wonder, yeah, if  
40 it's that hard for us, I wonder how it is for other people,  
41 members of the public.

42

43 MS NORTON: I'd like to come back to that because I'd like  
44 to explore that further in the context of RTI applications,  
45 but I'd also like to invite you, both of you, to comment if  
46 you'd like to about particular government departments that  
47 you find particularly difficult or particularly good to

1 deal with.

2

3 MS BAKER: Health and communities have long been  
4 particularly difficult to deal with, and I'm not blaming  
5 any individuals for that, it feels cultural. Education, I  
6 have found easier to deal with in a Tasmanian context.  
7 Yeah, I would say they're the kind of three - DPIPWE has  
8 become, or whatever it's called now, has become better, but  
9 I would say certainly health and communities are the  
10 standout most difficult.

11

12 MS NORTON: You're nodding, Ms Bianchi?

13

14 MS BIANCHI: I mean, I haven't dealt with all the  
15 institutions, but they were kind of my first foray into  
16 really sort of seriously dealing with any media enquiries  
17 in Tassie, and I was astounded by how combative it felt,  
18 and again, you kind of wonder, I'm coming in as an outsider  
19 and it's this sort of brief experience that I'm having, but  
20 it's been vindicated and validated by people like Em and -  
21 yeah.

22

23 MS BAKER: Yeah, there are times particularly when I was  
24 younger that I'd be left crying after an interaction with  
25 someone from a particular department, and that happened to  
26 a colleague of mine last week, she was left crying after an  
27 interaction because you were so attacked, and to the point  
28 of a former employer had made a complaint about this, but  
29 who do you complain to? It's working for them, right?

30

31 MS NORTON: Would either of you like to comment about the  
32 role of political advisors, Ministers, the extent to which  
33 in your experience they seek to influence the media  
34 narrative and, if they do, the ways in which they seek to  
35 do so?

36

37 MS BIANCHI: The only thing I can really think of that's a  
38 concrete example is, prior to my first episode on Ashley, I  
39 was getting - I got a weekend call from a media rep who - I  
40 mean, to be fair to them it wasn't like they were being  
41 nasty or anything but it was baffling, and it was  
42 ostensibly trying to see if they could preview the episode  
43 because they were concerned that I didn't understand the  
44 legalities. And, you know, I had a lawyer of my own and  
45 she assured them, no, she understands as do I, and the  
46 inference was that I would be harming children in custody,  
47 and look it's very difficult when you hear that enough not

1 to think that that's just how they approach any of these  
2 inquiries as though they're malicious. I can say they're  
3 not, they're not malicious on my end, but that's certainly  
4 the tone with which media enquiries are met, I would say,  
5 in the departments we mentioned. It's sort of, "What are  
6 you doing this for, you're going to do harm?", is the - I  
7 mean, it's not even covert, sometimes it's said directly to  
8 you.

9  
10 MS NORTON: Ms Baker, have you had similar experiences  
11 where representatives of government institutions have  
12 contacted you directly in response to your reporting on  
13 child abuse?

14  
15 MS BAKER: Kind of separate to that, and I'll get to that  
16 obviously, but building on what Camille has said, there  
17 have been several occasions where I've been told, like  
18 several occasions, that I'm going to cause someone to take  
19 their own life, my reporting will lead to that dreadful  
20 outcome, and it is, I'm loath to say weaponised because I  
21 don't want to make light of it myself, but it can feel that  
22 that is often used. That is often used.

23  
24 MS BIANCHI: It's been said to me too.

25  
26 MS BAKER: Yeah, so I received - I guess the most blatant  
27 example of what you're talking about would be a phone call  
28 from a very senior public servant who - this was obviously  
29 in relation to a particular report, I think it was on some  
30 staff stand downs - implying that I was, I may cause a  
31 staff - I may cause serious mental harm to the staff  
32 involved, that I was unnecessarily scaring Northern  
33 Tasmania, which is an amazing power of mine, and that I was  
34 upsetting the victims of abuse particularly at Ashley Youth  
35 Detention Centre, which was a dreadful, horrible phone call  
36 to receive; particularly, I was talking to the people that  
37 were affected by that abuse.

