

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION COMMITTEE

CLOSED PROCEEDINGS

Melbourne — 12 November 2015

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The Hon. Murray Kellam AO QC, former Tasmanian Integrity Commissioner.

The CHAIR — I declare the hearing open. This is a closed hearing of the IBAC Committee. Our guest today is the Honourable Murray Kellam AO QC, and we are very keen to hear from you, Mr Kellam, in regards to your experiences. All evidence taken at this hearing is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the *Parliamentary Committees Act 2003*, the *Defamation Act 2005* and, where applicable, provisions of reciprocal legislation in other Australian states and territories. However, it is important that you note that any comments you make outside the hearing, including effective repetition of what you have said in evidence, may not be afforded such privilege.

The government has informed the committee that it intends to bring into Parliament some amendments in December. Those amendments will be held over until February where they will be debated as part of the second reading speech.

So obviously we will be bringing in the IBAC Commissioner and the Victorian Inspectorate shortly after the amendments are brought in. So apart from your experiences Tasmania, we are also looking for information and advice about what we should be looking for in the amendments and what is a good anti-corruption commission and what faults and loopholes that you have seen in past experiences.

So based on that, can I hand over to you? I believe that you have had a look at some of the questions that we have sent to you.

Mr KELLAM — I have. So I will start it off with what makes a good and effective anti-corruption commission. I think the experience around Australia is varied. There are a variety of different models, but it seems to me that when you look at where there have been failures and where there have been successes, that the first thing is the leadership and the legislation. It should be really quite strict about the sort of background of the leadership. I suppose one thing about getting lawyers — and I think you do need a lawyer to be a leader but you also need somebody who has got a fair bit of management experience because these are quite large bureaucratic organisations.

The next thing I think that is really probably more significant is that the legislation needs to be absolutely clear where it can be. I do not think the legislation ought to be the subject of compromises, because you end up with language that is not clear. The grief that has happened to other organisations — and they are seeing it right now in New South Wales — is fairly poor drafting. The fact is — and I saw it in Tasmania — that these organisations will take on very powerful interests, whether it is business or — and they will get the best legal advice they can and ambiguity, lack of clarity is where, you know, we will come to grief if we do not get it right. So they are the really important things.

In terms of scope, I think there is always a real conflict between the coercive powers that a body like this must have and people's rights, and that is a really significant issue. I think that there — again, a couple of ways that that needs to be addressed. First of all, I think the exercise of discretion to use a coercive power should really only be taken at the higher level of the organisation. We had an example down in Tasmania, we fixed it by a policy, but the Act said that the investigator could issue notices to produce documents. Now it was beyond me how that ever got into the legislation, but it was an example of where coercive power was given too far down where it needed to be — and in effect, we introduced a policy where notwithstanding what the Act says, those notices do not get issued without the CEO signing off on them.

I think the exercise of coercive power is invariably where these bodies come to grief and so the legislation must be clear about what powers they have got and then the organisation itself has to be very careful to introduce very careful policies internally. It is all very well to have a VI or a committee or whatever with oversight after the event but the oversight has really got to be at the time it is exercised. You know, it is all very well for a critical report to end up in Parliament in due course but the grief can happen much earlier than that.

So these bodies I think need to have legislative back-up for internal oversight and of course I would have thought a committee like this ought to be saying to a body such as IBAC, well what are your processes for

ensuring that mistakes do not happen, that coercive power is not exercised improperly. Again, that is another thing about the legislation. I am going back to the legislation again. The legislation must be clear about when coercive power can be used and how it is to be used.

The IBAC organisation of course has significantly more coercive power than my commission down in Tasmania. We had no power to compel answers to questions. All of the common law privileges stayed in Tasmania. Now in my time there, that did not present a huge problem but I think there were times when some of the people we were interviewing in fact could have taken an exception and did not, so perhaps we were a bit lucky. You do need to require people to answer questions at times because they will duck and weave and you will not get to the bottom.

