

The Senate

Finance and Public
Administration References
Committee

Compliance by former Ministers of State
with the requirements of the Prime
Minister's Statement of Ministerial
Standards

September 2019

© Commonwealth of Australia

ISBN 978-1-76010-996-7 (Printed Version)

ISBN 978-1-76010-996-7 (HTML Version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

Printed by the Senate Printing Unit, Parliament House, Canberra

Members

Chair

Senator Jenny McAllister ALP, NSW

Deputy Chair

Senator James Paterson LP, VIC

Members

Senator Tim Ayres ALP, NSW

Senator Kimberley Kitching ALP, VIC

Senator Paul Scarr LP, QLD

Senator Malcolm Roberts PHON, QLD

Participating Members

Senator Jacquie Lambie JLN, TAS

Senator Rex Patrick CA, SA

Senator Louise Pratt ALP, WA

Senator Larissa Waters AG, QLD

Senate Finance and Public Administration Committee Secretariat:

Ms Ann Palmer (Secretary)

Mr Tasman Larnach (Principal Research Officer)

Ms Nicola Knackstredt (Senior Research Officer)

Mr Michael Gilbey (Research Officer)

Ms Rachel Debels (Administrative Officer)

The Senate

PO Box 6100

Parliament House

Canberra ACT 2600

Ph: 02 6277 3439

Fax: 02 6277 5809

E-mail: fpa.sen@aph.gov.au

Internet: www.aph.gov.au/senate_fpa

Table of Contents

Members	iii
Recommendation	vii
Committee views and recommendation	ix
Chapter 1 – Introduction.....	1
Chapter 2 – Background to the inquiry.....	3
Introduction	3
Statement on Ministerial Standards	4
Timelines of appointments	5
Mr Pyne and EY	5
Ms Bishop and Palladium.....	7
Investigation by Dr Parkinson	9
Mr Pyne	9
Ms Bishop.....	10
Conclusion	11
Chapter 3 – Key issues.....	13
Introduction	13
The post-ministerial appointments	13
Mr Pyne and EY	13
Ms Bishop and Palladium.....	18
Extent of the inquiries by Dr Parkinson.....	22
Mr Pyne	23
Ms Bishop.....	25
The appropriateness of referring inquiries to Dr Parkinson.....	26
Enforceability and penalties	28
Strengthening the regulation of lobbyists and other integrity reforms.....	30
Additional Comments by Senator Malcolm Roberts	33
Australian Greens' Additional Comments.....	35
Additional Comments by the Jacqui Lambie Network	41
Additional Comments by Senator Rex Patrick.....	53

Government Senators' Dissenting Report.....	61
Appendix 1— Submissions and additional information	69
Appendix 2— Public hearings and witnesses	71
Appendix 3— Motion referring inquiry, 22 July 2019	73

Recommendation

Recommendation 1

The committee recommends, in light of the new information uncovered by the inquiry and media reporting, the Prime Minister should request the incoming Secretary of his Department to re-open the investigation of Mr Pyne and Ms Bishop to determine if they have breached the Statement of Ministerial Standards.

Committee views and recommendation

Almost a third of the Coalition Cabinet quit in the months following the Liberal party room's decision in August 2018 to install Mr Morrison as Prime Minister. The ministers and cabinet ministers who resigned have since gone on to take a variety of roles in business, not-for-profits, and the public sector.

Post-ministerial careers have the capacity to be entirely uncontroversial and appropriate. Ministers can develop a unique set of skills during their time in office. Throughout Australia's history, former ministers of all political persuasions have used these skills to contribute to the broader community in different ways.

Post-ministerial careers also have the capacity to undermine the public trust placed in our government and our political institutions.

There has been significant public concern that the post-ministerial plans of two recent former ministers – the Hon. Christopher Pyne and the Hon. Julie Bishop – may fall into this latter category.

Mr Pyne and Ms Bishop's post ministerial employment

The close nexus between Mr Pyne and Ms Bishop's former portfolios and their new private sector jobs raise serious questions of probity.

The Hon. Julie Bishop

Ms Bishop served as foreign minister for over five years. She ceased at the end of August 2018 and commenced as a non-executive director for Palladium less than twelve months later.

Palladium is a private aid contractor that had extensive dealings with the Department of Foreign Affairs and Trade (DFAT) during the time that Ms Bishop was minister. It benefitted from Ms Bishop's decision to recalibrate Australia's aid program, to increase the role of the private sector.¹

During the time that Ms Bishop was Foreign Minister, Austender searches reveal that Palladium and their associated companies received over \$600 million in DFAT contracts.

While she was Foreign Minister, Ms Bishop appeared in a promotional video for one of Palladium's programs funded by DFAT which was shared on their social media.²

¹ Julie Bishop, 'The New Aid Paradigm', Speech to the National Press Club, 18 June 2014.

² Palladium, Facebook Post, 9 June 2017;
<https://www.facebook.com/palladiumimpact/posts/1476520862409939>.

The Hon. Christopher Pyne

Mr Pyne served in the defence portfolio for almost three years, first as Minister for Defence Industry then as Minister for Defence. In April 2019, while he was still a minister, Mr Pyne met with EY to discuss 'his interest in utilising his experience as a politician and Minister to assist a professional services firm grow their private sector defence industry business'.³ Nine days later, EY made formal offer to My Pyne which he accepted within three days.

Mr Pyne formally ceases as Defence Minister on 26 May 2019. Within two weeks, Mr Pyne had commenced work for EY.

Mr Pyne is also a part owner of GC Advisory, a public affairs, strategic communications advisory company. GC Advisory is registered on the Lobbyist Register and Mr Pyne is listed as a Registered Lobbyist.

During the course of this committee's inquiry, GC Advisory listed a defence supplier—duMonde Group—as a client. Austender records show that duMonde has received \$6 million in contracts from the Department of Defence, including during the period that Mr Pyne was minister. GC Advisory removed duMonde Group from the registry after questions were asked about it during one of this inquiry's public hearings.

Application of the ministerial standards

The Prime Minister issued his Statement of Ministerial Standards on 30 August 2018, shortly after taking office. It contains restrictions on post-ministerial employment:

Post-ministerial employment

2.25. Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public.

2.26. Ministers shall ensure that their personal conduct is consistent with the dignity, reputation and integrity of the Parliament.⁴

A provision of this kind has been included in the ministerial codes/standards issued by successive prime ministers since 2007.

Following public and parliamentary pressure, the Prime Minister sought advice from the then Secretary of the Department of Prime Minister and

³ EY, *Submission 4*, p. 4.

⁴ *Statement on Ministerial Standards*, 30 August 2018, p. 8.

Cabinet (PM&C), Dr Martin Parkinson AC PSM, on the compliance of Ms Bishop and Mr Pyne with the *Statement of Ministerial Standards*.

Dr Parkinson spoke to each of the former ministers once via telephone before finalising his advice to the Prime Minister. This advice was tabled in the Senate by Minister Cormann following an Order for Production of Documents by Senator Wong, agreed by the Senate on Thursday 4 July 2019.

Dr Parkinson advised the Prime Minister on 19 July 2019 that:

On the basis of the information available at this time, I have no grounds to believe that either Mr Pyne or Ms Bishop have breached the Standards.⁵

Several aspects of the investigation conducted by Dr Parkinson bear mention.

First, the investigation does not appear to have been a high priority. More than a week elapsed between the matter being referred by the Prime Minister and Dr Parkinson speaking to either of the former ministers.

Second, the investigation does not appear to have been particularly extensive. Dr Parkinson reported speaking to each of the former ministers once via telephone. His advice to the Prime Minister also references Mr Pyne's public statement and cites a total of three media articles. When asked in the hearing for a copy of his notes from his phone calls, Dr Parkinson reported that he had only taken handwritten personal notes that may not be in a form useful to the committee.⁶

Third, the investigation does not appear to have tested the claims made by the former ministers. Dr Parkinson did not speak to either EY or Palladium. He did not look at the relevant contracts or employment documentation. He did not ask crucial questions about what actions were being taken to avoid conflicts, for instance whether Ms Bishop would recuse herself from board discussions about the Australian business.

Dr Parkinson explained to the committee:

What am I meant to do? Am I meant to assume that any member of this chamber or the other chamber is going to lie to me?⁷

Fourth, the investigation failed to reconcile the inconsistencies apparent on the public record. The report to the Prime Minister states:

...Ms Bishop's knowledge about Australian government policies regarding aid and development, and her contacts with international leaders, will be utilised by and benefit, Palladium.⁸

⁵ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 4.

⁶ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 1.

⁷ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 5.

Clause 2.25 prohibits former ministers from taking advantage of information to which they have had access as a Minister where that information is not generally available to the public.

Likewise, the investigation failed to properly consider the interaction between the prohibition on ministers undertaking lobbying for eighteen months after leaving office, and Mr Pyne's interests and activities as a part owner of a lobbying firm and a registered lobbyist.

Fifth, the investigation appears to have only considered clause 2.25 of the Ministerial Standards. Clause 2.26 provides a generally applicable principle that:

Ministers shall ensure that their personal conduct is consistent with the dignity, reputation and integrity of the Parliament.⁹

A reasonable observer would conclude that there is at least a question to be answered as to whether Mr Pyne and Ms Bishop had fallen foul of this requirement.

The committee considers that these deficiencies undermined the investigation.

Given the additional information that emerged during the course of this inquiry, it was not appropriate for the Prime Minister to conclude on the basis of Dr Parkinson's original investigation that Mr Pyne and Ms Bishop were not in breach of the Statement of Ministerial Standards.

Recommendation 1

The committee recommends, in light of the new information uncovered by the inquiry and media reporting, the Prime Minister should request the incoming Secretary of his Department to re-open the investigation of Mr Pyne and Ms Bishop to determine if they have breached the *Statement of Ministerial Standards*.

The locus of responsibility

Dr Parkinson has had a long and respected career as a public servant. He has been trusted by governments of all political persuasions to undertake important work with diligence and discretion.

The committee does not believe that the deficiencies in Dr Parkinson's investigation reflect in any way upon him. The committee is confident that Dr Parkinson did the job the Prime Minister expected him to in the manner expected by the Prime Minister. The problem lies in the Prime Minister's expectations.

⁸ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 5.

⁹ *Statement on Ministerial Standards*, 30 August 2018, p. 8.

The *Statement of Ministerial Standards* belongs to the Prime Minister. The Standards are issued on his authority, and rely on his expectations of ministers to uphold its obligations. Standards are not laws. They are able to be applied flexibly. The current Standards make this plain, stating:

This Statement is principles based and is not a complete list of rules.¹⁰

Ministers are directly answerable to the Prime Minister for their compliance with the Standards. The current Standards, for instance, state at the outset that:

Ministers are expected to undertake whatever actions may be considered by the Prime Minister to be reasonable in the circumstances to meet the general obligations set out above, including the following specific requirements and procedures.¹¹

These attributes mean that in practice the treatment of a particular issue says as much about the Prime Minister as it does about the minister in question.

There is no such thing as getting off on a technicality—a close reading of the text of the standards will not help a minister if their conduct breaches a Prime Minister’s expectations.

The Prime Minister’s response to the circumstances of Mr Pyne and Ms Bishop suggests that he either sees nothing wrong with their post-ministerial employment or he is unwilling to exercise his Prime Ministerial authority to determine whether ministerial obligations have been breached.

The committee is significantly concerned that this Prime Minister appears unwilling or unable to ensure his Ministerial Standards are appropriately upheld in relation to Ms Bishop and Mr Pyne.

The precedent set by this Prime Minister’s indifference raises the question of whether he has the political courage to enforce his Ministerial Standards in relation to the conduct of his Ministers currently under scrutiny.

Need for reform

Some submitters to this inquiry have suggested that the conduct of ministers should be subject to oversight by an independent body.

There presently is an external body that does so—the courts.

A minister who abused public office for private ends can expect to find themselves facing consequences under the law.

A significant number of prosecutions have arisen from investigations undertaken by state anti-corruption and integrity commissions. It is time for there to be a federal equivalent.

¹⁰ *Statement on Ministerial Standards*, 30 August 2018, p. 3.

¹¹ *Statement on Ministerial Standards*, 30 August 2018, Cl 1.5.

After a long resistance, the government has finally agreed. However, the proposal put forward by the government lacks details, and the details that have been provided lack the support of experts and practitioners. Australia deserves a proper national integrity commission.

The case for an independently enforced statement of ministerial standards is less well made out.

None of the submitters has identified a deficiency with the current model that could not be remedied by having a prime minister who cared about integrity and was prepared to hold their ministers to account. The Australian people are entitled to expect this.

Proposals to have an external body enforce ministerial standards are still in their nascent stage of development and would face significant implementation issues. For example, unlike other public officials—such as public servants or judges—ministers bring a set of opinions and preferences to their decision making, and are elected because not despite this.

Ministerial standards are ethics, not laws. Their consequences are political, not legal. This is appropriate as they speak to conduct that, whilst not illegal, nonetheless falls short of public expectations.

The Prime Minister should hold his ministers to account. The Australian people should hold him to account if he does not.

Chapter 1

Introduction

Referral

1.1 On 22 July 2019, the Senate referred the following matter to the Senate Finance and Public Administration References Committee (the committee) for inquiry and report by 10 September 2019:

- (a) compliance by former Ministers of State with the requirements of paragraph 2.25 of the Prime Minister's Statement of Ministerial Standards, dated 30 August 2018, including, but not limited to the undertakings given by Ministers to comply with their obligations concerning post-ministerial employment, and action taken by the Prime Minister and the Department of the Prime Minister and Cabinet to ensure full compliance by former Ministers with paragraph 2.25 of the Ministerial Standards; and
- (b) any related matters.¹

1.2 On 9 September 2019, the Senate extended the reporting date to 26 September 2019.²

Conduct of the inquiry

1.3 Details of the inquiry were placed on the committee's website at: http://www.aph.gov.au/senate_fpa. The committee also contacted a number of relevant individuals and organisations to notify them of the inquiry and invite submissions by 12 August 2019.

1.4 The committee received nine submissions. Submissions received by the committee are published in Appendix 1.

1.5 The committee held two hearings in Canberra, on 30 August 2019 and 5 September 2019.

1.6 A list of witnesses who gave evidence is available at Appendix 2.

1.7 Submissions and the Hansard transcript of evidence may be accessed through the committee website. References to the Hansard are to the Proof Hansard.