38  
39 MS NORTON: You both referred on a number of occasions to  
40 suggestions that you're doing harm or seeking to do harm  
41 through you're your reporting. Is that the case?

42  
43 MS BAKER: No.

44  
45 MS BIANCHI: No.

46  
47 MS BAKER: No.

1  
2 MS NORTON: What's your reaction to those suggestions?

3  
4 MS BIANCHI: Um, it's very heartbreaking, because if you -  
5 if you do report in this area, and I think you would hope  
6 anyone working in this area, it's impossible to - and I  
7 suppose - it's really bad faith to come at it that way  
8 because I don't really understand what we would get from  
9 that; like, there's no kind of kudos.

10  
11 MS BAKER: No, and that's not to downplay, the media has a  
12 really serious role, we can cause harm, I'm so cognisant of  
13 that as I'm sure Camille is.

14  
15 MS BIANCHI: Yeah.

16  
17 MS BAKER: That's a balancing act every day when we're  
18 talking about these issues, it's at the forefront of our  
19 mind, but I would refuse to be another institution that  
20 says sorry I'm not reporting on that because I might hurt a  
21 worker's feelings. No.

22  
23 MS NORTON: Can I ask you this question: I believe you  
24 were both in the media room during the previous panel, and  
25 you would have heard the evidence given by the Commissioner  
26 for Children and Young People about conversations that she  
27 had had on occasion with the media stemming from a concern  
28 that reporting, for example, in relation to Ashley Youth  
29 Detention Centre was - and she didn't use this word but my  
30 paraphrasing, that it might be irresponsible and that when  
31 she has those conversations with the media it's because she  
32 wants the media to think about the children. What's your  
33 reaction? I guess the implicit message there is that  
34 you're not thinking about the children when you report on  
35 Ashley Youth Detention Centre. What's your reaction to  
36 that?

37  
38 MS BIANCHI: I mean, it's an explicit message in my mind.  
39 The reaction again is, why would we do it? I don't - I  
40 mean, it's not the area that editors want you to report on,  
41 it's not going to kind of get you a Netflix series, I mean,  
42 it's not fun for anyone.

43  
44 MS BAKER: No, I feel like I - yeah --

45  
46 MS NORTON: What motivates you to do it?

47



1 MS BAKER: Um, sorry, I'm getting emotional.

2

3 MS NORTON: Take a minute.

4

5 MS BAKER: I just think we can do so much better, and,  
6 frankly, to hear the Commissioner say that, I almost cried  
7 at the time. Like, I feel like I was so - and, you know,  
8 we're not the victims here, you know, I know that. But,  
9 you know, having a new - what felt like new disclosures of  
10 child sexual abuse made to us most days of the week,  
11 24-hours a day, dealing with the barriers that we've dealt  
12 with, you know, I would love - I'd love to never report on  
13 this again, I'd love for it not to be a problem, but that's  
14 the point: I would love for it not to be a problem. I  
15 think we can do better, I think vulnerable children deserve  
16 so much better and that they don't have that.

17

18 MS NORTON: Thank you, Ms Baker. Can I just go back to  
19 the previous example that you gave about receiving a phone  
20 call from a senior government - a senior public servant.  
21 You, of course, can't speak to the state of mind of that  
22 senior public servant, but being on the receiving end of  
23 that call, what was the message that you took away from  
24 that call?

25

26 MS BAKER: The message was, "Don't talk about this stuff,  
27 we're dealing with it, leave us to deal with it, you are  
28 hurting people every time you report on that."

29

30 MS NORTON: I'd like to talk about - I'm conscious of the  
31 time - I'd like to talk about the RTI process, and perhaps  
32 I'll start with you, Ms Bianchi, and I know, Ms Baker,  
33 you've had considerable experience with RTI requests.

34

35 But there's a particularly prominent example in your  
36 case, Ms Bianchi, where you made an RTI application to the  
37 Department of Health; would you like to just briefly  
38 outline to the Commissioners what you were seeking in that  
39 application and when you made it?