So I think the IBAC Act from my view point — in terms of the powers that the body has got, they are right. I think the issue is, are they being exercised professionally and appropriately. Well I have done at least three investigations for IBAC. They did not really raise some of the issues with the legislation that I think other investigations might have because they were really all police matters and IBAC has got considerably more power in terms of investigation of police matters.

Even then, I did not conduct full investigations in all three of them. One of them was really dealing with a complaint and that was because it was in the very early days. It was the first thing IBAC did and it was a question of whether the complaints or whether the conduct alleged by the complainants reached the relevant standard and I said it did not. So I did not conduct an investigation.

The second thing I did there was really a review of major investigation that OPI had done. So I did not conduct the investigation, someone else had. So I took a view about how adequate or otherwise that was. The third thing I did was a major investigation and we had 14 witnesses who were compelled to give evidence and did and about 5500 documents were produced. Again, it was done with police and there was very considerable cooperation from them, so I cannot say that I have had personal experience with IBAC using its coercive powers in a contested circumstance.

My position would be the legislation has got to be crystal clear because people that have done bad things will use every endeavour to stop the process and money is no object to a lot of these people. So that is what I think about the legislation.

The Integrity Commission as was raised in one of your questions had a much wider discretion than IBAC has in terms of what it chooses to investigate. You asked how do we do it. Well really we just exercised the discretion. I think there is an argument that the bar is a bit high for IBAC in terms of corrupt conduct, because it has got to be serious corrupt conduct. It might not be at the start of the investigation. Our experience in respect of one major investigation we did was that the allegation of conduct was corrupt enough. It was somebody looking after their mate in terms of contracts, building contracts.

Once we started to investigate that, in fact Pandora's Box opened up and of course that was not the only thing. In terms of complaints, our experience — and I think it is the experience pretty well around Australia — complaints from the public are not really going to generally be revealing all that much. It is the whistleblower or the person — whether you call them a whistle-blower or not — the person in the office who knows something has happened.

I think most of our significant investigations down there arose out of anonymous complaints, but clearly when you looked at them from persons who knew enough but did not want to be identified. So I just worry about, you know, the start. Now IBAC has got an advantage that we did not have. Once we started an investigation down there under the legislation, we basically had to finish it and then present it to the board and that seemed a little bit crazy and IBAC can discontinue at any time. Obviously, you do not want to investigate if some policeman is rude or some public officer is rude to somebody over a desk, you know, bit impolite and brusque. I do not have any problem with that.

I think if IBAC has got to be satisfied at the start that there is serious corrupt conduct, that bar is a bit high — because our experience was that you get a bit of a smell of something but then when you get into it —

and the one I am talking about was a health department down there. It turns out there was all sorts of nepotism. Friends of the principal officer were being given the questions that were being asked in interviews that other people did not have.

Okay, that by itself is corrupt but it might not be regarded by some as serious, but then you add that together with contracts for your mates and suddenly you have got a Pandora's Box. I just think that 'serious' is in the eye of the beholder and I think that there is enough in that section 60 about getting rid of frivolous so forth, so forth. I would have thought that it would be better to permit more discretion for the Commissioner or whoever is making the decisions at IBAC about serious — well what is corrupt conduct?

I mean — and corrupt conduct might be one thing at one level. It might be another again if it is the secretary of the department. Behaviour that you might sort of say look, you investigate this and sort this out yourself, down at that level. It might be a lot better for IBAC to investigate the secretary of the department. The health thing that we did down in Tasmania was, you know, at the very top end of the health department. We could not have possibly have asked the department to investigate the people who were their superiors.

So where do you draw the line? I think it has got to be serious, it has got to be weighty but I just wonder about that definition. So down in Tassie, yes we had a wide discretion and we could really under the legislation investigate anything that was a complaint of misconduct. It had to be a bit higher for police complaints because the police had their own internal processes down there and so they raised the bar a bit in relation to police.