¹ *Journals of the Senate*, No. 4—22 July 2019, p. 158. As part of the referral of the inquiry, the Senate also noted a number of matters in relation to the Hon. Christopher Pyne's post-ministerial employment by EY, the full motion is set out at Appendix 3.

² *Journals of the Senate*, No. 12—9 September 2019, p. 383.

Report structure

1.8 This report is comprised of three chapters, as follows:

- Chapter 1 covers the referral and conduct of the inquiry;
- Chapter 2 sets out the background to the inquiry; and
- Chapter 3 discusses the key issues in relation to the inquiry.

Acknowledgements

1.9 The committee thanks the individuals and organisations who participated in the public hearings as well as those that made written submissions.

Chapter 2

Background to the inquiry

Introduction

- 2.1 In June and July 2019 there was media reporting on new roles for two former Ministers of the current government, the Hon. Christopher Pyne and the Hon. Julie Bishop.¹ Mr Pyne, who until late May 2019, was the Minister for Defence, was reported as being employed by consultancy firm EY, which undertakes work for the Australian Government, including for the Department of Defence. Ms Bishop, who was Minister for Foreign Affairs until August 2018, had reportedly taken on a position on the board of Palladium, a provider of a range services to the Australian Government, including to the Department of Foreign Affairs and Trade.²
- 2.2 The nature of both Mr Pyne and Ms Bishop's roles gave rise to the question of whether these new roles were compliant with the obligations of former Ministers with the Prime Minister's *Statement of Ministerial Standards* (Ministerial Standards). On 4 July 2019, Senator the Hon. Mathias Cormann, Minister for Finance, made a statement to the Senate relating to Ministerial Standards.³ Senator Cormann advised that the Prime Minister, the Hon. Scott Morrison MP, had sought a advice from the then Secretary of the Department of the Prime Minister and Cabinet (PM&C), Dr Martin Parkinson AC PSM, on the compliance of 'two former ministers in our government' with the Ministerial Standards.⁴
- 2.3 On 22 July 2019, Senator Cormann tabled correspondence in the Senate from Dr Parkinson to the Prime Minister.⁵ This correspondence outlined the outcome of Dr Parkinson's investigation into compliance by former Ministers Pyne and Bishop with the Ministerial Standards.

¹ See, for example, Edmund Tadros and Tom McIlroy, 'The Fixer in a fix over EY move', *Australian Financial Review*, 26 June 2019, <https://www.afr.com/companies/professional-services/the-fixer-in-a-fix-over-ey-move-20190626-p521cj> (accessed 25 July 2019); Jennifer Hewett, 'Julie Bishop joins Palladium board', *Australian Financial Review*, 2 July 2019, <https://www.afr.com/politics/federal/julie-bishop-joins-palladium-board-20190701-p5230f> (accessed 25 July 2019).

² Palladium, *Submission 8.1*, p. 1.

³ Senator the Hon. Mathias Cormann, Minister for Finance, *Senate Hansard*, 4 July 2019, p. 172.

⁴ Senator the Hon. Mathias Cormann, Minister for Finance, *Senate Hansard*, 4 July 2019, p. 172.

⁵ Senator the Hon. Mathias Cormann, Minister for Finance, correspondence to Senator the Hon. Scott Ryan, President of the Senate, 22 July 2019 (tabled 22 July 2019).

2.4 This chapter:

- sets out the background to the relevant section of the Ministerial Standards;
- gives an overview of the timelines for the appointment of Mr Pyne and Ms Bishop to their respective positions with EY and Palladium; and
- summarises Dr Parkinson's findings in his advice to the Prime Minister.

Statement on Ministerial Standards

2.5 The Ministerial Standards set out the Prime Minister's expectations for the conduct and behaviour of members of his Ministry. Although referred to by various titles under different Prime Ministers, such standards have been in place since 1996, when the then Prime Minister, the Hon. John Howard, introduced a ministerial code of conduct.⁶ The most recent version of the Ministerial Standards was released on 30 August 2018, shortly after Mr Morrison became Prime Minister.⁷ An abstract describes the purpose of the Ministerial Standards:

The Australian people deserve a Government that will act with integrity and in the best interests of the people they serve.

Serving the Australian people as Ministers and Assistant Ministers is an honour and comes with expectations to act at all times to the highest possible standards of probity.

All Ministers and Assistant Ministers are expected to conduct themselves in line with standards established in this Statement in order to maintain the trust of the Australian people.

All parliamentarians are required to disclose private interests to the parliament. Given the additional powers of Ministers and Assistant Ministers, the Prime Minister expects them to provide him with additional information about their private interests to ensure there are no conflicts with their roles as ministers.

This Statement is principles based and is not a complete list of rules. The Prime Minister expects all ministers in the Australian Government to live up to the high standards expected of them by the Australian people at all times.⁸

2.6 The 1996 document, *'A guide on key elements of ministerial responsibility'*, did not contain limitations on the nature of the post-parliamentary employment of

⁶ Janet Wilson and Margaret Healy, 'That's it, I'm leaving: ministerial departures 1901–2017', *Research Publications*, Australian Parliamentary Library, 12 July 2017, p. 7, https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1718/Chronology/Departures (accessed 21 August 2019).

⁷ *Statement on Ministerial Standards*, 30 August 2018, <https://www.pmc.gov.au/resource-centre/government/statement-ministerial-standards> (accessed 23 July 2019).

⁸ *Statement on Ministerial Standards*, 30 August 2018, p. 3.

former ministers.⁹ In 2007, then Prime Minister, the Hon. Kevin Rudd, issued '*Standards of Ministerial Ethics*', which provided a 12-month limitation on the types of employment that former Ministers could undertake.¹⁰ The December 2013 *Statement of Ministerial Standards*, issued by the then Prime Minister, the Hon. Tony Abbott, provided for an 18 month restraint.¹¹

2.7 The relevant section of the current Ministerial Standards reads:

Post-ministerial employment

2.25. Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public.

2.26. Ministers shall ensure that their personal conduct is consistent with the dignity, reputation and integrity of the Parliament.¹²

Timelines of appointments

2.8 This section sets out the timelines leading up to the post-ministerial employment of Mr Pyne by EY, and the post-ministerial appointment of Ms Bishop by Palladium.

Mr Pyne and EY

2.9 In June 2019, it was reported in the media that Mr Pyne, the former Minister for Defence, had accepted employment with EY.¹³ Both EY and Mr Pyne responded to these reports, and the speculation that this employment may be in breach of the Ministerial Standards.

⁹ *A Guide on Key Elements of Ministerial Responsibility*, April 1996, https://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/NEV20/upload_binary/NEV20.pdf;fileType=application%2Fpdf#search=%22media/pressrel/NEV20%22 (accessed 21 August 2019).

¹⁰ *Standards of Ministerial Ethics*, December 2007, p. [7], https://parlinfo.aph.gov.au/parlInfo/download/library/jrnart/KT6P6/upload_binary/KT6P6.pdf;fileType=application%2Fpdf#search=%22library/jrnart/KT6P6%22 (accessed 21 August 2019).

¹¹ *Statement of Ministerial Standards*, December 2013, p. 6, https://parlinfo.aph.gov.au/parlInfo/download/library/jrnart/4707269/upload_binary/4707269.pdf;fileType=application%2Fpdf#search=%22library/jrnart/4707269%22 (accessed 21 August 2019).

¹² *Statement on Ministerial Standards*, 30 August 2018, p. 8.

¹³ See, for example, Edmund Tadros and Tom McIlroy, 'The Fixer in a fix over EY move', the *Australian Financial Review*, 26 June 2019; Christopher Knaus, 'Christopher Pyne takes job with consulting firm EY to help grow defence business', *The Guardian Australia*, 26 June 2019, <https://www.theguardian.com/australia-news/2019/jun/26/christopher-pyne-takes-job-with-consulting-firm-ey-to-help-grow-defence-business> (accessed 25 July 2019).

2.10 In responding to these reports, an EY spokesperson initially stated that Mr Pyne's role would be related to building EY's defence capability.¹⁴ EY subsequently stated that Mr Pyne's role would be related to the 'private sector side of the business':

He will not be lobbying or meeting with public sector MPs, public service or defence force in his EY role. He is supporting the private sector side of the business.¹⁵

2.11 In speaking of Mr Pyne's employment with EY, Mr Mark Stewart, an EY Partner and Defence Industry Leader, informed the *Australian Financial Review* that Mr Pyne was engaged 'to help lead conversations about what states need to do to meet the challenges and opportunities this huge defence investment will bring'.¹⁶

2.12 In a statement on his Twitter account on 29 June 2019, Mr Pyne set out the parameters of his role with EY, and explained how his role was not in breach of the ministerial standards:

I have not taken personal advantage of information I received as a Minister in the Defence portfolio that is not otherwise publicly available. I have not lobbied or had business meetings with any members of the government, public service or defence force on any matters on which I have had official dealings as a Minister in the last eighteen months.

...

I intend to ensure that anyone I provide advice to has rigorous processes and procedures in place to ensure I am not put in a position where the Ministerial Code of Conduct might be breached.¹⁷

2.13 Table 2.1 sets out the chronology of key events relating to the Mr Pyne's resignation as a Minister and consultancy arrangements with EY.

¹⁴ Edmund Tadros and Tom McIlroy, 'The Fixer in a fix over EY move', *Australian Financial Review*, 26 June 2019.

¹⁵ Edmund Tadros and Tom McIlroy, 'The Fixer in a fix over EY move', *Australian Financial Review*, 26 June 2019.

¹⁶ Edmund Tadros and Tom McIlroy, 'The Fixer in a fix over EY move', *Australian Financial Review*, 26 June 2019.

¹⁷ Christopher Pyne, 29 June 2019, <https://twitter.com/cpyne/status/1145173148733591554> (accessed 26 July 2019).

Table 2.1 Chronology of key events: Mr Christopher Pyne and EY

Date	Event
1 March 2019	EY scheduled to host a Future SA Forum with Mr Pyne. However, the event is postponed by Future SA on 22 February 2019
2 March 2019	Mr Pyne announces his retirement from his political career
7 March 2019	Mr Mark Stewart, Partner, Defence Industry Leader, EY, contacted Mr Pyne requesting a meeting to discuss his (Mr Pyne's) post-retirement plans. Meeting scheduled for 8 April 2019
15 March 2019	EY hosts the Future SA Forum, which is attended by Mr Pyne
8 April 2019	EY met with Mr Pyne. At this meeting, they discussed Mr Pyne's post-retirement plans and his interest in utilising his experience as a politician and Minister to assist a professional services firm grow their private sector defence industry business
11 April 2019	2019 Federal election announced
17 April 2019	Mr Stewart (on behalf of EY) formally offers consultancy agreement to Mr Pyne
20 April 2019	Mr Pyne accepts offer and suggests start date of 1 June 2019
18 May 2019	2019 Federal election held
29 May 2019	Prime Minister's second ministry sworn in. Mr Pyne ceases to be the Minister for Defence ¹⁸
7 June 2019	Consultancy agreement commences

Source: Except where otherwise referenced, the material in this table is derived from EY, Submission 4, p.4.

Ms Bishop and Palladium

2.14 In early July 2019, Palladium announced the appointment of Ms Bishop to a role as a director, and this appointment was also the subject of media reports.¹⁹

2.15 In its media release, Palladium referred to Ms Bishop's contacts and expertise:

[Ms] Bishop brings a network of global contacts, years of public service experience and background in driving innovation in international development.²⁰

¹⁸ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 3.

¹⁹ See, for example, Jennifer Hewett, 'Julie Bishop joins Palladium board', *Australian Financial Review*, 2 July 2019.

2.16 Ms Bishop did not make any public statements about this post-ministerial role.

Table 2.2 Chronology of key events: Mr Julie Bishop and Palladium

Date	Event
26 August 2018	Ms Bishop resigns from the Ministry
November 2018	Two directors of Palladium advise of their intention to retire from the board in mid-2019 (retirement date was ultimately end of May 2019)
3 June 2019	Kim Bredhauer, Executive Chairman of Palladium, and Christopher Hirst, Chief Executive Officer of Palladium, agree to approach Ms Bishop about the possibility of joining the board
5 June 2019	Mr Bredhauer contacts Ms Bishop to ask if she would be interested in exploring an opportunity to join the board as a non-executive director. Mr Bredhauer had previously met Ms Bishop once when she was an opposition member of Parliament, prior to her becoming a Minister
6 June 2019	Ms Bishop indicates she could be interested and a meeting is arranged to discuss the opportunity
11 June 2019	Mr Bredhauer and Ms Bishop meet in Perth and discuss the company and the non-executive director role. During this meeting Ms Bishop made it very clear that she was limited in what she could do in adherence to the Ministerial Standards
13 June 2019	Mr Bredhauer advises the current board that he has met with Ms Bishop regarding a non-executive director role and schedules a board call to discuss
13 June 2019	Ms Bishop confirms to Mr Bredhauer that she is interested in appointment as a non-executive director
21 June 2019	Mr Hirst and Mr Bredhauer have a conference call with Ms Bishop. This is Mr Hirst's first interaction with Ms Bishop, and Ms Bishop immediately explains the requirements set out in the Ministerial Standards.
25 June 2019	Ms Bishop is sent a draft induction pack, which does not include a letter of appointment
27 June 2019	Ms Bishop meets with Darryn Purdy, Executive Director of Palladium, and Ken Warriner, outgoing Chairman of the Board

²⁰ Palladium, 'Julie Bishop Joins Palladium Board of Directors', *Media Release*, 1 July 2019, <https://thepalladiumgroup.com/news/Julie-Bishop-Joins-Palladium-Board-of-Directors> (accessed 26 July 2019).

	of Palladium, in Sydney to discuss Ms Bishop's possible appointment. Three non-executive directors join the discussion remotely: John Eales from Australia, Charlie Middleton from the United Kingdom and Alonzo Fulgham from the United States
28 June 2019	Board meeting to officially confirm appointment. Board unanimously approves the appointment of Ms Bishop as a non-executive director

Source: Except as otherwise referenced, material in this table is derived from Palladium, Submission 8.1, p. 2.