40

41 MS BIANCHI: Yeah. So, I made it on 1 April 2020, and  
42 that was seeking records of complaints against James  
43 Griffin in his capacity as a paediatric nurse, I think it  
44 was transfer records and also ward notes, emails, it was  
45 anything pertaining to that inquiry, and also I think  
46 within that was whether he had an eligible Working With  
47 Children's card, but I can't recall if that was a different

1 application. So, I made it on April 1st 2020, yes.

2

3 MS NORTON: And, what response did you receive to your  
4 request?

5

6 MS BIANCHI: I mean, the first were really helpful because  
7 I had filed it incorrectly, so that was the same day,  
8 actually I had made it as an FOI and that wasn't  
9 appropriate in this jurisdiction. Then it was, I suppose,  
10 back and forth of housekeeping around how I needed to send  
11 it; I needed to pay for it because I wasn't recognised as a  
12 journalist, which I accepted because this was an enquiry  
13 made as an independent who works outside of Tassie. So, I  
14 think I paid \$44 for it? I can't remember whether I even  
15 eventually waived that fee or not, and then it had to be  
16 posted, so it became a bit of back and forth yeah.

17

18 MS NORTON: A bit of back and forth initially, and then,  
19 did you receive a response within the statutory timeframe?

20

21 MS BIANCHI: No. So, I think about six weeks, and then I  
22 followed up, and then the answer was that due to COVID that  
23 there was time delay, which I accepted, even though there  
24 were zero cases in Tassie at the time from memory, or  
25 maybe there was - I think there was a handful. And then a  
26 couple of months later I followed back up and then asked  
27 again, and it was due to COVID, and then I got a bit arky  
28 and then was kind of just, like, well, there's so few cases  
29 in the state, how could it be a COVID delay?"

30

31 Then the eventual response, I started to talk about  
32 it. I didn't have it by the time I started publishing  
33 in October 2020, so six months later, and then I made  
34 reference to it quite a few times, so I was annoyed. And  
35 then I was - I did hear back once I started sort of  
36 broadcasting about it; I remember hearing just a "no", so  
37 it wasn't in the public interest to fulfil that request.

38

39 And then I referred it to the Ombudsman's Office - I  
40 can't actually remember the exact timeline of this, I think  
41 it was all within that six, seven, eight months, and then  
42 the Ombudsman - so, that was for an appeal, so you can  
43 appeal. And then the Ombudsman accepted it but said it  
44 would take up to three years, and they were really helpful  
45 but they - a couple of calls back and forth, like, it was  
46 just gonna take a very long time.

47

1 I tried to fast-track it and then that was rejected,  
2 that application to fast-track it, so that was another  
3 month down the line I think; and then I just let it be.  
4 And then, in this time this Commission had been announced  
5 and things, and then sometime later I got a call from the  
6 Ombudsman's Office saying it had self sort of elected to  
7 fast-track it and I would be getting that soon, and then a  
8 number of more months passed and then I think it  
9 was November, the beginning of November in 2021.

10  
11 MS NORTON: Yes. So, you appealed the decision of the -  
12 and, just to assist the Commissioners, the Ombudsman's  
13 decision is in the hearing bundle, it's before the  
14 Commission, but just for context. The request was made,  
15 I believe, tell me if this is wrong: the Department of  
16 Health responded - told you that there were documents  
17 responsive to the request but refused to provide them on  
18 the ground that they were each captured by exceptions to  
19 the obligation to provide materials, and it was that  
20 decision that you appealed to the Ombudsman; is that  
21 correct?

22  
23 MS BIANCHI: Yes, that's correct.

24  
25 MS NORTON: And the Ombudsman handed down a decision at  
26 the beginning of November 2021; that's a detailed decision  
27 and I don't want to oversimplify it, but would you agree  
28 that, in general terms, the Ombudsman found that some of  
29 the exemptions were not made out at all; others were made  
30 out in part, and that there certainly were documents that  
31 weren't covered by an exemption and that ought be provided  
32 to you?

33  
34 MS BIANCHI: Yes.

35  
36 MS NORTON: So, that's at the beginning of November 2021.  
37 Were the documents provided to you at that time?

38  
39 MS BIANCHI: No.