In terms of the public sector, we could really investigate anything. We did not investigate anything. We investigated probably three per cent of the complaints that came in. As I say, of the ones we did investigate, there were not many that arose from complaints of the public. Of course one of the problems with complaints of the public — and this is where you need to move on — I mean somebody will read something in the *Herald Sun* this morning and they make a complaint. You know, you do not want to be dealing with those sort of complaints.

You want to be dealing with complaints or information — I often thought complaint was the wrong word down there, it ought to be just information and one of the problems about the use of the word complaint is that people expect a result for their complaints, expect a resolution. Well in fact we were not able to provide resolutions and they were not really complaints. They were really information. Somebody in this department is saying he is on business when he is in fact charging — he is on holidays and charging the motels back. Now that is the sort of stuff you get.

Well, you cannot go back to the person who provides the information and say, 'here is the resolution of your complaint'. What you can say is thanks very much for your information and now we will investigate it. I was asked if I had any challenges with the legislative scheme. Well as I say, I did not because my matters were really not — well one was a major investigation, the other two were not and they involved police.

I think the — from my understanding of the IBAC Act, I think the more difficult issues are in the public sector area rather than the police area. I think there is ample power and I think the other thing about the police from IBAC's viewpoint and certainly from my experience, you get a lot of cooperation from the upper echelon in the police department. So you are not having the sort of difficulty that you might be having with the education department investigation for instance, where people clearly want to obstruct the investigation.

In terms of the balance, we have discussed that to a degree. There are several ways of providing oversight and the one that has been chosen in Victoria is the Victorian Inspector. The one we had — and I would not really regard it as oversight down there — the one we had was the Joint Standing Committee. I will come back to the committee but it was not really oversight. I think what has been provided for in Victoria is pretty good. The VI will oversee the use of coercive power and that is what has to be overseen.

That is where I think historically in Australia, that is where things have gone wrong and these power — these organisations have stepped beyond their boundaries. So that is what needs to be oversights. I do not say this with any criticism of the current Inspector because he is a man I respect greatly. This is a Rolls Royce model this Inspectorate. It is a pretty big organisation, well financed. I just wonder whether the functions are a bit broad because in effect, as much as I was saying, you know you would not want IBAC investigating the receptionist at some department who was a bit brusque or abrasive to the public. The inspector under this could investigate that at IBAC.

It seems to me what this oversight body ought to be doing is absolutely overlooking every use of coercive power and obviously it should deal with some complaints that IBAC did not investigate, for instance, but in general it seems to me, it is a Rolls Royce model.

On the other hand I think down in Tassie, we did not have any oversight really to speak of. We could use our — such coercive powers as we could exercise. We could and there was nobody looking at it and I do not think that was right. The model I had down there was cheaper because it was a parliamentary committee like this and I would meet every now and again. They would send me a letter every now and again but it was not oversight.

So this is a good model but it is a — I just wonder whether in fact — and I must say, the comment I am making about the powers being very broad, that go beyond overlooking coercive power, where there has been trouble — and it has certainly happened in Western Australia. I think it has happened in Queensland a fair bit and that is happening right now in New South Wales between the oversight body and the commission or the organisation exercising, it tends to — I think when you get friction of the sort that is going in New South Wales right now and we have seen it in the past, it creates public disregard for the whole system.

Because you have got two people inside it having a territory turf war. So as I say, I think the present Inspector has done everything that one would expect of him but I think there is a potential in this Act for things to go wrong. If there is not enough to do and I do not think the Inspectorate has an enormous amount to do at the moment — if there is not enough to do, that seems to me there is sort of potential for a different personality saying oh well, we will investigate this and we will investigate that.

Coercive power is one thing that always should be investigated if any issue arises and certainly should be the subject of reports and checks and policies. If it is sort of, you know, internal processes about this, that or the other thing, I just wonder whether that is really necessary in terms of the Inspectorate Act which has a very, very wide function, it is really anything that the Commission does that can be investigated.

You asked about education. Education was a really big part of our budget down in Tasmania. We used most of it on education. I think it is multi-faceted. There is sort of education at the bottom and I think induction is really important for public sector employees and that is a matter of the Commission design and programs. Public sector in our situation down there of course included the local government area and I think that was really an important part of our educative process.