Investigation by Dr Parkinson

2.17 As noted above, the Prime Minister sought advice from the Secretary of the Department of PM&C on whether Mr Pyne and Ms Bishop's roles with EY and Palladium, respectively, were in compliance with the Ministerial Standards. The section below outlines the findings in Dr Parkinson's report to the Prime Minister.

2.18 By way of introduction, Dr Parkinson set out a distinction between the experience and knowledge that a person obtained as a Minister:

It is not reasonable to think that former Ministers can or will 'forget' all information or knowledge gained by them in the course of their ministerial roles. Nor, in my view, can the experience a Minister gains from fulfilling that role be extinguished when they undertake a role after leaving the Parliament.

In this regard, a distinction should be drawn between experience a person gains through being a Minister and specific knowledge they acquire through performing the role. It is the latter which is pertinent to the [Ministerial] Standards.

Notwithstanding this, former Ministers should take care to not divulge the deliberations of the Cabinet or the confidential briefing provided to them by the public service in order to gain benefit for themselves or another party post their ministerial position.²¹

Mr Pyne

2.19 In the report into compliance with Ministerial Standards, Dr Parkinson set out the matters he had taken into account in his investigation of Mr Pyne's appointment, including:

- Mr Pyne's public statement issued on 29 June 2019;
- an article in the *Australian Financial Review*, dated 27 June 2019 reporting quotes from a spokesperson for EY;²² and

²¹ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 2.

²² Edmund Tadros and Tom McIlroy, 'Pressure builds on Pyne over EY role', *Australian Financial Review*, 27 June 2019, <https://www.afr.com/business/professional-services/pressure-builds-on-pyne-over-ey-role-20190627-p521pa> (accessed 25 July 2019).

- an interview between Dr Parkinson and Mr Pyne on 11 July.

2.20 Dr Parkinson stated:

On the basis of the information available to me, it is not evident that Mr Pyne has disclosed defence related information that is not in the public domain for his personal benefit. Further there is no evidence to suggest that Mr Pyne has lobbied, advocated or had business meetings with members of the Government, parliament, public service or defence force that relate to the matters he dealt with as a Minister in the defence portfolio.²³

2.21 Dr Parkinson also stated:

I am satisfied that Mr Pyne is plainly aware of his obligations under the Standards, and that he is aware he cannot use the information known only to him because of his ministerial roles to the benefit of himself or EY. Based on the conversation I had with Mr Pyne, I consider he has put in place mechanisms to ensure that, whilst his engagement with EY will appropriately draw on his 26 year experience as a parliamentarian, he will not impart direct or specific knowledge known to him only by virtue of his ministerial position.²⁴

Ms Bishop

2.22 In his report Dr Parkinson noted that Ms Bishop had not released a public statement about her employment by Palladium.²⁵

2.23 Palladium issued a press release regarding Ms Bishop's appointment on 1 July 2019, in which reference was made to Ms Bishop's contacts, experience and background in international development, as well as:

...her work following the Malaysia Airlines MH17 tragedy in Ukraine, improving Sino-Australian relations, and input into the Colombo Plan, an intergovernmental effort to strengthen economic and social development in the Asia-Pacific region.²⁶

2.24 Dr Parkinson did refer to media articles on the appointment, namely:

- a 4 July 2019 article on *The Guardian*;²⁷ and
- a 2 July 2019 article in the *Australian Financial Review*.²⁸

²³ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 4.

²⁴ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 4.

²⁵ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 5.

²⁶ Palladium, 'Julie Bishop Joins Palladium Board of Directors', *Media Release*, 1 July 2019.

²⁷ Christopher Knaus, 'National interest undermined by firms like Palladium, Julie Bishop's new employer, aid groups say', *The Guardian Australia*, 4 July 2019, <https://www.theguardian.com/australia-news/2019/jul/04/palladium-aid-sector-concerned-about-rise-of-private-contractor-employing-julie-bishop> (accessed 25 July 2019).

²⁸ Jennifer Hewett, 'Julie Bishop joins Palladium board', *Australian Financial Review*, 2 July 2019.

2.25 In relation to this material, Dr Parkinson commented:

It seems likely that Ms Bishop's knowledge about Australian government policies regarding aid and development, and her contacts with international leaders, will be utilised by, and benefit, Palladium. Indeed, Palladium's statement [in the *Australian Financial Review*] suggests that this experience was a key basis for Ms Bishop's appointment. I note that Ms Bishop is one of five Australians on the Board of Palladium, which also includes one member from the United Kingdom and one from the United States.²⁹

2.26 On 11 July, Dr Parkinson interviewed Ms Bishop to gather more information about her appointment. Ms Bishop stated that she had not been in contact with Palladium during the time she was Minister for Foreign Affairs and that she had not been a minister for nearly 12 months. Ms Bishop noted that in this time 'certain elements of the Aid program had been recast'.³⁰ Furthermore, 'Ms Bishop has indicated that Palladium does not expect her to engage on any Australian based projects' and that her position on the board 'would not extend to Palladium's tendering processes for projects, lobbying or other activities beyond the role of a Non-Executive Director'.³¹

2.27 Dr Parkinson concluded:

I am satisfied that Ms Bishop is cognisant of her obligations under the [Ministerial] Standards and is aware that the information known to her as a former Minister for Foreign Affairs cannot be used to the benefit of herself or Palladium. Ms Bishop has assured me that she will comply with the [Ministerial] Standards.³²

Conclusion

2.28 On the issue of enforcement of the Ministerial Standards, Dr Parkinson noted that certain actions were available to the Prime Minister when considering the conduct of current Ministers and whether there was a possible breach of the Ministerial Standards. However, Dr Parkinson continued:

...there are no specific actions that can be taken by you [the Prime Minister] in relation to former Ministers once they have left the Parliament.³³

²⁹ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 5.

³⁰ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 5.

³¹ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 6.

³² Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 6.

³³ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 6.

2.29 Dr Parkinson concluded:

On the basis of the information available at this time, I have no grounds to believe that either Mr Pyne or Ms Bishop have breached the [Ministerial] Standards.³⁴

³⁴ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 6.

Chapter 3

Key issues

Introduction

- 3.1 This chapter explores in detail the events surrounding and the examination of the post-ministerial appointments of the two former ministers at the centre of this inquiry—the Hon. Christopher Pyne and the Hon. Julie Bishop.
- 3.2 This chapter also discusses deficiencies with the existing Prime Minister's *Statement of Ministerial Standards* (Ministerial Standards), and suggestions from submitters for the improvement of the Ministerial Standards, including the enforceability of the standards.

The post-ministerial appointments

Mr Pyne and EY

- 3.3 This section sets out the evidence received by the committee in respect of Mr Pyne's employment with EY. This information is based on the appearances by Mr Pyne and EY representatives at the committee's public hearing on 5 September 2019, as well as a submission from EY.¹
- 3.4 Mr Pyne has held two ministerial positions that are relevant to the committee's inquiry. Most recently, Mr Pyne held the position of Minister for Defence in the Morrison Ministry from 28 August 2018 to 11 April 2019. Prior to this, also in the defence portfolio, Mr Pyne held the position of Minister for Defence Industry in the Turnbull Ministry from 19 June 2016 to 28 August 2018.²

Undertaking to comply with the Ministerial Standards

- 3.5 Mr Pyne confirmed that he understood the obligations imposed on him by the Ministerial Standards and advised that he intended to abide by those obligations.³
- 3.6 In relation to the 'undertaking' that ministers must comply with the Ministerial Standards, Mr Pyne explained his understanding of how ministers make such an undertaking:

My recollection is that when you become a minister—or, indeed, a parliamentary secretary—you get sent a document to complete about your financial arrangements, which also contains a copy of the ministerial code

¹ See: EY, *Submission 4*.

² Parliament of Australia, *Hon Christopher Pyne MP*, https://www.aph.gov.au/Senators_and_Members/Parliamentarian?MPID=9V5 (accessed 4 September 2019).

³ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, pp. 9-10.

of conduct. You obviously study that. If you didn't, you wouldn't be very sensible. You fill out the form and then you sign it and send it back. In the action of doing that, that is, in my view, a contract that you have created with the Prime Minister at the time—whether it was Howard, Abbott, Turnbull or Morrison, as I served all four of them—that you will abide by the ministerial code of conduct. You have divulged your financial arrangements to the Prime Minister and if that changes, in terms of your financial arrangements, you're required to continue to update it. I took that at the time as establishing a contract with the Prime Minister to abide by the ministerial code of conduct.⁴

- 3.7 Mr Pyne informed the committee that, once he had announced his retirement, the Prime Minister did not seek to remind him of his obligations under the Ministerial Standards.⁵

Interaction prior to resignation as a Minister

- 3.8 In its submission, EY provided background to its initial interactions with Mr Pyne and his subsequent engagement as a contractor to EY—this information is set out in chapter 2 at Table 2.1. Mr Pyne had several encounters with EY while he was still the Minister for Defence. Following Mr Pyne's announcement of his intention to retire at the next federal election on 2 March 2019, EY contacted Mr Pyne on 7 March 2019 requesting a meeting to discuss his post-retirement plans.⁶ The following week Mr Pyne attended an event hosted by EY, the Future SA Forum, which had been postponed from 1 March.⁷
- 3.9 EY then met with Mr Pyne on 8 April 2019 to discuss his future and 'his interest in utilising his experience as a politician and Minister to assist a professional services firm grow their private sector defence industry business'.⁸ The 2019 federal election was announced on 11 April 2019, with Mr Pyne ceasing to be a minister on 29 May 2019.⁹
- 3.10 At the hearing, EY reiterated the evidence provided in its submission that the meeting was only to discuss Mr Pyne's future, and therefore appropriate under the provisions of the Ministerial Standards.¹⁰ EY continued:

What I can say is that we didn't discuss any confidential information. And I am not a government official so, from our perspective, there is no issue in relation to the standards.¹¹

⁴ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 12.

⁵ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 13.

⁶ EY, *Submission 4*, p. 4.

⁷ EY, *Submission 4*, p. 4.

⁸ EY, *Submission 4*, p. 2.

⁹ EY, *Submission 4*, p. 4.

¹⁰ Mr Mark Stewart, Partner, EY, *Committee Hansard*, 5 September, p. 32.

3.11 Mr Pyne denied that it was a breach of the Ministerial Standards to meet with EY while he was still a Minister to discuss a job after his retirement from parliament:

...having a meeting with EY about future jobs doesn't breach the ministerial standards, because I wouldn't have been needing to divulge any information to them that wasn't publicly available, and I wasn't lobbying, advocating or having business meetings on defence related matters. I would simply say...that every Australian is entitled to look for a new job.¹²

Terms of employment and duties

3.12 Mr Pyne's employment as an Executive Consultant with EY commenced on 7 July 2019, a role that Mr Pyne will perform for two days per month for a period of six months, with an option of extension.¹³ In the public hearing, EY informed the committee that their engagement with Mr Pyne is through the services of his consulting firm, GC Advisory.¹⁴

3.13 The submission from EY detailed some of Mr Pyne's expected duties. Mr Pyne has been asked to:

- make defence industry clients aware of EY when a request is made of him for a recommendation of a relevant professional services firm;
- meet with EY's defence industry team to advise them on how best to engage with the defence industry, based on his 26 years' experience as a politician;
- attend initial meetings with private sector clients to introduce EY as a reputable provider of professional services;
- speak at relevant defence industry events as a representative of EY;
- advise EY's defence industry team on our growth strategy; and
- provide advice on the interpretation of Department of Defence policy documents, such as the Defence White Paper.¹⁵

3.14 Mr Pyne declined to disclose the remuneration he receives from EY, noting however that it is 'not an outrageous sum', whilst observing that remuneration is immaterial to compliance with the Ministerial Standards.¹⁶

3.15 When asked to describe the benefit he could provide to EY, Mr Pyne stated:

Of course, one of the things about the Defence portfolio over the last few years has been that we've put in place significant architecture around the white paper, the integrated investment plan, the *Defence industry policy*

¹¹ Mr Mark Stewart, Partner, EY, *Committee Hansard*, 5 September, p. 32.

¹² Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 14.

¹³ EY, *Submission 4*, p. 2. See also: Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 12.

¹⁴ Mr Mark Stewart, Partner, EY, *Committee Hansard*, p. 29.

¹⁵ EY, *Submission 4*, p. 2.

¹⁶ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 12.

*statement, the Naval shipbuilding plan, the Defence industrial capability plan and the Defence export strategy. The main thing that I can bring to a firm like EY is interpreting what those documents mean and how they work...A lot of people in business who are doing their daily work wouldn't have been part of this architecture that's been built, and the interpretation of that is an important skill. And, of course, having been around politics, parliament and government for 26 years, there is a sort of instinctive understanding of how government thinks and how political parties think that I would bring to such a job as well.*¹⁷

Meeting obligations under the Ministerial Standards

3.16 Noting the working he intended to do for EY, as outlined above, Mr Pyne explained how this work would not be in breach of the Ministerial Standards:

*...I can do all of that without actually breaching the ministerial code of conduct, because it doesn't require me to divulge any information that would not otherwise be publicly available. A lot of people in business who are doing their daily work wouldn't have been part of this architecture that's been built, and the interpretation of that is an important skill. And, of course, having been around politics, parliament and government for 26 years, there is a sort of instinctive understanding of how government thinks and how political parties think that I would bring to such a job as well.*¹⁸

3.17 Mr Pyne also noted that he would not be able to advise EY, or their clients, of particular project of which he had knowledge as a Minister, but which was not publicly available.¹⁹

3.18 Mr Mark Stewart, Partner, EY, sought to clarify to the committee that Mr Pyne had not been engaged to advise EY on how to win more government defence related contracts:

*EY has engaged Mr Pyne to assist with growing our defence industry business. The defence industry business provides professional services to private sector clients that operate in the defence industry sector. This is an important distinction that I want to make to the committee. Mr Pyne has been engaged by the defence industry business that I lead to help grow our private sector business dealing with private sector organisations. These organisations are facing a range of challenges in areas such as workforce, procurement and supply chain efficiency. Because of this, they are seeking the services of firms such as EY to assist them with these challenges. Mr Pyne has not been engaged to lobby, advocate or seek business meetings with members of the federal government.*²⁰

3.19 In responding to a question about mechanisms EY have in place to ensure that Mr Pyne complies with the Ministerial Standards and the EY Global Code of

¹⁷ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 10.

