

REPORT OF THE INTEGRITY COMMISSION

No. 2 of 2019

Summary report of an investigation into alleged misconduct by the Hon Michael Ferguson MP & the Hon William Hodgman MP, in relation to Cricket Australia employee, Angela Williamson

INTEGRITY
COMMISSION



The objectives of the Integrity Commission are to –

- improve the standard of conduct, propriety and ethics in public authorities in Tasmania;
- enhance public confidence that misconduct by public officers will be appropriately investigated and dealt with; and
- enhance the quality of, and commitment to, ethical conduct by adopting a strong, educative, preventative and advisory role.

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This report and further information about the Commission can be found on the website

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President
Legislative Council
Parliament House
HOBART 7000

Speaker
House of Assembly
Parliament House
HOBART 7000

Dear Mr President

Dear Madam Speaker

Pursuant to section 11(3) of the *Integrity Commission Act 2009* (the Act), the Integrity Commission presents *Report 2 of 2019* to Parliament, a summary report of an investigation into allegations of misconduct by the Hon Michael Ferguson MP and the Hon William Hodgman MP.

The complaint was ultimately dismissed by the Board of the Integrity Commission, in accordance section 58(2)(a) of the Act.

Yours sincerely



Aziz Gregory Melick AO RFD SC
Chief Commissioner
On behalf of the Board



Richard Bingham
Chief Executive Officer

Date

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Investigation Oakleigh

SUMMARY REPORT

An investigation into alleged misconduct by the Hon Michael Ferguson MP and the Hon William Hodgman MP, in relation to Cricket Australia employee, Angela Williamson

29 April 2019

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Foreword

This is a summary report of an investigation undertaken by the Integrity Commission arising from a complaint received in August 2018.

The complaint contained allegations of misconduct against the Hon Michael Ferguson MP, Minister for Health, and possibly other senior Government members. The complainant alleged that Mr Ferguson may have released private information about an employee of Cricket Australia, Angela Williamson, and that Ms Williamson's employment was terminated because of Government influence.

An assessment of the complaint was undertaken by the Commission. The assessment considered the allegations against Mr Ferguson. It also considered allegations against another Government member, Premier the Hon William Hodgman MP.

At the end of the assessment, we determined to investigate whether Mr Ferguson and Mr Hodgman had exercised undue influence leading to the termination of Ms Williamson's employment. The investigation was not into whether the termination of Ms Williamson's employment was justified.

The investigation involved the use of the Commission's coercive powers, including collecting information from three witnesses by:

- obtaining a statutory declaration from Ms Williamson
- interviewing the Chief Executive Officer of Cricket Tasmania, Nick Cummins, and
- interviewing a former Cricket Tasmania Board member, Paul Green.

At the completion of the investigation, the investigator's draft report was sent to Mr Ferguson, Mr Hodgman and all three witnesses for comment. The same persons were also provided an opportunity to comment on the recommendations of the Commission's Chief Executive Officer to the Commission's Board, and on this summary report.

The investigator found that, on the balance of probabilities, the allegations against Mr Ferguson and Mr Hodgman were not substantiated. Instead, it was found that Cricket Tasmania's withdrawal of support for Ms Williamson, which led to her employment termination, was a decision made without active and intentional Government involvement.

The Board of the Commission subsequently determined that the matter should be dismissed. The Board also determined that it is in the public interest that a summary of the investigator's report be tabled in both Houses of Parliament, in accordance with section 11(3) of the *Integrity Commission Act 2009*.

1. Introduction

- [1] On 16 August 2018, the Integrity Commission (the Commission) received a complaint from the Hon Ruth Forrest MLC. The complaint alleged that the Hon Michael Ferguson MP, Minister for Health – and possibly other senior Government members – released private information about an employee of Cricket Australia, Angela Williamson, and that Ms Williamson’s employment was terminated because of Government influence.
- [2] On 20 August 2018, the Commission’s Chief Executive Officer (CEO) determined to commence an assessment of the complaint in accordance with section 35(1)(b) of the *Integrity Commission Act 2009* (‘IC Act’).
- [3] The assessment looked at three matters:
- whether Mr Ferguson exerted undue influence which led to the termination of Ms Williamson’s employment
 - whether Mr Ferguson disclosed confidential information to Ms Williamson’s employer, and
 - whether the Premier, the Hon William Hodgman MP, misled the public in statements he made regarding the non-reappointment of his advisor, Martine Haley.¹
- [4] On 3 September 2018 the CEO determined that the latter two matters would be dismissed. In relation to the allegation that Mr Ferguson exerted undue influence, the CEO determined that this would be investigated by the Commission. The investigation was also to examine the same allegation against Mr Hodgman. Additionally, if these allegations were substantiated, the investigation was to inquire into whether Mr Ferguson and/or Mr Hodgman had made misleading statements.
- [5] The investigation therefore considered four allegations, as follows:
1. *The Hon Michael Ferguson MP, Minister for Health, exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson’s ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson’s employment.*
 2. *The Hon William Hodgman MP, Premier, exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson’s ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson’s employment.*
 3. *The Hon Michael Ferguson MP, Minister for Health, made false statements to the public and/or the Parliament of Tasmania about not having exerted*

¹ The Premier was identified by the Commission as one likely ‘other senior Government member’ noted in the complaint.

undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson's ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson's employment.