A significant number of the issues that arose before us came out of local government. We did not get many complaints about politicians actually and we got quite a lot about police but not disproportionately I thought. Take for example the fact that police are out in the streets a midnight, drunks and everyone else is out there, they obviously complain about them but I did not think it was disproportionate. I think the — we got a significant number of complaints that on the face of them had some merit in terms of local government.

I think local governments in the area — I mean there is procurement and we know procurement will go wrong. There are all sorts of other issues. There is planning. You know, we had a situation where a member of the planning surveyor in one local government body had inside information which was passed onto a relative and then some land was purchased. You know, I think local government has got real

potential for things to go wrong and I think that the emphasis that we had down in Tasmania on trying to introduce programs, education programs in that part of the public sector was justified.

ICAC in New South Wales did a study of local government about six years ago I think and there were serious issues in terms of — and it its procurement where it will probably go wrong, but there were other things too. We also down there — and I think this was fairly important — ran an education program across the public sector and we called it Speak Up. Now I might say that some of the heads of the departments or some of the senior people in the departments were a bit resistant to that but it came really out of our major health department investigation where we found people who told us I knew that was happening but I did not dare say anything.

So I think education — and that has got to be tied in with the protection of whistle-blowers. I mean we have really got to look after people if they do make a complaint, but I think in terms of education, I think educating people in the public sector but they can speak up, they can when they see something wrong, say something about it is important.

Then in terms of education further up, well I was — just before I finished a while ago, we did an investigation into gifts. Very interesting thing that the gifts — we asked about gifts policies. Well some departments had no policies. Others did but they were not complied with. We got our major information by serving a notice on suppliers. The suppliers had very good records. They knew precisely what they had provided to whom. Now that might be because they were maybe tax deductible, I do not know why they had the information but they did.

The information they had, the departments did not have and we were — and I was quite astounded at the response of — and there were a couple of heads of departments that were very grateful but the response of others who said oh look, you know, really you are overblowing this and as I said, one of them went on the radio and said oh we do not want to get to the stage where a parent cannot give a teacher an apple for being nice to their child. Well as I said at the time, well the only apples referred to in our report were Apple Macs, Apple iPads, Apple Mac Airs.

I think there is this furore about how we completely overcooked the gifts investigation. It seemed to me that we pretty well failed in terms of education at the top end. We had been looking at the people at the coalface. So I do not know what you do about that. I have to express some frustration about that.

Anyway, I think education — and I know that IBAC is doing a lot of good work. I have not looked at that in detail because the work I have done with them is not in relation to education but I think it is — it is where you will change the culture. I think just to look back at that gifts thing, that the response that we got to that was almost a demonstration that the culture was not too good. So you know, you have got to change the culture and that is where these commissions I think can work.

You asked about the Joint Standing Committee. I think there are two views about this and mine is a very unhappy one. The experience I had with the committee down there, but I think it is fair to say I know that Philip Moss, who ran the ACLEI — he was the former director or commissioner, I have forgotten the title — he said that the relationship with his Commonwealth Integrity Committee was very good and very — it worked well and you could get amendments and things done.

My experience down there was in fact the opposite. Our Act provided for a three year review and I was very hopeful that the three year review would be — we spent a huge amount of time putting together submissions. I must say, I took a firm view it was not for us to make submissions about the policy. Parliament had decided what the policy was, but it was for us to make submissions about things that did not work. The three year review unfortunately became a 4.5 year review and one of the difficulties with the committee was it changed membership every year or so.

There was nobody there at the end who was there at the start. You know, people who were there for a few months did not understand our legislation and it was really very frustrating. The end result is that five years down the track, apart from some early amendments that we got, the amendments have not been made.