¹⁸ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 10.

¹⁹ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 11.

²⁰ Mr Mark Stewart, Partner, EY, *Committee Hansard*, 5 September 2019, p. 28.

Conduct, Mr Stewart described five measures. These included trust in the integrity of Mr Pyne after 26 years of experience in parliament, a direct line of reporting to Mr Stewart, informing the defence industry team within EY about Mr Pyne's obligations, the enforcement of the EY Global Code of Conduct, and the right to terminate Mr Pyne's engagement with EY.²¹

3.20 On the issue of compliance with the Ministerial Standards, EY stated that 'ultimately, only Mr Pyne can ensure compliance'.²²

Activities in relation to GC Advisory

3.21 As noted above, Mr Pyne's appointment at EY is through an agreement with GC Advisory, a public affairs, strategic communications advisory company co-owned by Mr Pyne and Mr Pyne's former Chief of Staff, Mr Adam Howard.²³

3.22 GC Advisory is registered on the Lobbyist Register and Mr Pyne is listed as a Registered Lobbyist.²⁴ The committee questioned Mr Pyne about the prohibition on lobbying imposed on him both under the Ministerial Standards and the Lobbying Code of Conduct.²⁵ Mr Pyne stated:

...I'm certainly not planning on doing any lobbying in the Defence portfolio, and I'll abide by whatever rules are required under the lobbying code...

...my firm hasn't done any lobbying since I joined it, obviously, for defence clients; I don't think we have any defence clients. Our clients are registered on the lobbyists register. My understanding is that, if we had any defence clients, we would have to be extremely cautious about what was done for them, but so far we haven't actually been asked to do any lobbying on behalf of defence clients.²⁶

3.23 Documents tabled at the hearing on 30 August 2019 showed that one of GC Advisory's client's, duMonde Group, has received \$6 million in contracts from the Department of Defence.²⁷ At the public hearing on 5 September 2019,

²¹ Mr Mark Stewart, Partner, EY, *Committee Hansard*, 5 September 2019, p. 31

²² EY, *Submission 4*, p. 2.

²³ See: Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 4

²⁴ See: Australian Government, Register of Lobbyists, available at: <https://lobbyists.ag.gov.au/organisation/3824e6dc-c1b1-e911-8126-0050569d2348/profile> (accessed 12 September 2019).

²⁵ Paragraph 7.1 of the *Lobbying Code of Conduct* provides that Ministers or Parliamentary Secretaries shall not, for a period of 18 months after they cease to hold office, engage in lobbying activities relating to any matter that they had official dealings with in their last 18 months in office.

²⁶ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 9.

²⁷ Senator Jenny McAllister, Chair, Senate Finance and Public Administration References Committee, *Extracts from Lobbyist Register - GC Advisory and AusTender Contract Notices - du Monde* (tabled 30 August 2019).

the committee asked Mr Pyne why, since 30 August 2019, du Monde had been removed from GC Advisory's list of clients on the Register of Lobbyists:

...du Monde was a client before I was a director of GC Advisory and stopped working with my business partner in December 2018, so I assume that, if it's been removed from the register, it's because it's no longer a client. I didn't join the firm until July 2019, so du Monde as a client doesn't have anything to do with me.²⁸

Ms Bishop and Palladium

- 3.24 This section sets out the evidence received by the committee in respect of Ms Bishop's appointment to Palladium. This information is based on the appearances by Ms Bishop and Palladium's representatives at the committee's hearing, as well as submissions from Ms Bishop and Palladium.²⁹
- 3.25 Ms Bishop has held one Ministerial position that is relevant to this inquiry—Ms Bishop was Minister for Foreign Affairs in the Abbott and Turnbull Ministries from 18 September 2013 to 28 August 2018.³⁰
- 3.26 As set out in Table 2.2 in chapter 2, Ms Bishop was approved as a non-executive director of Palladium on 28 June 2019, and Ms Bishop accepted her appointment on 30 June 2019.³¹

Undertaking to comply with the Ministerial Standards

- 3.27 At the hearing Ms Bishop confirmed that she understood her obligations under the Ministerial Standards and intended to abide by those obligations.³²
- 3.28 Ms Bishop spoke to the nature of her undertaking to comply with the Ministerial Standards—which she made publicly, and also to Dr Martin Parkinson AC PSM and Palladium³³—specifically regarding the use of information gained in her former position as the Minister for Foreign Affairs:

The standards place the onus on former ministers to give an undertaking, which I have done and which I intend to honour. I have made it clear to organisations where I am a non-executive director that I will not provide information that is privileged—in other words, that referred to in the guidelines, information not readily available to the public. I have a very long history of time in the commercial sector, the private sector and the

²⁸ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 8.

²⁹ See: Palladium, *Submission 8* and *Submission 8.1*; The Hon. Julie Bishop, *Submission 9*.

³⁰ Parliament of Australia, *Hon Julie Bishop MP*, https://www.aph.gov.au/Senators_and_Members/Parliamentarian?MPID=83P (accessed 4 September 2019).

³¹ Palladium, *Submission 8.1*, p. 2.

³² Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

³³ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 7.

public sector. I had a 20-year legal career and a 20-year parliamentary career, and I've served on numerous boards. I believe that I will be able to readily determine the difference between information that I had obtained not readily available to the public and information otherwise. I'm confident that I can do that.³⁴

3.29 Ms Bishop did not make an undertaking to comply with the Ministerial Standards to the Prime Minister—Ms Bishop informed the committee that she had not spoken with Prime Minister about her role with Palladium or the Prime Minister's expectations about compliance with the Ministerial Standards.³⁵

Interaction prior to resignation as a Minister

3.30 In its submission, Palladium set out the extent of the interactions of its employees with Ms Bishop during her time as Minister for Foreign Affairs:

Palladium does not have a record of and is not aware of any official business contact between Palladium management and Ms Bishop during the period she served as Minister for Foreign Affairs.

Palladium notes there may be been interactions between Palladium employees and Ms Bishop of an incidental nature, such as at various forums, events or field visits. For example, Palladium is aware that Palladium employees have attended:

- Budget Dinners held at Parliament House where Ms Bishop was in attendance.
- Other official events including the “Foreign Policy White Paper launch”.
- The “Humanitarian Supplies Challenge event” which was held at the DFAT Humanitarian Supplies Warehouse in Brisbane that Palladium manages on behalf of DFAT.³⁶

3.31 When asked during her appearance before the committee, Ms Bishop could not recall any of these interactions but did proffer that during her time as Minister for Foreign Affairs it was possible that she was 'introduced to Palladium staff during site visits, although I've no specific memory of any such interaction'.³⁷

3.32 In his submission, Dr Parkinson provided some information about a video on Palladium's Facebook site which featured Ms Bishop, which came to light after the initial investigation for the Prime Minister had been completed. Dr Parkinson noted that the Department of Foreign Affairs and Trade (DFAT) had advised the video was created for the Shared Value Leadership Summit in New York in 2017:

³⁴ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 5.

³⁵ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3, p. 5.

³⁶ Palladium, *Submission 8.1*, pp. 2–3.

³⁷ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 2.

During the video, Ms Bishop mentions a range of aid related activities that the Australian Government is associated with and she also refers to the Business Partnerships Platform (BPP). At no point in the video does Ms Bishop refer to Palladium by name.

...

DFAT conducted a tender process in 2015 for the implementation of the BPP. DFAT sought a Request for Quotation from large suppliers on the DFAT Aid Advisory Services Panel. One submission was received for the tender, which was from Palladium. The submission from Palladium was assessed by an evaluation committee within DFAT, and the application was evaluated on the basis of technical competence to undertake the work and value for money objectives. Palladium was assessed as the preferred tenderer and awarded the contract.³⁸

- 3.33 Dr Parkinson advised that Ms Bishop had no involvement in the procurement process for the BPP. The video was provided by DFAT to the Shared Value Project event organisers. The video appeared on the Palladium Facebook page, along with a link to an article on the Palladium website titled *Australia's Foreign Minister, Julie Bishop, commends Shared Value and the Business Partnership Platform*.³⁹

Terms of appointment and duties

- 3.34 In its submission, Palladium set out how its board operates:

The Board has ultimate responsibility for the strategic management and corporate governance of the company. The Board has otherwise delegated responsibility for the management of Palladium to the Executive Chairman, the Chief Executive Officer and executive management.⁴⁰

- 3.35 Palladium also set out the responsibilities of non-executive directors—these appointees are not employees, nor are they involved in the 'day-to-day management of the company'.⁴¹ Rather, they are required to participate as members of the board in accordance with Palladium's Board Governance Policy, which includes the following matters:

- providing leadership and guidance on the strategic objectives of Palladium, as well as overseeing management's implementation of strategic objectives.
- approving business plans and operating budgets.
- monitoring the financial performance of the Company and approving major capital expenditure.

³⁸ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Submission 3*, p. [2].

³⁹ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Submission 3*, pp. [2–3].

⁴⁰ Palladium, *Submission 8.1*, p. 3.

⁴¹ Palladium, *Submission 8.1*, p. 3.

- Undertaking governance activities such as the appointment and assessment of senior officeholders, approving governance documents, and overseeing external audits.
- identifying significant risks to the Company and ensuring those risks are minimised or mitigated.
- ensuring proper reporting to the Australian Securities and Investments Commission and any other relevant statutory bodies.⁴²

3.36 Palladium confirmed that Ms Bishop is remunerated as an individual rather than as part of her firm, Julie Bishop & Partners.⁴³ Ms Bishop declined to disclose her remuneration to the committee in the hearing.⁴⁴

Meeting obligations under the Ministerial Standards

3.37 In her submission, Ms Bishop did not provide any details on her arrangement with Palladium, but expressed her view that she remains in compliance with the Ministerial Standards.⁴⁵

3.38 At the hearing, Ms Bishop reiterated that she was compliant with the Ministerial Standards,⁴⁶ and informed the committee that her appointment as a non-executive director with Palladium is focused on governance and accountability in relation Palladium's work 'overseas for governments and other entities overseas'.⁴⁷ Ms Bishop emphasised that her role with Palladium does not relate to projects, Australian-based or otherwise, but did concede that she would be involved in 'strategic direction'.⁴⁸

3.39 Palladium echoed Ms Bishop's statements about the expectations of her role as a non-executive director, and stated their presumption that Ms Bishop would recuse herself from board discussions that may constitute a conflict of interest.⁴⁹

3.40 When asked about non-public knowledge that she may possess from her time as a minister, Ms Bishop stated:

Most of the information that I can think of is public, and, during my time as foreign minister, tenders were managed at arm's length from the minister. The minister would set at each budget the high-level budget

⁴² Palladium, *Submission 8.1*, p. 3.

⁴³ Mr Christopher Hirst, Chief Executive Officer, Palladium, *Committee Hansard*, 5 September 2019, p. 16.

⁴⁴ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 4.

⁴⁵ The Hon. Julie Bishop, *Submission 9*, p. [1].

⁴⁶ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 1, p. 3.

⁴⁷ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

⁴⁸ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

⁴⁹ Mr Christopher Hirst, Chief Executive Officer, Palladium, *Committee Hansard*, 5 September 2019, p. 15.

parameters such as the amounts allocated to individual nations and the broad policy priorities such as the focus on a geographic area, for example. The department would then tender and contract the delivery of the development program. As minister I did not approve any tenders. Of course the committee can ask those questions of DFAT, but the Morrison government set a new budget for the aid program at a time when I was no longer a cabinet minister. The new aid budget priorities have been set by a new ministry and in the last budget, so I have no knowledge of any of those matters since I left the cabinet in August 2018.⁵⁰

- 3.41 In response to a question about whether Ms Bishop would use her national or international contacts for Palladium's benefit, Ms Bishop responded that she 'would not presume to call a serving foreign minister of another nation or others on a commercial matter'.⁵¹

Extent of the inquiries by Dr Parkinson

- 3.42 At the public hearing on 30 August 2019, Dr Parkinson explained his approach to the inquiries that he had undertaken with respect to Mr Pyne and Ms Bishop. At the outset, Dr Parkinson reiterated the distinction between experience and information which informed his inquiries:

Essentially, there are two sets of issues that we've got to disentangle. One issue is that a parliamentarian, whether an MP or a senator—or a minister, for that matter—accumulates experience and understanding of government through their time in the parliament. The other issue is that a minister gains very specific information from being a minister and discharging their duties as a minister. We cannot expect them to forget the experience of 10, 20 or 30 years in the parliament...it is perfectly legitimate for them to utilise as part of their experience as a human being in any post-employment role. On the other hand you have a very specific set of information that you gain as a minister that is not available to the public and, in my view, is not appropriately shared with anyone. When you ask someone about what they are doing, you've got to try and disentangle those two things.⁵²

- 3.43 In his evidence to the committee, Dr Parkinson identified the discrepancy between the content of Ministerial Standards and the public's expectations of the standards:

There is a difference here between the standards as they exist and the standards that people seem to want to be in place. I'm responsible, when asked by the Prime Minister, to assess people's behaviour against the standards as they exist. I can't do anything more than that.⁵³

⁵⁰ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 6.

⁵¹ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

⁵² Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 2.