4. *The Hon William Hodgman MP, Premier, made false statements to the public and/or the Parliament of Tasmania about not having exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson's ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson's employment.*

- [6] The standard of proof applied in this report to factual findings is the civil standard i.e. 'on the balance of probabilities'. This requires only 'reasonable satisfaction', as opposed to 'satisfaction beyond reasonable doubt' (as is required in criminal matters).

2. Allegations 1 and 2: Government influence

- [7] Allegations 1 and 2 were that Mr Ferguson and Mr Hodgman each respectively

exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson's ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson's employment.

2.1. Summary of investigation process

- [8] Information and evidence was initially obtained without the use of coercive powers and from publicly available sources. This included information collected during the assessment phase of the matter, media reports, media releases, television programs, and social media posts. The Commission also reviewed Hansard records of parliamentary debates relevant to the allegations.
- [9] The investigation involved the use of coercive powers, under section 47(1)(a) of the *IC Act*, to obtain a statutory declaration from Ms Williamson. Ms Williamson provided evidence relevant to the allegations in response to specific questions asked by the Commission. Relevant documentary evidence was also provided by Ms Williamson, including screenshots of mobile telephone text messages.
- [10] The investigation involved the use of coercive powers, under section 47(1)(b) of the *IC Act*, to interview two persons, Nick Cummins (CEO of Cricket Tasmania) and Paul Green (former Board member of Cricket Tasmania). Both Mr Cummins and Mr Green were interviewed on oath or affirmation.
- [11] Mr Cummins' and Mr Green's evidence at interview mainly revolved around their interactions (or lack thereof) with Government members, and

about Cricket Tasmania decision making processes. Mr Green and Mr Cummins also supplied background information about the relationship between Cricket Tasmania and the Government. Relevant documentary evidence was also provided by Mr Cummins, including the minutes of a Cricket Tasmania Board meeting.

- [12] The investigation involved the use of coercive powers, under section 47(1)(c) of the *IC Act*, to obtain the telephone records of Mr Ferguson and Mr Hodgman from the Parliament of Tasmania.
- [13] The Commission also collected and relied on the following evidence:
- the Statement of Claim lodged on behalf of Ms Williamson on 30 August 2018 in the Federal Court of Australia
 - a letter from Mr Ferguson to Mr Hodgman dated 16 August 2018, which recounted Mr Ferguson's version of events
 - the Cricket Australia and Cricket Tasmania response to Ms Williamson's application to the Fair Work Commission to deal with a dispute about her dismissal
 - a letter, dated 22 June 2018, addressed to Ms Williamson from Cricket Australia outlining its concerns, and
 - the dismissal letter, dated 29 June 2018, to Ms Williamson from Cricket Australia.

2.2. Analysis

- [14] The evidence indicated that there was some contact between the Government and Cricket Tasmania in regard to Ms Williamson, including a conversation between the Premier and Mr Green on 29 March 2018 at the Ricky Ponting Medal dinner.
- [15] However, both Mr Ferguson and Mr Hodgman emphatically and repeatedly stated that they did not attempt to influence Ms Williamson's employment. This was supported by the evidence of Mr Green and Mr Cummins.
- [16] There was no credible evidence to indicate that either Mr Hodgman or Mr Ferguson attempted to have Ms Williamson removed from her position. There may have been indications of discomfort from the Government, but ultimately it was an independent decision of the Board of Cricket Tasmania that led to Ms Williamson losing her job.
- [17] It appears most likely that the Board made the decision to withdraw its support for Ms Williamson because – in its opinion – Ms Williamson had damaged her relationship with the Government. This does not mean that Mr Ferguson and Mr Hodgman had active input or influence over that opinion. The Board was capable of coming to that conclusion of its own volition, and the evidence indicated that it did so.

2.3. Findings

On the basis of the evidence obtained by the Commission:

- Factual allegation 1 – that the Hon Michael Ferguson MP, Minister for Health, exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson’s ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson’s employment – is not substantiated.
- Factual allegation 2 – that the Hon William Hodgman MP, Premier, exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson’s ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson’s employment – is not substantiated.

3. Allegations 3 and 4: False statements

[18] Allegations 3 and 4 are that that Mr Ferguson and Mr Hodgman each respectively

made false statements to the public and/or the Parliament of Tasmania about not having exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson’s ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson’s employment.

[19] Allegation 3 could only be substantiated if Allegation 1 were sustained; similarly, Allegation 4 could only be sustained if Allegation 2 were sustained.

[20] Neither Allegation 1 nor Allegation 2 has been substantiated.

[21] It therefore was not necessary to collect evidence on, or analyse, Allegation 3 and Allegation 4.

3.1. Findings

On the basis of the evidence obtained by the Commission:

- Factual allegation 3 – that the Hon Michael Ferguson MP, Minister for Health, made false statements to the public and/or the Parliament of Tasmania about not having exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson’s ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson’s employment – is not substantiated.

- Factual allegation 4 - that the Hon William Hodgman MP, Premier, made false statements to the public and/or the Parliament of Tasmania about not having exerted undue influence on Cricket Tasmania and/or Cricket Australia by questioning Angela Williamson's ability to continue in her role, and/or discussing future funding for Cricket Tasmania in the context of Ms Williamson's employment - is not substantiated.

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