Some of those amendments are absolutely non-controversial. For instance, the committee at the early stage of the three — as it was then — at the early stage of the three year review, approved in principle about 20 amendments. Then the next committee reviewed all that, so that is the sort of mess you can get into and there was a fair bit of party politics in it too unfortunately. If you have read the report, you will see that in the end it went down party lines. So I do not know that the Joint Standing Committee had any oversight. I think having an inspectorate who reports to Parliament is a better model. I just do not think that a Parliamentary committee has the time. I think that is what happened in ours. I think there were so many other issues for pretty busy people that ours was on the backburner. You know, just did not get the attention it deserved. But as I say, I know that my experience is a different one than Philip Moss would tell you if you spoke to him regarding his Commonwealth Parliamentary committee. He told me it is a fairly useful exercise.

What can we learn? What lessons can Victoria learn? Well, I am not sure. We had sort of two different models. I think the biggest lesson I would say that I could learn from Tasmania is complacency causes trouble and there is certainly a view in Tasmania that there is no corruption down there at all, it stops at Bass Strait. I think complacency gets itself into the heart of the culture. My guess is that people in Victoria were pretty shocked by what came out of that education department investigation.

I think had you asked people 12 months before, would this happen, most people would say no, that is not likely to happen. Now consider that is what they say in Tassie, oh it does not happen in Tassie. It is sort of justified — well there is not enough money and there is not enough this, but there is plenty of money when you are building hospitals and there is plenty of money in health, there is plenty of money in education.

People, as we saw — I have to say I was surprised by the extent of the education department thing. So your commission has got to have power. I mean that investigation would not have got to where it did without the exercise of coercive power, no doubt about that. So these organisations do need coercive power. The question is how do you ensure that it is exercised responsibly? I think that will always be the question for a Parliamentary committee like this. What is the best way of making sure that powers which are significant powers, generally beyond that that the common law grants in terms of criminal proceedings. How are they controlled? I think that is the question mark, and again I go back to the legislation. The legislation needs to be absolutely clear and not ambiguous about those powers.

Just going back to the corrupt conduct definition in section four and then section 60, conducting investigations. At 62, the IBAC must not conduct investigation — must not under section one unless it is reasonably satisfied the conduct is serious corrupt conduct. Well as I say, I think I would be inclined to water that down a bit myself. I think something can be not all that serious but it just has a nasty smell about it which you should investigate.

In terms of what IBAC can investigate, it is fairly limited in terms of the public sector. I think what we have seen happen in a few cases in Australia is the public sector — I wonder — I really raise this question for the committee as an example, but the number of PPPs that governments are now involved in, now you can have the public sector involved in those things, perhaps not themselves being involved in corrupt conduct but the people within can be very corrupt.

I know at an early stage, I gave evidence before Stephen Charles and his committee that was giving advice to the government at the time. One of the things that I raised that I thought was a restriction on us in Tassie was being able to follow the dollar. It seems to me that if you have got a body like this, to have a fence at the point of — well, this is public sector misconduct, but you can have the public sector like that and it might not be that the — any misconduct via the person who is the public servant is what it is really all about. It is what the people within.

I mean I have not analysed what is happening in New South Wales with the water thing, but that is simply a bit of a — you know, there are people outside who are playing nasty games as well as those inside. I think the legislation really ought to give some power and following the dollar — I mean it could be adequately defined. I mean it is the state's dollar. It is the state's dollar that is being spent on a project, even

though it might be a private entrepreneur who is putting that into effect, it is still the state's money. It is still the taxpayer's money. I think there is a reasonable argument to say that you should not be constrained only to look at those activities of the public sector employee.

I think they are probably the matters I wanted to raise.

The CHAIR — Maybe we could go to questions.

Mr KELLAM — Yes.

The CHAIR — All right. So Mr Kellam, thank you for that. That is fantastic. How did the Tasmanian experience from your point of view protect the whistle-blower?

Mr KELLAM — Well our legislation did not precisely deal with that. It was legislation which was operated by — under the Ombudsman. So it is a bit like this situation here with the protected disclosure. We managed to protect the whistle-blowers by the way we conducted our operations but we had to be very careful about how we did that. I mean — this is one of the arguments for the use of coercive power. If you go straight to the manager who is, you know, using his travel expenses for private purposes, if we go straight to him, he is going to know it is probably his secretary or the accountant. Especially down there where it is small departments or small agencies.