40  
41 MS NORTON: And, Ms Baker, I think I'm right in saying  
42 that about a month later, in December, I think it's around  
43 10 December last year, you and others started to report on  
44 the Ombudsman's decision. Can you explain why it was that  
45 you started reporting on that decision a month after it had  
46 been handed down?  
47

1 MS BAKER: So, there are a couple of things. I think, to  
2 be frank, I'm not on the Ombudsman's website very often. I  
3 had a source alert me to this decision and they basically  
4 had to hold my hand to walk through this complicated web on  
5 the website of where exactly this decision was hiding. It  
6 was under a subheading on a subheading, you know, on a  
7 page buried deep on the Ombudsman's website, so it took  
8 that source alerting me to this, and the fact that this  
9 page even existed, before I realised it was there.

10  
11 MS NORTON: And, Ms Bianchi, what happened when the media  
12 started reporting on the Ombudsman's decision?

13  
14 MS BIANCHI: So, that was on October 10. So, journos,  
15 including Em, were talking. I think that was sort of - the  
16 flavour of the reporting was the fact that the Ombudsman  
17 had made some commentary around the justifications that  
18 Tasmania Health had used to not provide the documents. So,  
19 anyway, that basically triggered - well, I don't know, I  
20 can only say it's coincidental - that, about half an hour  
21 after Channel 7's story, I got all the documents 22 months  
22 after I filed RTI.

23  
24 MS NORTON: So, just to make sure I've got this right: you  
25 made a request and documents were not provided by the  
26 Department of Health in response to that request; they also  
27 were not provided following a decision from the Ombudsman  
28 saying that at least some of those documents ought it to  
29 have been provided to you; is that correct?

30  
31 MS BIANCHI: Yes.

32  
33 MS NORTON: And it was media reporting on the issue that  
34 finally prompted, in the end, quite a rapid response?

35  
36 MS BIANCHI: Yeah, very rapidly.

37  
38 MS NORTON: Or rapid provision?

39  
40 MS BIANCHI: Yeah.

41  
42 MS NORTON: What does that tell you about the importance  
43 of robust reporting in this state?

44  
45 MS BIANCHI: Well, I want to ask Emily, because I  
46 remember - because I didn't tell the other journos that it  
47 wasn't being filled or anything, and it all felt too inside

1 base fill and like no-one would care, and I feel like I  
2 should have sort of, I guess, thought more about that, but  
3 I mean, I was really surprised that it was covered and so  
4 extensively at the time. And, I'm grateful, but it all  
5 just - like, it's sort of what we were talking about  
6 before, it frustrates me because that's not what the media  
7 is for.

8  
9 Like, if you're a member of the public filing an RTI,  
10 if you're a victim-survivor, if you're a politician, if  
11 you're someone else, it's for you, it's not just for us,  
12 and it's not necessarily most important that journalists  
13 get these documents, it's for everybody.

14  
15 MS BAKER: And I think it's an unfortunate reality, and  
16 not just in the RTI space, that sometimes it can take going  
17 public, and I guess this is what we've already touched on,  
18 for things to change. You know, again outside the scope of  
19 this inquiry, but it might be a person who's on a public  
20 housing waitlist and in an extremely dire situation  
21 desperately comes to the media and, what do you know,  
22 there's a house available for them.

23  
24 I can think of many examples of things like that:  
25 someone on an elective surgery waitlist suddenly has access  
26 to the surgery. I'd say it's the same situation here,  
27 without knowing the ins and outs, of course, but it is a  
28 wonderful coincidence that, half an hour after airing on  
29 the most viewed news in Tasmania Camille Bianchi gets the  
30 documents she'd applied for 22 months earlier.

31  
32 MS NORTON: And, the sort of process that we've just gone  
33 through, Ms Bianchi's experience may be an extreme example  
34 or maybe you'll tell me it's not; to what extent has your  
35 own experience with RTI applications been consistent with  
36 Ms Bianchi's experience?

37  
38 MS BAKER: Oh, it's completely consistent. It seems,  
39 frankly, a waste of time, and it doesn't mean we don't  
40 still file them, we do, but it is absolutely an issue of  
41 last resort, you're gearing up for a fight. I have had to  
42 prove I'm a journalist using an ABC email address. Cassy  
43 O'Connor, the Greens Leader, has had to prove she's a  
44 Parliamentarian. It's always difficult, it's always an  
45 argument.