⁵³ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 10. See also: Laura Tingle, Interview with

3.44 Dr Parkinson also spoke to the limited powers he does have in conducting an investigation, noting that the Ministerial Standards are 'not the law':

I have no investigative powers and I have no legislative backing. I speak to former ministers, I inquire, I collect as much information as I can and then I make a judgement based on that.⁵⁴

3.45 In Dr Parkinson's view, these investigations were complete,⁵⁵ and the terms of the agreements between EY and Mr Pyne; and Palladium and Ms Bishop—such as remuneration received—were not relevant to Dr Parkinson's inquiry into breaches of the Ministerial Standards.⁵⁶

Mr Pyne

3.46 Dr Parkinson summarised how the distinction between experience and information informed his approach to his interview with Mr Pyne on 11 July 2019:

So when I spoke to former Minister Pyne, I was very clear in saying not 'Have you or will you use your experience as a minister in multiple portfolios and a parliamentarian?' but 'Will you use anything that you've obtained by being the Minister for Defence or the minister for anything else?'⁵⁷

3.47 Dr Parkinson continued:

We had a very explicit discussion about the distinction between the two sets of issues. Mr Pyne was very clear in saying to me that he was aware of his obligations under the standards. He said he was aware that he cannot use information known only to him because of his ministerial roles. He said he had made it clear to EY that he could not lobby or meet ministers in the Defence portfolio or officials from the Department of Defence or the ADF, and more generically. He said EY was aware that he can only give advice on issues in the public domain. He also emphasised to me that he had written to EY, and had conversations with the company's partners, to make them aware of the constraints of the standards and the limitations of what he could provide as a former minister.⁵⁸

Dr Martin Parkinson, Secretary of the Department of Prime Minister and Cabinet, (Television Interview, 7:30, 25 July 2019), <https://www.abc.net.au/7.30/martin-parkinson-retires-from-public-service/11347980> (accessed 26 July 2019).

⁵⁴ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 10.

⁵⁵ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 10.

⁵⁶ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 9.

⁵⁷ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 2.

⁵⁸ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, pp. 2-3.

3.48 Dr Parkinson stated that there was 'no reason to doubt anything that Mr Pyne had said' about his awareness of the limitations the Ministerial Standards imposed on his work for EY.⁵⁹ Further, Dr Parkinson referred to EY's submission to the committee as evidence that the firm too was aware of the limitations on Mr Pyne.⁶⁰

3.49 Dr Parkinson stated that in respect of Mr Pyne, his inquiries did not include an interview with a representative of EY:

I had no reason to think, on the basis of things that I can see in the public domain, that there was any need to talk to EY. They had already made comments publicly about what he was doing.⁶¹

3.50 Dr Parkinson also did not inquire about the remuneration Mr Pyne will receive from his employment with EY:

Frankly, whether he got \$1 or \$100,000, the number is completely irrelevant. I don't care whether he got \$1; if he's breached 2.25 I would have called it out. If he got \$100,000 and breached 2.25, it is, to me, absolutely no difference. Either you've breached it or you haven't, and there was no evidence in front of me to suggest that he had breached it.⁶²

3.51 Mr Pyne informed the committee that Dr Parkinson did not ask for any written advice or any documents relating to his business arrangements.⁶³

3.52 Dr Parkinson advised that he also did not make any inquiries of Mr Pyne in relation to the lobbying activities of the lobbying firm, GC Advisory, of which Mr Pyne is a co-owner.⁶⁴ Mr Pyne doubted that he explicitly told Dr Parkinson that he intended to register as a lobbyist, stating that it was self-evident from his position within GC Advisory:

It is axiomatic, if you are a part-owner of a lobbying firm, that you would register on as many registers of lobbyists as states—or the Commonwealth—where you were doing business. I wouldn't have specifically said to the secretary of the Department of the Prime Minister and Cabinet 'and, of course, that means I will be registering as a lobbyist; because obviously if I am doing any work that requires lobbying I would

⁵⁹ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 3.

⁶⁰ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 3.

⁶¹ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 3.

⁶² Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 9.

⁶³ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 8.

⁶⁴ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 3.

register in the state or territory , or the Commonwealth, where the work is being done.⁶⁵

3.53 On 29 July 2019, Mr Pyne registered himself on the Australian Government Register of Lobbyist, as a lobbyist for GC Advisory.⁶⁶ As noted above, one of GC Advisory's client's, duMonde Group, has received \$6 million in contracts from the Department of Defence between the period November 2016 and April 2019.⁶⁷ Dr Parkinson, noted that Mr Pyne's registration on the Lobbyist Register occurred after the advice to the Prime Minister had been finalised, and indicated that the information about Mr Pyne's registration as a lobbyist for GC Advisory, or du Monde's listing as a client of GC Advisory, did not impact his decision that Mr Pyne was not in breach of the Ministerial Standards.⁶⁸

3.54 When questioned as to why his inquiries into Mr Pyne's role at EY had not been more extensive, Dr Parkinson stated:

At the time I spoke to Mr Pyne, he had only just become a partner of this company, and he had made very clear to me that he understood what the limits were and that he would not—he was very explicit—be undertaking any lobbying, advocating or business meetings with government, with MPs, with parliamentarians, with the Public Service or with Defence. So you're asking me to, rather than presume innocence, presume guilt.⁶⁹

Ms Bishop

3.55 In relation to Ms Bishop's appointment to the Palladium Board, Dr Parkinson returned to the distinction between experience and information, noting that Ms Bishop's role at Palladium was as a non-executive director:

Undoubtedly, her expertise, understanding and knowledge of issues will be valuable, but let's remember what she is: she's taken the role of a non-executive director...[as] a non-executive director, you do not have an executive role in the organisation. It would be highly unusual—and I say highly unusual—for a non-executive director to be involved in contract negotiation or tendering or lobbying. In that sense, the fact that her knowledge is useful in the broad and beneficial to the company would

⁶⁵ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 8.

⁶⁶ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 7.

⁶⁷ Senator Jenny McAllister, Chair, Senate Finance and Public Administration References Committee, *Extracts from Lobbyist Register - GC Advisory and AusTender Contract Notices - du Monde* (tabled 30 August 2019).

⁶⁸ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 3.

⁶⁹ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 4.

be...absolutely consistent with the way I described that bit about experience.⁷⁰

- 3.56 Dr Parkinson stated that he had not asked Ms Bishop if she intended to recuse herself from board discussions about Australian business.⁷¹ By way of explanation as to why he had not asked this specific question, Dr Parkinson reiterated the point he had made in relation to Mr Pyne, that he was operating under a presumption of innocence:

On a presumption of innocence, yes, I'm accepting that until somebody tells me Mr Pyne or Ms Bishop—and can point to an example where the standards have been breached. What am I meant to do? Am I meant to assume that any member of this chamber or the other chamber is going to lie to me? If that's the implication of what you're trying to draw out, then I'm just not going to play that game.⁷²

- 3.57 Dr Parkinson also explained that he did not seek to interview a representative of Palladium.⁷³ When pressed on why he had not pursued this line of investigation Dr Parkinson forcefully put his point:

Well, perhaps I'm naïve...but, when ministers or senators or MPs say to me that they are going to do something, I tend to take that at face value.⁷⁴

- 3.58 Dr Parkinson stated that if a minister, senator or MP did not do what they said 'then I am more than happy to deploy every lever at my disposal to ensure that there is a correction of behaviours'.⁷⁵

The appropriateness of referring inquiries to Dr Parkinson

- 3.59 The committee received evidence that an investigation into compliance with Ministerial Standards conducted by the Secretary of the Department of the Prime Minister and Cabinet (PM&C) 'may not be adequate'.⁷⁶
- 3.60 The Ministerial Standards provide that an allegation of improper conduct of a significant kind may be referred to an independent authority for investigation,

⁷⁰ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 4.

⁷¹ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 5.

⁷² Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 5.

⁷³ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 5.

⁷⁴ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 5.

⁷⁵ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 5.

⁷⁶ Ms Serena Lillywhite, Chief Executive Officer, Transparency International Australia (TIA), *Committee Hansard*, 5 September 2019, p. 26.

and that the Secretary of the PM&C may provide advice on any matters within the standards:

7.3. Where an allegation involving improper conduct of a significant kind, including a breach of these Standards, is made against a Minister (including the Prime Minister) the Prime Minister may refer the matter to an appropriate independent authority for investigation and/or advice.

7.4. The Prime Minister may seek advice from the Secretary of the Department of the Prime Minister and Cabinet on any of the matters within these Standards, at any time. In providing such advice the Secretary of the Department of the Prime Minister and Cabinet may, as required, seek professional advice.⁷⁷

- 3.61 Indeed, several submitters called for the independent administration of Ministerial Standards. For example, Transparency International Australia (TIA) recommended that the Ministerial Standards 'should be independently administered' in order 'to build public confidence that the high standards of public office are respected and adhered to'.⁷⁸
- 3.62 The Grattan Institute advocated a similar approach calling for an independent body 'to investigate potential non-compliance with codes of conduct, publish its findings, and refer breaches when they occur'.⁷⁹ Furthermore, this body could have an education function assisting 'parliamentarians, ministerial staff, and lobbyists understand their responsibilities and disclosure obligations'.⁸⁰
- 3.63 The Grattan Institute suggested that the existing Independent Parliamentary Expenses Authority 'could be extended to take on administration of the code of conduct'.⁸¹ The Grattan Institute also recommended that the Parliament appoint an ethics adviser 'to enable current and former parliamentarians to seek advice when they are in doubt'.⁸² The Grattan Institute explained how an ethics adviser works in New South Wales (NSW) Parliament:

In NSW, former ministers are required to seek the advice of the Parliamentary Ethics Adviser before accepting employment related to their former portfolio within the 18-month window. If they then choose to accept the employment offer, the advice they received must be tabled in Parliament. Parliament could use this information to determine whether a breach has occurred.⁸³

⁷⁷ *Statement on Ministerial Standards*, 30 August 2018, p. 10.

⁷⁸ TIA, *Submission 2*, p. 2.

⁷⁹ Grattan Institute, *Submission 6*, p. 8.

⁸⁰ Grattan Institute, *Submission 6*, p. 8.

⁸¹ Grattan Institute, *Submission 6*, p. 8.

⁸² Grattan Institute, *Submission 6*, p. 8.

⁸³ Grattan Institute, *Submission 6*, p. 8.

3.64 The Accountability Round Table (ART) agreed with the appointment of an ethics adviser, citing the Queensland experience where 'every Minister is required to meet the Integrity Commissioner routinely at least once each year'.⁸⁴ However, ART disagreed with the proposal for administration of Ministerial Standards by an independent body on the basis that this would 'derogate from and further undermine Australia's parliamentary system'.⁸⁵ Rather, ART considered that 'Ministerial Standards should be an instrument of the Parliament, either as a resolution of both Houses or (as in Canada) by Act of Parliament'.⁸⁶ Furthermore, ART considered that the Prime Minister should be able to supplement the Parliamentary standards with their own standards.⁸⁷

Enforceability and penalties

3.65 The committee received evidence that there is insufficient enforceability and a lack of appropriate penalties for a breach of the Ministerial Standards.

3.66 For example, the Ethicos Group discussed the issues regarding the enforceability of paragraphs 2.25 and 2.26 of the Ministerial Standards in three aspects: the 'undertaking' of Ministers to comply with certain provisions of the standards, the lack of legal prohibition of particular categories of post-Ministerial employment and the role of public trust in the common law offence of misconduct in public office.⁸⁸

3.67 Regarding the Rudd Ministry's introduction of the requirement of Ministers to 'undertake' compliance with provisions in paragraph 2.25, The Ethicos Group observed:

The extension of effect of the restriction beyond the term of a Ministerial appointment was intended to be achieved through a binding 'undertaking' to be given to the Prime Minister by an MP as a pre-condition for their being appointed as a Minister.⁸⁹

3.68 The Ethicos Group suggested that this undertaking 'could take the form of a letter of agreement which created the legal relationship fundamental to a contract', which could be used as basis for legal action if required.⁹⁰

⁸⁴ Accountability Round Table (ART), *Submission 7*, pp. 6–7.

⁸⁵ ART, *Submission 7*, p. 6.

⁸⁶ ART, *Submission 7*, p. 6.

⁸⁷ ART, *Submission 7*, pp. 5–6.

⁸⁸ The Ethicos Group, *Submission 5*, pp. 4–9.

⁸⁹ The Ethicos Group, *Submission 5*, p. 4. See also: ART, *Submission 7*, pp. 7–8 (emphasis in original).

⁹⁰ The Ethicos Group, *Submission 5*, p. 5. The submission included a draft pro forma letter to the Prime Minister, to be used by Ministers before taking office, formalising their 'undertaking' — see: The Ethicos Group, *Submission 5*, p. 6.

3.69 In respect of penalties for a breach of the Ministerial Standards, the Grattan Institute suggested range of sanctions for both individuals and employers, including:

- Restricting access to Parliament House for former ministers and other lobbyists who breach the code of conduct.
- Requiring the individual to report quarterly on contact with government officials during the 18-month ban (whether or not they had any contact). The reports should be published.
- Restricting access to government officials via a Lobbyists Watch List (as exists in NSW). This should include not allowing access to political party functions – with fines for political parties that fail to enforce the sanction.
- Extending access restrictions to the former minister's new employer (until the former minister no longer works for them or the 18-month ban is up).
- Restricting the former minister's new employer from government tenders (until the former minister no longer works for them or the 18-month ban is up).
- Other penalties imposed by the parliament and at levels that apply to contempt of parliament.⁹¹

3.70 ART argued that it should be a matter for the Parliament to 'authorise the independent investigation of the facts of an alleged breach of ministerial standards'.⁹² If a breach is found to have occurred, then the Parliament should determine the sanction or sanctions'.⁹³

3.71 The Ethicos Group also discussed the possible use of the common law offence of 'misconduct in public office', including the assertion that the relevant test in this matter is not the former Minister's trust in his processes, but that of 'public trust'.⁹⁴ This section explored the concept of this offence in its Australian context, including what was described as the 'fiduciary nature of political office', and concluded that it has 'stood the test of time and withstood many legal challenges in different jurisdictions. Its recent resurgence and continued existence serves as a vital safeguard of the people's entitlement to integrity in government'.⁹⁵

3.72 In her submission to the committee, Ms Bishop expressed support for improving the workability and enforceability of the Ministerial Standards by

⁹¹ Grattan Institute, *Submission 6*, pp. 8–9. See also: ART, *Submission 7*, pp. 7–8.

⁹² ART, *Submission 7*, p. 7.

⁹³ ART, *Submission 7*, p. 7.

⁹⁴ The Ethicos Group, *Submission 5*, pp. 7–9.

⁹⁵ The Ethicos Group, *Submission 5*, p. 9.

reversing the onus of proof with respect to former Ministers meeting with current serving Ministers and officials:

The onus could and arguably should be placed upon current serving officials to not hold meetings with former Ministers for the period of 18 months after those Ministers cease to hold office.

Current Ministers and Government officials are subject to ongoing scrutiny through the Parliament, including Question Time and Senate Estimates, and by the media.