So when you put an investigation plan together, that has got to be an important factor. I think the legislation here does protect whistle-blowers pretty well I think, but nevertheless, IBAC has to be really careful about how to run an investigation. So I am just thinking of one very small organisation, the information undoubtedly coming from inside the office, the manager was the man playing the games. Well because we had the coercive power to chase documents, we went to his bank first and then linked to his credit card.

So there was nobody going anywhere near the office at that point in time. My guess is by the time it all hit the fan, he probably knew exactly who it was who put him in but by then he was going to have to resign anyway. So — but I think these organisations need to take real care because we have got to protect these people and if you — more than the individual, and I am not putting down the rights of an individual whistleblower at all, but if you burn one whistleblower, you burn a lot. I think we saw that some years ago in the police force where there was a very well-publicised fellow who got really badly burnt. You know, other people were saying, 'I'm not going to say anything, I saw what happened to him or her'. So we have got to protect — and the organisation has got to have good policies and [indistinct] making up an investigation to try and get around looking as if they have got the information from that source.

The CHAIR — Questions?

Mr RAMSAY — Does Tasmania's Integrity Commissioner have the police integrity function?

Mr KELLAM — Yes it does. Yes it does. Complaints can be made about police but it is not — there are a whole lot of issues that arose with this committee but we had no access to their database and it was resistant at all times. So the police do not — —

Ms THOMSON — So they had their own police integrity operations within — —

Mr KELLAM — Yes.

Ms THOMSON — And then you could investigate —

Mr KELLAM — Yes, that is right.

Ms THOMSON — depending on whether you saw [indistinct].

Mr KELLAM — That is right, but it really had to be a complaint. Each year we ran an audit of their own internal investigations. We had power to audit their processes but I mean — I can give you one example of where you run into a collision but I do not think that would solve this problem. We got a complaint that a police car had run over three young fellows. The three young fellows were in a group of five who had pinched the car. Police got them. The issue then arose whether they were knocked over by accident or whether in fact the police car was used as an arresting device. So the complaint came to us. We went to internal affairs and said we want to have a look at your file on this and they said, ‘we have not got a file’ and we said, ‘you have got to have a file’. No, it was a traffic accident. They basically said you have got not power to investigate traffic accidents . We FOIed the file. That was what we had to do.

When the file was produced, of course they had one witness, the driver of the car. So yeah, the answer to your question is we did have a police integrity function but it was pretty unsatisfactory.

Mr HIBBINS — Okay. So you think — —

Mr KELLAM — That would not have happened in Victoria.

Mr HIBBINS — Do you have an opinion in regards as whether the police integrity function should actually be combined into a corruption function or should they be two separate?

Mr KELLAM — No I think my personal view — and I do not know what views others might have — is that there should be a strong well-resourced internal police investigation discipline and I think that works pretty well. At the same time I think IBAC is well placed to oversight that. I mean the fact is there are huge numbers of complaints about police and there will be. That is not a reflection of the standard police force. There were complaints down in Tasmania.

I mean anyone who is booked and they think that the traffic policeman was a bit rude, basically things like that. You do not want your Commission to be investigating that. but I think you do want the Commission to be able to be selectively able to oversight and if need be reinvestigate something that has been done internally. There are examples. I know there is one from a matter some years ago that is being considered at the moment — it is been to the United Nations and back — where the investigation needs to be looked at. Now if IBAC had been around at the time, the whole thing could have been sorted out, resolved, but it has not been. It is still simmering however many years later or something. So I think IBAC has probably solved that problem to a degree but my own view is they should do most of it, but IBAC must have the power to look over their shoulder and say, well hang on.

The CHAIR — Danny?