46  
47 This, I think, is changing. I actually would note

1 that this is changing, but there is certainly a sense that  
2 the cuts to the media again, journalists are time-poor,  
3 probably not across the legislation maybe as we should be,  
4 that those things are all taken advantage of; we're fobbed  
5 around, rebuffed, it goes away.

6  
7 MS NORTON: Can I call up onto the screen a document,  
8 COM.0004.0001.2023 and COM.0004.0001.2024. This is an  
9 opinion piece that was published around the same time as  
10 this Commission of Inquiry was called as around the same  
11 time that you received your documents, Ms Bianchi.

12  
13 You will see there, it's an opinion piece by David  
14 Killick who is the political editor at The Mercury and it's  
15 titled, "No More Secrets". There's a quote there at the  
16 end of the first paragraph, I'm just going to read out  
17 these quotes and then invite you to comment.

18  
19 The quote is:

20  
21 *... Tasmania's culture of secrecy is a*  
22 *cancer on our democracy.*

23  
24 He goes on to talk about Launceston General Hospital  
25 and Ashley, and then over the page, at 2024, he continues:

26  
27 *Keeping bad news - or any news - from*  
28 *reaching the public isn't some sort of*  
29 *aberration . It is the defining*  
30 *characteristics of this state's political*  
31 *culture.*

32  
33 *It infects almost every public institution.*  
34 *It is endemic in the health and education*  
35 *departments and reflected in the unchecked*  
36 *nepotism of the state's prison system.*

37  
38 Now, they're strong words, and it's important to  
39 stress that that's an opinion being expressed by  
40 Mr Killick, but I'd like to invite you each, to the extent  
41 you'd like to, to comment on the extent to which you agree  
42 or disagree with his opinions.

43  
44 MS BIANCHI: 100 per cent agree, and he's articulated it  
45 so well, I remember when this came out and feeling so  
46 validated because he knows his stuff, he's been around a  
47 long time, and yeah, he goes on to describe everything in

1 perfect detail, I would say.

2

3 MS NORTON: Ms Baker?

4

5 MS BAKER: I would agree, yes. Yes, agree. I think the  
6 approach has changed over time where there's not the  
7 aggression, I think, that we once experienced from  
8 different levels of, whether it's government or  
9 institutions, but I would agree that the default is that  
10 information is not released; that the media is not to be  
11 trusted; that, you know, we know best, you are just being a  
12 pain, you know, yep.

13

14 MS NORTON: Can I ask you both just for some closing  
15 reflections; I'll start with you, Ms Baker. It's quite  
16 apparent from the evidence you've given that you work in  
17 circumstances that are often very challenging, and the  
18 personal toll that the reporting that you do has on you is  
19 also evident through the evidence that you've given today.

20

21 You're a skilled journalist with a national media  
22 outlet, I'm sure you have job opportunities that you could  
23 pursue elsewhere; why is it that you choose to do the work  
24 that you do in this place?

25

26 MS BAKER: Tasmania is my home, I think about returning  
27 from Canberra, driving off the Spirit of Tasmania and this  
28 sense of, like, this full-bodied relief that I was back,  
29 you know. The past two years though, frankly, have made me  
30 question how long I can stay here doing this job. I would  
31 like to, I would like to contribute to a better Tasmania,  
32 whatever that may look like, and everyone will have  
33 different ideas of what that might look like. I would like  
34 to, you know, if I'm lucky enough one day to have children  
35 to raise them here, this is where I'm from, this is where  
36 my family's from.

37

38 But, and thank you for your kind words, but it's  
39 something that I fairly lately have been grappling with;  
40 you know, this is it a pretty hard job to do in a small  
41 State. Yeah, I might leave that open-ended.

42

43 MS NORTON: Things would need to change, and you may well  
44 have addressed all the things that need to change already,  
45 but do you want to summarise for the Commissioners what  
46 would need to change for you to continue to do the  
47 important work you do here?