There is obvious redress available with regard to current serving Ministers and officials, should they breach this protocol.⁹⁶

- 3.73 Mr Pyne stated that he did not believe that the Ministerial Standards were too weak, nor did he support the independent enforcement of the Ministerial Standards.⁹⁷

Strengthening the regulation of lobbyists and other integrity reforms

- 3.74 The committee also received evidence about broader reforms beyond the provisions for former minister and their employers that could prevent a breach of Ministerial Standards.

- 3.75 For example, ART suggested that strengthened Ministerial Standards would be more effective 'if supported by a range of other good governance and integrity provisions', including:

...the requirement to give reasons, administrative appeals, judicial review, the ombudsman, the auditor general and especially a combination of FOI/right to know, whistleblowing and journalistic freedom and anti-corruption commissions.⁹⁸

- 3.76 TIA's submission also focused more broadly on improved transparency and accountability in the public policy sphere with a particular focus on the regulation of lobbyists.⁹⁹

- 3.77 The Grattan Institute highlighted the need to 'improve transparency and accountability in policy making and reduce undue influence over public policy', again, particularly with respect to lobbyists:

Greater transparency is particularly important as an additional check on the revolving door ban. Ministerial diaries should be published, so voters know who our most senior policy makers are meeting. And the lobbyist register should be broader so that it includes in-house lobbyists, not just commercial lobbyists. This would mean former ministers employed by

⁹⁶ The Hon. Julie Bishop, *Submission 9*, p. 2.

⁹⁷ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 14.

⁹⁸ ART, *Submission 7*, p. 8.

⁹⁹ TIA, *Submission 2*, p. 3.

companies, unions, peak bodies, and other groups would be required to register themselves and abide by the Lobbying Code of Conduct.¹⁰⁰

Senator Jenny McAllister
Chair

¹⁰⁰ Grattan Institute, *Submission 6*, p. 9.

Additional Comments by Senator Malcolm Roberts

- 1.1 I am pleased that the committee has included reference to paragraph 2.26 of the current Ministerial Standards and the key point it raises.
- 1.2 Dr Parkinson himself admitted he had no investigatory powers yet in response to questions at the inquiry he repeatedly used the word 'investigation' to describe his efforts responding to the PM's request made of him. This has both immediate and future significance as per clause 3.44.
- 1.3 Of immediate significance is the need to now conduct a more appropriate and deserved investigation. I agree with the committee's recommendation 1. Dr Parkinson cannot be considered fully independent.
- 1.4 In future, there needs to be a means of systematic independent investigation on matters of compliance with the Ministerial Standards and similar with full powers of investigation.
- 1.5 In my view, Dr Parkinson's responses to many of the questions he fielded were vague and evasive and his efforts did not make an adequate inquiry of former ministers Pyne and Bishop. Coming as it did from arguably the senior federal public servant this raises important questions about the public service's role, behaviour and/or effectiveness. Dr Parkinson should have spoken to EY and Palladium.
- 1.6 In my view, the Prime Minister cannot be held directly accountable for the current looseness of the 'investigation' and response as he would not have had such a prior event. It is now though, in my opinion, a test of the Prime Minister to develop a proper means of investigating such matters in a way that is transparent and restores parliament's reputation and ensures his reputation is safe. There is a need to develop a system that ensures real accountability and reassures the people to whom parliament is ultimately responsible. The Code needs to be enforceable and contain penalties for non-compliance.

Senator Malcolm Roberts
Pauline Hanson's One Nation

Australian Greens' Additional Comments

- 1.1 Public trust and confidence in our democratic institutions, especially the federal parliament, is at historically low levels, with little faith that politicians consistently act in the public interest.
- 1.2 Transparency International Australia (TIA) told this inquiry:

Revolving doors and 'golden escalator' opportunities for ministers and senior political staff, creates a 'culture of cosiness' and increases the likelihood that the well-resourced are heard more often, and more sympathetically, in policy discussions. This poses a risk to good decision-making.¹
- 1.3 This revolving door that prioritises the interests of big business over the community is not a new phenomenon. It is also not an issue that is restricted to one side of politics. The Grattan Institute estimates that 25 per cent of former federal Ministers and assistant Ministers take on roles with special interests after their political career ends.²
- 1.4 The post-Ministerial appointments of Mr Pyne and Ms Bishop are simply the latest in a long line of post-Ministerial appointments facilitating the ongoing culture of cosiness that continues to erode public faith in politics.
- 1.5 The Greens remain committed to pursuing measures to clean up politics.

Cooling off period

- 1.6 The Grattan Institute's submission outlines three key risks associated with post-Ministerial appointments:
 - (a) A minister could make decisions in office with a view to their future employment.
 - (b) A former minister may bring privileged information with them to their new role.
 - (c) A former minister's relationships may enable privileged opportunities to influence.³
- 1.7 These risks diminish over time, and should not unduly prevent former Ministers engaging in meaningful post-parliamentary careers. However, it is critical that actual and perceived conflicts of interest are avoided.
- 1.8 We consider that an 18 month cooling-off period, even if actively enforced, is inadequate to minimise conflicts in relation to for-profit roles.

¹ Transparency International Australia (TIA), *Submission 2*, p. 2.

² Grattan Institute, *Submission 6*, p. 2.

³ Grattan Institute, *Submission 6*, p. 3-4.

- 1.9 TIA states that international best practice is 3–5 years.⁴ The Grattan Institute states that the cooling off periods in comparable jurisdictions range from one to five years.⁵ While not explicitly addressed in the Ethicos Group's submission to this inquiry, the organisation's Founding Director, Howard Whitton, has previously described the current cooling-off period as 'ridiculously low' and called for the period to be extended to five years.⁶
- 1.10 The Greens consider that Ministers should be subject to the highest standards, and support an extension of the cooling off period to 5 years.

Recommendation 1

- 1.11 Amend clause 2.25 of the Ministerial Standards to extend the 'cooling off period' for post-Ministerial lobbying and advocacy activities to five years.**

Scope of the restrictions

- 1.12 'Lobbying' is defined under the Lobbying Code of Conduct as people or companies lobbying on behalf of a third party.⁷ This definition has been interpreted narrowly to exclude in-house employees lobbying directly for a company or industry.⁸ Former Ministers may exploit this language to argue that an in-house post-Ministerial role does not involve 'lobbying' under the Code, and is therefore not in breach of the Ministerial Standards. This undermines the objective of the post-Ministerial employment restrictions.
- 1.13 The revolving door, and the conflicts it gives rise to, is not limited to Ministers. Senior staff members, such as chiefs of staff and key advisers, often have access to sensitive information and network contacts that are equally beneficial to corporate interests. For example, research by the Grattan Institute shows a significant number of commercial lobbyists formerly held government positions. The research also showed that lobbying firms employing former government officials 'are more successful at getting meetings with government'.⁹
- 1.14 Addressing undue influence and conflicts of interest will require lobbying restrictions to extend beyond former Ministers. TIA recommends that a cooling

⁴ TIA, *Submission 2*, p. 3.

⁵ Grattan Institute, *Submission 6*, p. 4.

⁶ Howard Whitton, quoted in Christopher Knaus. 'Five-year lobbying ban needed for former ministers, public sector ethicist says'. *The Guardian Australia*, 29 June 2019. <https://www.theguardian.com/australia-news/2019/jun/29/five-year-lobbying-ban-needed-for-former-ministers-public-sector-ethicist-says>.

⁷ Lobbying Code of Conduct, Definitions, section 3.5.

⁸ Grattan Institute, *Who's in the room? Access and influence in Australian politics* – Attachment 1 to *Submission 6*, p. 4.

⁹ Grattan Institute, *Submission 6*, p. 3.

off period apply to all members of parliament, including Ministers and Shadow Ministers, and all senior political staff, with the duration of the cooling off period varying depending on the person's role. Ministers should be subject to the longest period.

Recommendation 2

1.15 Extend the definition of 'lobbyist' in the Lobbying Code of Conduct to include in-house lobbyists and all those holding an orange Parliamentary pass

Recommendation 3

1.16 Extend restrictions on post-parliament lobbying and advocacy roles to all members of parliament and senior staff.

Transparency

1.17 Ms Bishop suggested in her submission that the onus should be on current serving officials to not meet with former Ministers during the cooling off period, rather than on former Ministers. She states that current officials are 'subject to ongoing scrutiny through the Parliament, including Question Time and Senate Estimates, and by the media'.¹⁰

1.18 The Greens agree that current officials must avoid conflicts of interest and should not meet with former Ministers during the cooling off period. However, scrutiny and accountability of current officials is undermined by the lack of transparency regarding Ministerial meetings.

1.19 In 2016, the Senate approved an order of continuing effect requiring each Minister to table a statement prior to the commencement of budget estimates listing all meetings with former Ministers, including details of the attendees at the meeting and the topics covered at the meeting. That order has not been well observed.

1.20 To facilitate parliamentary and media scrutiny, we support TIA's recommendation to publish Federal Ministerial diaries. Providing access to diaries allows public scrutiny of who ministers are meeting with and encourages Ministers to meet with a broader range of stakeholders. Such a requirement is not unprecedented. The Queensland Government currently requires online disclosure of Ministerial diaries at the end of each month, while NSW Ministers must make quarterly disclosures.

¹⁰ Ms Julie Bishop, *Submission 9*, p. 2.

Recommendation 4

1.21 That the Department of Prime Minister and Cabinet establish and maintain a publicly accessible Ministerial Diary Register, updated at least monthly. The Register should include details of all meetings between Ministers and Assistant Ministers with for-profit lobbyists, who is present at the meeting, and the subject of the meeting.

Enforcement

1.22 We reject the view that the case for an independently enforced statement of ministerial standards has not been made out.

1.23 The Committee Report says that deficiencies in the current model can be remedied 'by having a prime minister who cared about integrity and was prepared to hold their ministers to account. The Australian people are entitled to expect this'.

1.24 The Australian people are absolutely entitled to expect strong Ministerial Standards and for those standards to be enforced. However, this is simply not happening, and we cannot pretend that a change of leadership would be enough to change the culture of cosiness.

1.25 There are countless examples, under this and previous governments, of the Ministerial Standards being ignored or their imprecision being exploited. As the Grattan Institute said:

These examples highlight the gulf between the stated intention of the Ministerial Standards – including maintaining public trust – and their lack of effect in practice with respect to the revolving door.¹¹

1.26 TIA and the Grattan Institute advocated for an independent body to oversee and enforce the Ministerial Standards. The Accountability Round Table called for standards to be set in legislation or a parliamentary Code of Conduct, and for parliament to be responsible for authorising independent investigations and determining sanctions where standards were not met.¹²

1.27 The Greens support statutory parliamentary standards and the establishment of a Parliamentary Standards Commissioner to oversee and enforce those standards. Our National Integrity (Parliamentary Standards) Bill 2019 will be introduced in the next parliamentary sitting week.

1.28 We also support calls by the Grattan Institute and the ART to appoint a Parliamentary Ethics Adviser to provide confidential advice regarding integrity issues. Former Ministers should be required to consult with the Adviser prior to accepting any post-Ministerial role.

¹¹ Grattan Institute, *Submission 6*, p. 6.

¹² Accountability Round Table, *Submission 7*, p. 6.

- 1.29 Compliance with the Ministerial Standards will also be encouraged by the introduction of effective sanctions. Sanctions imposed on a former Minister found to have breached the post-Ministerial standards could include reduced access to Parliament House, losing parliamentary pension entitlements, or restricted eligibility for government tenders for the firm that they are engaged by.

Recommendation 5

- 1.30 Enact Parliamentary Standards legislation to give statutory force to the Ministerial Standards and to establish a Parliamentary Standards Commissioner with responsibility for education and advice, oversight, investigating complaints, monitoring compliance, and enforcement.**

Recommendation 6

- 1.31 Appoint a Parliamentary Ethics Adviser**

Recommendation 7

- 1.32 Introduce effective sanctions to deter former Ministers from taking on lobbying and advocacy roles in breach of the Ministerial Standards**

Other integrity reforms

- 1.33 Strengthening and enforcing the Ministerial Standards will be a positive step in cleaning up federal politics.

1.34 However, these measures must be supported by broader integrity reforms to improve transparency and accountability and reduce undue influence over public policy, including:

- Establishing a strong and effective national integrity commission, as proposed in the National Integrity Commission Bill 2018 (No 2);
- Strengthening regulation of political donations to protect the public interest against corrupting influences;
- Ensuring the rigour and transparency of the Lobbyists Register;
- Strengthening the Lobbying Code of Conduct and providing for compliance investigations and enforcement by the Parliamentary Standards Commissioner.

Senator Larissa Waters
Australian Greens

Additional Comments by the Jacqui Lambie Network

Introduction

- 1.1 Ms Bishop and Mr Pyne still have questions to answer about their new jobs outside of parliament.
- 1.2 While PM&C's investigation into Ms Bishop's and Mr Pyne's post-ministerial activities found no evidence of wrongdoing, their actions still don't pass the pub test. The apparent overlap between their previous portfolios and their new roles at Palladium and EY makes many Australians concerned.
- 1.3 The Jacqui Lambie Network therefore agrees with the committee's recommendation that the Prime Minister should request the incoming Secretary of Prime Minister and Cabinet to reopen the investigation into Ms Bishop's and Mr Pyne's conduct in relation to the Ministerial Standards.
- 1.4 However, much more needs to be done to ensure that ministers and parliamentarians are acting with integrity, both when they're in office and after they leave parliament. The regularity of potential breaches of the Ministerial Standards suggests there may be overly cosy relationships between special interest groups and the federal parliamentarians who make decisions that impact their bottom line, and not enough penalties for when they do the wrong thing.
- 1.5 This committee should therefore advocate for much broader reforms that address the systemic risks of 'soft' corruption that currently exist in the federal parliament:
 - (1) The Statement of Ministerial Standards should be expanded to apply to all parliamentarians within a year. The standards should be designed to ensure that parliamentarians can't use the information and networks they gain while in office for their own -- or anyone else's -- private benefit.
 - (2) The codes of conduct should be strictly enforced and independently administered, with salient sanctions for misconduct that can be imposed on individuals and corporations that hire former Ministers in breach of the revolving door ban.
 - (3) Parliamentarians should be required to publish extracts from their diaries, detailing meetings held with actors who wish to influence government decision-making, to give the public visibility over who they have been meeting with and when. Diaries should be published retrospectively, with the meetings for one month released at the end of the following month.