Mr O’BRIEN — Following on from that trivial stuff you were talking about, you mentioned the threshold and how good it would feel to make a definition, how do we craft it so that it does not just get used — I guess from my perspective I am asking — as a political tool. Every time someone stole a stamp that they get referred off to IBAC and its [indistinct] but the investigation is rejected a week later. Similarly with, you know, as you said the complaint against the secretary or the receptionist being rude, sort of thing. How do you avoid that?

Mr KELLAM — Well look, I think it is already there. I mean must not conduct an investigation if it considers it is trivial, unrelated to the functions, frivolous, vexatious, lacks substance, credibility and others. Now I mean the issue is about this serious. What does serious really mean? Who defines serious? I just have a bit of a concern about it. Because it is a must, it is not may, because it is a must not. I mean I can imagine somebody taking IBAC on saying stop your investigation, there is nothing serious about this. You know, okay it is corrupt, it is not serious.

No, the word does not mean a great deal to me.

Mr O’BRIEN — Serious?

Mr KELLAM — Yes. I mean we all think we know but when you look at the actual conduct, well it is or is not it? You know, is — you know. Using the education department card for taking kids to pictures on the weekends? No, okay probably not, but then you know. I just find it a difficult concept and I think it would be better for the Commission itself to have the opportunity to investigate corrupt conduct.

Again, as I say, our investigation into the Health Department arose out of one matter. It was the local manager of the Health Department was giving some preference in some small building contracts. He could have said ‘Well, that’s not that serious’. Maybe, depending on what the definition was, but it was — if it is corrupt. On the face of it, it was, and of course when we got in there Pandora’s box had opened with a whole lot of other things. So I just find the concept — I recognise the points you make and I think you do not want IBAC running around investigating someone who has used a stamp when they should not have or a bit of rudeness at the counter or whatever is seen as being brusque over the phone.

I think you can — if you set your thing up right that you have got enough sort of swerves out like trivial, you know, or does not justify the resources, the use of the resources, I think you can then leave a bit of discretion for the Commissioner to say well look, on the face of it, this looks as though it ought to be investigated.

The CHAIR — Questions? No more questions? Just a quick one. You spoke about the education process down in Tasmania. Do you think generally speaking the Tasmanian public servants do understand what is corrupt activity or is this going to be a long process in regards to the education program in public service?

Mr KELLAM — I think that in permanent public sector, we have probably made a fair bit of progress in the areas — you know, they have a fairly clear understanding. I think that clear understanding is assisted by policies. The departments — I was staggered to find that some of these departments really had no gifts policy. Now you know, it just seems to me you cannot have people getting tickets to the MCG either or even more gifts from the building contractor or whoever it is. Policies should deal with that. So I think a lot of the education is dealing with the top end of the department saying you have put into effect policies that make it clear that this behaviour is not acceptable. That said, you know, then you have got these other areas and I think local government is one where there is a rolling — you know, people are there for two years or whatever — where I think you need a continuous input. My feeling about that is you need programs right at the commencement.

I think the other thing that we toyed with down there — and I might say it was not popular, but we thought that you could change the culture a bit by requiring the departments to report mandatorily allegations that have arisen inside. We thought that in terms of education over a period of time you could sort of build up a whole lot of fact scenarios that could be covered by mandatory reporting. There is a downside to that. I mean you do not want the public sector spending a whole lot of time reporting things to us when they should be providing more hospital beds or, you know, a bus or rather than — so you do not want to use up resources and I think that that was perhaps fair issue about that.

So I think the answer to your question is I think you keep it continuous. I think in the end when you have got a fairly stable public sector, if you are making progress, you know, you are there. People — I mean I have no hesitation saying I have had a lot of experience with various police forces, again 99 per cent of them are dead straight and will always do the right thing. You probably cannot stop the one per cent but you can at least fix up the grey areas.

The CHAIR — No other questions? If not, thank you so much for your time.

Mr KELLAM — Pleasure.

The CHAIR — That was an outstanding presentation. We really appreciate you being here to present evidence to the committee so thanks very much Mr Kellam.

Committee adjourned.