1  
2 MS BAKER: I'm really bad at maths, so if I've had two  
3 years away, I've been working roughly seven years in  
4 Tasmania. I've been writing similar stories throughout  
5 those seven years. Our health system is lagging, our  
6 education system is lagging, we're talking about abuse in  
7 these institutions, we think about a government being  
8 dragged kicking and screaming to the only logical  
9 conclusion which is to close Ashley Detention Centre.

10  
11 I need to believe there's a will in Tasmania, in the  
12 community, within the government, within the institutions,  
13 that we can do better, we can be better and this will be a  
14 better place. I acknowledge that there are some really  
15 complex challenges in this state, and we're talking about  
16 demographics, history, but why should we accept that we are  
17 the bottom of the ladder? Why aren't we throwing  
18 everything we can into fixing these systems, supporting the  
19 vulnerable families that end up within these systems and  
20 being trapped in these systems and taken advantage of or  
21 lost?

22  
23 I just, at the risk of sounding a bit twee, like, I  
24 just need to believe that we can get to a better place, and  
25 that has been seriously tested in the past couple of years.

26  
27 MS NORTON: Ms Bianchi, I'll similarly invite you to offer  
28 any closing reflections you have about the importance of  
29 the media's working upholding integrity in public  
30 institutions and perhaps how your experience of reporting  
31 on child sexual abuse here might have changed your view of  
32 Tasmanian institutions.

33  
34 MS BIANCHI: Yeah, so I mean, the first and most important  
35 thing I want to say is, I was getting emotional earlier  
36 describing sort of the toll of reporting, and I would feel  
37 so awful if that was interpreted by any of the incredible  
38 whistleblower sources and victim-survivors who came to me  
39 as not acknowledging that it has been such a privilege, and  
40 it is, and it is the job we want to be doing as hard as it  
41 is. Like, we know that it's - and this is why we get upset  
42 and why we get frustrated is, we know the toll it takes on  
43 the people we're talking to.

44  
45 And, speaking of harm, of course I've done harm, I  
46 know I have against every instinct and, of course, against  
47 what you want; like, it's something you kind of always



1 guard against, and that's why it's so complicated and so  
2 difficult, this area.

3  
4 But, yeah, I just wanted to really highlight that it  
5 is, it's the privilege of my life and certainly my career.  
6 But also, in terms of acknowledging the media, I think I've  
7 had a disproportionate amount of, I suppose, acknowledgment  
8 from some of the reporting from The Nurse when it has been  
9 happening for years.

10  
11 The first stories, and especially in 2020 from Amber  
12 Wilson into education; I mean, extraordinary stories that,  
13 if they were being told, I would think anywhere else in  
14 Australia, you know, presses would stop. And, I kept  
15 reading, and I know I regurgitated a lot of old press when  
16 I was doing episodes, especially on Ashley, and reporters  
17 have been fearless and they continue to be, and it's hard  
18 to continue to ask what we ask of people when we don't see  
19 change, and that's the hardest thing and it's the reason  
20 you burn out; it's the reason you stop is because you  
21 think, how can I ask that? I can't promise anything, I  
22 mean, we shouldn't promise anyway, but how can you  
23 possibly say things will get better and that this just  
24 won't be an extraordinary risk to whoever you're speaking  
25 with.

26  
27 MS NORTON: Thank you both for your time this afternoon  
28 and for the work you do. Commissioners, are there any  
29 questions you have for the witnesses?

30  
31 COMMISSIONER BENJAMIN: Not from me, just thank you for  
32 your efforts and your evidence.

33  
34 MS BAKER: Thank you.

35  
36 COMMISSIONER BROMFIELD: And I echo that, thank you.

37  
38 PRESIDENT NEAVE: Yes, we thank you so much for your  
39 commitment to improving the situation for children in  
40 Tasmania and for the enormous contribution you've made to  
41 that at some personal cost; of course, the cost is largely  
42 borne by the victims of child sexual abuse, but your work  
43 will help to improve things, I'm sure. So, thank you so  
44 much.

45  
46 MS BAKER: Thank you very much.

1 MS BIANCHI: Thank you.  
2

3 AT 4.45PM THE COMMISSION ADJOURNED TO  
4 FRIDAY, 6 MAY 2022 AT 9.45AM  
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