- (4) Orange pass holders should be required to register as lobbyists, and should face restrictions on their access to Parliament House if they are found to have breached any relevant code of conduct.
- (5) The Prime Minister should consider whether 'gardening leave' (a small, temporary payment for a period after leaving office) is appropriate for ex-ministers who must wait eighteen months before seeking employment in industries relating to their former portfolios.
- (6) The federal parliament should establish a strong anti-corruption commission that has adequate power and resources to investigate potential misconduct of parliamentarians and public servants.

Australians deserve better checks and balances on the post-ministerial activities of federal politicians

- 1.6 Ethical guidelines for ministers are outlined in the Statement of Ministerial Standards, which is administered by the Prime Minister. The Standards state the Prime Minister's expectations of his ministers with regards to potential conflicts of interest, the receipt of gifts, employment after holding office, and other activities that might affect their ability (or the perception of their ability) to uphold the public interest in their official duties.
- 1.7 Section 2 of the ministerial standards places an 18-month 'revolving door' ban on former ministers, which prevents them from taking up a lobbying role in an area that they were officially involved with prior to leaving parliament.¹
- 1.8 While the ban is a good idea in theory, the current provisions face enforcement challenges:

Firstly, it is up to the Prime Minister to determine that one of his or her former ministers have breached the ban. This may lead to a conflict of interest if the Prime Minister has an incentive to protect the reputation of former cabinet ministers.

Secondly, there are no sanctions for former ministers or their new employers if they do the wrong thing. This means that former Ministers who are not in receipt of public funding are free to operate largely on an 'honour system', and the potential for a reputational impact is the only potential penalty for misconduct.
- 1.9 The honour system underpinning the Ministerial Standards has failed to prevent behaviour that most Australians would find inappropriate. The apparent lack of enforcement of the ban suggests that the current mechanisms for investigating a potential breach and implementing appropriate sanctions aren't working. The cases of Julie Bishop and Christopher Pyne have highlighted the issues with the revolving door ban in recent months, but there

¹ Department of Prime Minister and Cabinet (2018), *Statement of Ministerial Standards*, 2.21-2.

are many examples from both sides of politics of potential breaches of the code that never incurred a formal sanction.

- 1.10 Without real penalties for misconduct, the incentive to breach is determined only proportionate to the reward for the breach and the reputational risk of discovery of the breach. If it is accepted that the probability of discovery will always be less than certain, then it is a statement of fact that there will be instances where the reward for a breach is sufficient to rationally incentivise the breach event. But if there is likely to be no penalty for a breach at all, there is no incentive -- other than a former Minister's moral conscience and concern for their public image -- to incentivise adherence to the ministerial standards.
- 1.11 Unfortunately, the number of cases where the revolving door ban appears to have been breached suggests that appealing to former Ministers' sense of moral duty is not enough.
- 1.12 Without adequate enforcement of the revolving door ban, there is a risk that former ministers could utilise their relationships with sitting parliamentarians, and any privileged information they have of their previous portfolios, to unduly benefit their new employers. There is also a risk that the promise (explicit or otherwise) of a lucrative job in the private sector after holding office could sway sitting members' decision-making on issues of importance to the Australian public.
- 1.13 There is therefore a case for independent enforcement of the code, with strict penalties for breaches that undermine the public interest. The Parliament may also wish to consider whether the standards ought to be legislated formally, to improve their durability and remove some interpretative discretion from the government of the day.

Lobbying regulations are inadequate

- 1.14 There are other problems. Enforcement of the Lobbying Code of Conduct is weak, and Australians have little visibility over lobbying activity at the federal level.
- 1.15 While the Commonwealth government maintains a Lobbyists' Register, only lobbyists who act on behalf of third-party clients are required to be listed. In-house lobbyists, such as people who work for the government relations arm of a large company that tenders for government contracts, are not required to be listed on the lobbyist register. Even third-party lobbyists may not all be on the register. The lobbying code of conduct relies on lobbyists self-nominating to be listed, or government officials identifying and reporting potential breaches.²
- 1.16 These issues, combined with the Commonwealth's lax regulations on political donations and the absence of an anti-corruption body with teeth, limit public

² Attorney-General's Department (2019), Lobbying Code of Conduct.

transparency and accountability over the relationships between special interest groups and parliamentarians.

The Ministerial Standards should be updated to align with public perceptions of propriety, and expanded to all parliamentarians

- 1.17 The Ministerial Standards exist to protect the public interest. They should reflect the expectations of the public with respect to the appropriateness of certain actions. A failure to align the standards with the public's opinion of what should constitute a standard would fail to both protect the public interest and protect the reputation of the ministers bound by the standards in the eyes of the public.
- 1.18 Aspects of the Ministerial Standards are lacking compared to other Australian jurisdictions. For instance, the Standards allow ministers to accept in their official capacity 'customary official gifts, hospitality, tokens of appreciation and similar formal gestures', so long as the gift is under the allowable limit and the minister follows the relevant procedures for accepting and disclosing gifts.³ In contrast, ministers and assistant ministers in Queensland may not accept any gift that may compromise their impartiality or create a conflict of interest.⁴ Queensland ministers and assistant ministers are also subject to independent checks by the state Integrity Commissioner, to ensure they comply with the Code.⁵
- 1.19 Most Commonwealth parliamentarians aren't subject to any code of conduct, because the Ministerial Standards only apply to ministers. A broader and stricter code of conduct for all parliamentarians would set the standards for ethical behaviour around potential conflicts of interest, particularly with regards to hospitality, gifts and secondary employment. A parliamentary code would also improve public accountability over elected officials.

³ The minister must also follow the disclosure requirements relating to such gifts, and must not seek or encourage gifts in their personal capacity or in relation to their official activities. Statement of Ministerial Standards (2018), 2.21-2. The allowable limit for gifts from industry or private sources is \$300, and \$750 if the gift is from government sources. The minister may pay the difference between the allowable limit and the value of the gift if they wish to keep the gift. <https://pmc.gov.au/government/official-gifts/guidelines-relating-official-gifts-received>.

⁴ The Integrity Commissioner will advise the Premier of any unresolved issues concerning Ministers or Assistant Ministers' interests. Queensland Department of the Premier and Cabinet (2018), *Queensland Ministerial Handbook*, p. 33-5.

⁵ Queensland Department of the Premier and Cabinet (2016), *Queensland Ministerial Code of Conduct*.

Federal codes of conduct should be independently administered, and there should be salient sanctions for misconduct

Codes of conduct should be independently administered

- 1.20 The Jacqui Lambie Network disagrees with the committee's statement that the case for independently administering the ministerial standards has not been made. The design or application of the rules for parliamentarians must be the responsibility of an independent body, to ensure that their application is applied equally, without favour, and independently.
- 1.21 For so long as the ministerial standards are administered by the Department of the Prime Minister & Cabinet, and the rules are also determined by the Prime Minister, then both the design and application of the rules are set by the same effective power.
- 1.22 This represents a conflict of interest that would be intolerable in any other field or industry. In the present arrangement, the Prime Minister has the responsibility to design the ministerial standards, assign ministerial portfolios, police the standards during the minister's tenure, appoint the secretary of the Prime Minister's department, request the investigation of any allegation of a breach of the Prime Minister's standards, charge the appointed secretary with investigating the allegation, and disclose the results of that investigation. Any vagueness or otherwise in the standards that requires interpretation requires the person responsible for their administering to seek clarification from the Prime Minister on how they should be interpreted.
- 1.23 It is true, as the committee states, that it is up to voters to judge the Prime Minister on his or her willingness to uphold the principles of the ministerial standards. However, it's likely that the lack of sanctions for breaches merely contributes to Australians' declining trust in government and public officials, rather than generating acute political pressure for the Prime Minister to act. In addition, any incident in which the minister in question is a former representative of the current Prime Minister's former cabinet presents a political imperative to clear the former Minister, to avoid political damage to the Prime Minister in the aftermath.
- 1.24 The Network is of the view that the lack of independent oversight of the ministerial standards has contributed to the enforcement issues relating to the 'revolving door' ban, as demonstrated by the lax investigation into the post-ministerial employment of Ms Bishop and Mr Pyne. In the absence of a national anti-corruption commission with teeth, an independent body should be created to monitor, investigate, and respond to breaches of the standards.

There should be salient sanctions for breaching the standards

- 1.25 Opportunities to apply penalties to former Ministers who breach the ministerial standards are minimal. Enforcement of the rules is weak, and the sanctions for misconduct are small.⁶
- 1.26 As a result, former Ministers who are not in receipt of public funding are free to operate largely on an 'honour system', and no breach of that honour system can be penalised in a way other than reputationally. As a result, the revolving door ban can be safely ignored by former ministers who wish to take up a lobbying role in an industry that relates to their former official duties. There are many instances where this appears to have occurred, including with regards to the post-ministerial employment of Ms Bishop and Mr Pyne. This sort of activity has broad implications for the public interest and trust in government.
- 1.27 Given the seriousness of these issues, there is a case for increasing the penalties for such misconduct. Fines payable by former ministers who are found by an independent body to have breached the revolving door ban may be necessary to encourage them to follow the rules.
- 1.28 Former ministers who are independently found to have breached the revolving door ban should have their access to Parliament House restricted until the breach has been resolved. This would limit the ability of former Ministers and their employers to unduly benefit from a breach of the revolving door ban by utilising the former Minister's connections and knowledge of privileged information.
- 1.29 The former Minister's new employer should not gain undue advantage over its competitors by hiring them in breach of the code. Fines and restrictions should therefore be imposed on employers who knowingly hire a former minister in breach of the ministerial standards. Where a breach is independently shown to have occurred, sanctions should be enforced by parliament at the levels that apply to contempt of parliament.
- 1.30 It may also be necessary to limit access to Parliament House for other employees at the former Minister's new firm while a breach remains unresolved. This would ensure that the knowledge and networks held by the former Minister aren't used inappropriately to benefit their new employer.
- 1.31 The former Minister's new employer could also have their access to government tenders restricted while a breach in the revolving door ban

⁶ Former ministers found to have breached the revolving door ban have their ministerial duties removed (which is of little importance to a former minister), and will be removed from the lobbyists' register (which doesn't prevent them from taking a role as an in-house lobbyist, as many do). Wood et al. (2018) *Who's in the Room? Access and influence in Australian politics*, [Grattan Institute](#).

remains unresolved. This would ensure a level playing field in competitive processes that can be lucrative for firms that secure a government contract.

Parliamentarians should be required to publish their diaries

- 1.32 The opportunity to ‘bend the ear’ of our elected officials is invaluable to members of the public and special interest groups who wish to have their say on legislation that matters to them. But parliamentarians can’t possibly meet with everyone who might be affected by policy change. That’s why it’s important they consult with a variety of stakeholders so they can hear all sides of the story when policy change is underway.
- 1.33 In addition, parliamentarians should be accountable for their conduct in relation to donors who contribute large amounts to their parties, to minimise the risk that wealthy special interest groups can buy access and influence at the expense of the public interest.
- 1.34 Parliamentarians should therefore be required to publish their diaries, as is currently required of Ministers in NSW, the ACT and Queensland. Ensuring that voters know who their elected officials are meeting with, and when, will improve accountability over special interests’ access to parliamentarians, and rein in their influence over political decision-making. Publishing diaries would also allow voters to see whether or not their elected representatives are meeting with a wide variety of stakeholders.
- 1.35 To avoid the process becoming overly cumbersome, disclosures can be done periodically and regularly on a monthly schedule, with the previous month’s entries made public at the end of the following month.⁷ Diaries should be published online and tabled in Parliament, and any deliberate omission would represent misleading the Parliament and carry the standard penalty for such a charge.
- 1.36 If a breach of any relevant code of conduct is suspected by an independent body to have occurred, parliamentarians should be required to immediately hand over their diaries to the relevant authority.

There should be better transparency and accountability of lobbying activities

- 1.37 The Lobbying Register requires every individual listed to adhere to the Lobbying Code of Conduct, which seeks to regulate the activities of lobbyists in a way that promotes public trust and does not allow for improper influence.
- 1.38 The current Lobbyist Register requires only the registration of those lobbyists who engage with government on behalf of a third party. This narrow definition captures only a small share of overall lobbying activity, leaving the

⁷ This is the process in Queensland.

bulk of the industry unregulated and undisclosed. As a result, in-house lobbyists, representatives of peak bodies, unions and company executives are not bound to adhere to the same ethical professional standards as those engaged on their behalf. This creates two sets of standards for people engaging in otherwise identical activity.

- 1.39 To solve this issue, and improve transparency of lobbying activity, all sponsored passholders should be required to register as lobbyists.
- 1.40 Sponsored, or “orange” passes allow the passholder access to the Parliament without requiring the passholder to sign the visitor register. In order to receive a pass, the passholder must be sponsored by a member of Parliament and sign a declaration that the pass is required due to them requiring ongoing unrestricted access to the Parliament as part of their regular business.
- 1.41 Linking the register of passholders with those who are on the Lobbying Register makes intuitive sense. If a person requires a sponsored pass for their regular business, there are compelling grounds to assume that person requires access to the Ministers who work within the Parliament. Any individual who requires meeting with Ministers for their professional work should be bound to engage with these Ministers in a way consistent with professional, third-party lobbyists.
- 1.42 The linking also allows the Parliament to impose an effective penalty for individuals found to be in breach of the Lobbying Code of Conduct, if required. Revoking a lobbyist’s orange pass would effectively restrict their access to the Parliament, which the individual has already nominated as necessary for their regular and ongoing business to be performed. Such measures could also be employed to restrict the access of former Ministers who have been independently found to have breached the revolving door ban in the ministerial standards.

The Prime Minister should consider implementing ‘gardening leave’ for former ministers

- 1.43 ‘Gardening leave’ would be a temporary payment for former Ministers who are subject to the revolving door ban. It would extend the existing provisions for redundancy payments for some parliamentarians.
- 1.44 Such leave would serve as recognition that the rules relating to post-ministerial employment represent a restriction on a person’s right to trade. Compensating a former Minister for the value of this time spent outside of work in some way may represent a fair compromise against more stringent application of the post-separation restrictions. It could also reduce the incentive for former ministers to bend the rules when seeking employment after leaving parliament.

- 1.45 It is critical that, should gardening leave be a preferred model to pursue, the penalty for breach of the Ministerial Standards by an individual in receipt of said leave would be both the cessation of the leave payment, as well as some penalty above and beyond the withdrawing of this funding. The restriction would be ineffective for former ministers approaching the conclusion of the 18-month post-ministerial restriction on their employment were this not the case.
- 1.46 There may be concerns that gardening leave would constitute an overly generous approach to former Ministers facing the revolving door ban. The provisions would need to balance public expectations of the entitlements afforded to parliamentarians with the potential public benefit that may arise from compensating former Ministers who face restricted employment opportunities for eighteen months.

The Commonwealth needs a national anti-corruption commission with teeth

- 1.47 The Jacqui Lambie Network agrees with the committee's view that the federal parliament needs a strong national integrity commission. The Commonwealth is a laggard in this regard: every state and territory in Australia has an integrity or anti-corruption commission (or is in the process of setting one up). Federal parliamentarians aren't somehow more morally pure than their state or territory counterparts. If the states need an integrity commission, the Commonwealth probably does too.
- 1.48 The design of a future anti-corruption or integrity commission will be critical to its success or failure. The commission should be able to act on tips from whistleblowers, the public and the media. It should be empowered to investigate both corrupt conduct and systemic corruption risks, and publish its findings. And it should be required to refer any criminal conduct to the Commonwealth Director of Public Prosecutions. Importantly, the commission will also require adequate funding to ensure it has the resources to conduct full and proper investigations where appropriate.

These changes are needed to ensure lobbyists and elected officials act with integrity

- 1.49 The public should be comfortable in the knowledge that ministers are ultimately responsible to the public interest, not the Prime Minister.
- 1.50 The Prime Minister cannot appoint a member of Parliament to the Ministry if they are not first democratically elected by the public. As such, the ultimate decision on whether a person can be trusted to serve in a ministry is not a decision for the Prime Minister. Ministries are public office, and the power exercised is derived from public legitimacy. Ministers administer programs

that affect the public, allocate public funding to public projects, and enact public policy in pursuit of public benefit.

- 1.51 This means that there is a responsibility attached to positions of public trust such as government ministries that requires each person who holds that position act in a manner which defends and promotes public trust. But if standards established by the Prime Minister relating to the behaviour of ministers are not aligned with public expectations, then ministers could be simultaneously acting in a way consistent with the ministerial standards, as well as inconsistent with public expectations for appropriate behaviour. It is apparent that this occurrence is routine.
- 1.52 The prima facie case that the behaviour of a few former ministers in their post-ministerial careers is falling afoul of public expectations sits uncomfortably with the continued failure of the ministerial standards to find any breach of said standards. This implies that either the standards are too weak, or their administering is too weak, or both. What is proposed here is that it's both. What is required is a recognition that public expectations should form the basis for the ministerial standards, and that their administering should be subject to the same test.
- 1.53 Instead of generating public pressure for the Prime Minister to act, all the current system achieves is rapidly falling trust in government. Public confidence in government and politics as an institution is a common resource. Any diminishing of the reputation of a party, politician, minister or government quickly erodes impacts on the value of the common resource of public faith in the integrity of the institution more generally.
- 1.54 Politicians should not police the actions of other politicians, as any collapse in trust of one politician has a flow-on effect on the integrity of every other politician that sits in judgement. Politicians do not set their own salary, regulate their own donations regime or administer their own expenses for the same reason. The logic of this argument is already well-established and has been acted on in the above areas by investing this responsibility in an apolitical, independent third party.
- 1.55 This is why it is critical that the ministerial standards - which are important, despite their reputation - are administered independently, by a body that is not comprised of politicians. This body should be given a set of standards that retain the intent of the current standards but are also empowered with the tools required to effectively ensure their adherence.

1.56 The alternative is the continued erosion of public faith in the seemingly simple proposition that our leaders are in it for regular Australians, not just themselves.

Senator Jacqui Lambie
Senator for Tasmania

Additional Comments by Senator Rex Patrick

Parting Company

The Work of the Committee

- 1.1 I thank the committee and secretariat for their work in relation to this inquiry.
- 1.2 It was an important inquiry because it relates to public confidence in Government and more specifically the conduct of former ministers, the suitability of the standards they have to abide by and the ability or resolve of the Prime Minister to deal with breaches.
- 1.3 I agree with the report's contents and fully support the recommendation made. However, I feel obliged to go further than the committee has on a few issues.

Dr Parkinson's Perfunctory Investigation

- 1.4 The Committee found that the investigation into whether or not the ministerial standards had been breached by Ms Bishop and Mr Pyne did '*not appear to be particularly extensive*' and provided some details in relations to its inadequacies.
- 1.5 The Committee is polite in its findings.
- 1.6 Under the Westminster System it is a Cabinet Minister, or in this case the Prime Minister, that bears the ultimate responsibility for the actions of their ministry or department. If misdeeds are found to have occurred in a ministry, it is the minister that is held responsible.
- 1.7 Senators and Committees have a tendency to not hold secretaries directly to account.
- 1.8 The politeness of the Committee towards Dr Parkinson may also have stemmed from the fact that Dr Parkinson was in the process of moving on to other pastures and most people, including myself, are inclined to wish people well on their way.
- 1.9 However, I cannot in good faith, or in properly representing my constituents, not express my concerns that the investigation into any breach of the Statement of Ministerial standards was poorly executed, incomplete and reflects extremely poorly on Dr Parkinson.
- 1.10 Secretaries of departments are given the responsibility, authority and resources to discharge their duties. Furthermore, they are extremely well remunerated (Dr Parkinson was paid more than \$900,000 per annum). Secretaries must be held accountable and past conventions shielding them from parliamentary criticism are somewhat dated and no longer in line with

community expectations, particularly in respect of activities in which they are directly involved or have statutory responsibility for.

1.11 As such, I will not be restrained in my criticism of a most perfunctory inquiry that Dr Parkinson has led.

1.12 Dr Parkinson had his staff investigate what relevant material was in the public domain. His staff spent about eight days doing so.¹ Dr Parkinson said at hearing:

I think it was the fact that I was doing a variety of things and I was seeking people to gather whatever information was available about what Mr Pyne had said publicly and what other members of parliament had said, and whether there was anything else on the public record.²

1.13 And yet two highly relevant and key statements that were in the public domain were not included in the report.

1.14 The *Australian Financial Review* reported that on the 5 July 2019 EY had put in a 26 June 2019 email:

EY is ramping up its defence capability ahead of a surge in consolidation activity and the largest expansion of our military capability in our peacetime history - \$200 billion over 10 years out to 2026.

We've engaged Christopher Pyne to assist with this.

Large domestic defence players are looking for mergers to bulk up. Big multi-national players are also shopping for acquisitions to scale their onshore delivery capability.

Christopher Pyne is also here to help lead conversations about what South Australia needs to do to meet the challenges and opportunities this huge defence investment will bring.³

1.15 It also reported that Mr Pyne sent a text (to the *Australian Financial Review*) on the same day (26 June 2019) stating:

I'm looking forward to providing strategic advice to EY, as the firm looks to expand its footprint in the Defence Industry.⁴

¹ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 1.

² Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 1.

³ Edmund Tadros and Tom McIlroy, 'EY and Pyne: Whatever were they thinking?' *Australian Financial Review*, 5 July 2019 26 June 2019. See also: Edmund Tadros and Tom McIlroy, 'The Fixer in a fix over EY move', *Australian Financial Review*, 26 June 2019, <https://www.afr.com/companies/professional-services/the-fixer-in-a-fix-over-ey-move-20190626-p521cj>.

⁴ Edmund Tadros and Tom McIlroy, 'EY and Pyne: Whatever were they thinking?' *Australian Financial Review*, 5 July 2019 26 June 2019. See also: Edmund Tadros and Tom McIlroy, 'The Fixer in a fix over EY move', *Australian Financial Review*, 26 June 2019,

- 1.16 In response to my question about why these statements were excluded, Dr Parkinson stated '*No particular reason*'.⁵ That was a woefully inadequate and unsatisfactory answer. Better is to be expected of him both in his conduct of his inquiry and in his response to the Committee.
- 1.17 Furthermore, in the course of his investigation Dr Parkinson did not speak with people from either EY or Palladium. He also indicated that, during his investigation he did not use a notebook to record evidence, rather his notes were recorded as '*annotations on a blank sheet of paper*'⁶ which after reviewing he ultimately determined were '*not appropriate for release*'.⁷
- 1.18 The investigation appears to be either a demonstration of a lack of competence, which goes to ability, or a carefully crafted sham which purports to be an investigation but was in reality a political fix, which goes to character. I suspect it goes to the later.
- 1.19 The report epitomises what many people see as a public services cancer whereby the Australian Public Service Code of Conduct⁸ is cast aside and replaced with a new code which states, '*Protect the Minister*'.
- 1.20 Having not followed it closely, I am not in a position to fully analyse Dr Parkinson public service career. None the less, I am confident it has been highly esteemed and effective. I am unaware of any significant controversy centring on his public service performance. What I can say however, most disappointingly, that instead of leaving the public service on a high, producing this report and standing by it under questioning by the Committee on his last day in public office sees him leave public office at something of a professional nadir.

A Probity Issue That Must be Addressed

- 1.21 Mr Pyne's decision to negotiate (08 April 2019) and accept a new job (20 April 2019) in the Defence sector whilst still the Minister for Defence, and then taking up that Defence consultancy role (07 June 2019) within two weeks of leaving the ministry (29 May 2019) is a most egregious affront to the public's expectations of the standards to which Ministers should adhere to, although I concede that this does not constitute a technical breach of the Statement of

<https://www.afr.com/companies/professional-services/the-fixer-in-a-fix-over-ey-move-20190626-p521cj>

⁵ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 8.

⁶ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, *Committee Hansard*, 30 August 2019, p. 1.

⁷ Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet, answers to questions on notice, 30 August 2019 (received 6 September 2019).

⁸ *Public Service Act 1999*, Section 13.

Ministerial Standards (but it highlights what are clearly flaws in the standards).

- 1.22 Had this been the conduct of a Minister in a Labor Government, I have no doubt given Mr Pyne's political history, he would have been at the forefront of the condemnation of such action. It would appear that, at the very least, his political instincts and more importantly, his integrity and ethics were diminished in the latter months of his service as a Minister.
- 1.23 Mr Pyne, in his capacity as the Minister for Defence Industry and then the Minister for Defence will have been briefed on the areas where the Australian Defence Force had issues or required improvements, where there were gaps in industry capability or capacity, where Defence is seeking to go in terms of future capability and will have also been briefed by numerous Defence suppliers. The information he received he cannot unknown.
- 1.24 That begs the question as to how Mr Pyne will form up honest and frank advice for EY whilst at the same time compartmentalising information he knows from his time as Defence Industry or Defence Minister. Either he short changes EY, or perhaps even guides them incorrectly knowing he is privy to information that would cause him to otherwise advise differently, or he breaches his obligations under the Statement of Ministerial Standards by utilising information which is not in the public domain (to the benefit of EY and, on account of the remuneration they provide him, ultimately Mr Pyne).
- 1.25 A breach of this kind, whilst reasonably likely, is undetectable and therefore unenforceable. It gives rise to a concern that was not even considered through Dr Parkinson's investigation.
- 1.26 Mr Pyne's employment may also give rise to probity claims against the Commonwealth from companies that compete with EY, claiming EY had an advantage over them.
- 1.27 The fundamental issue is that the breach of probity is not provable. The situation in which Mr Pyne, EY and the Commonwealth now find themselves should never have been allowed to occur. I suspect that the only way to properly address this concern would be to disallow EY from competing for any Defence related contracts until a reasonable period of time has passed.

Recommendation 1

- 1.28 In the interests of maintaining probity in the Defence domain EY should be prevented from tendering for Defence work for 18 months from the time that Mr Pyne joined the firm.**

A Standards Overhaul

- 1.29 The Committee recognised that there were a number of problems with the Statement of Ministerial Standards in respect of enforceability.

1.30 Both Mr Pyne and Ms Bishop had different recollections about the manner in which the code was presented to them when becoming a minister and the enforceability of it.

1.31 My Pyne stated:

My recollection is that when you become a minister—or, indeed, a parliamentary secretary—you get sent a document to complete about your financial arrangements, which also contains a copy of the ministerial code of conduct. You obviously study that. If you didn't, you wouldn't be very sensible. You fill out the form and then you sign it and send it back. In the action of doing that, that is, in my view, a contract that you have created with the Prime Minister at the time—whether it was Howard, Abbott, Turnbull or Morrison, as I served all four of them—that you will abide by the ministerial code of conduct. You have divulged your financial arrangements to the Prime Minister and if that changes, in terms of your financial arrangements, you're required to continue to update it. I took that at the time as establishing a contract with the Prime Minister to abide by the ministerial code of conduct.⁹

1.32 Ms Bishop was asked about the manner in which the Statement of Ministerial Guidelines was originally discussed with her and her views on the legal status of them in the following exchange with the Chair:

CHAIR: To ask you a question of fact: has Mr Morrison ever communicated to you that he considers the Statement of Ministerial Standards voluntary?

Ms Bishop : I've not had that discussion with him at any time, as I recall, but I point out—

CHAIR: Did Mr Turnbull, which is perhaps more relevant to your period in government?

Ms Bishop : When Mr Turnbull was Prime Minister, I was not planning to retire from the cabinet.

CHAIR: The ministerial standards go to your period as a minister and your post-ministerial roles. I will ask again: did Mr Turnbull ever say to you that he thought the Statement of Ministerial Standards was voluntary?

Ms Bishop : I don't recall having a conversation with then Prime Minister Turnbull about the standards.

CHAIR: Did Mr Abbott ever indicate to you that he considered that the Statement of Ministerial Standards was voluntary?

Ms Bishop : It's my word, meaning 'not legislated'. I didn't have a conversation with anybody else about my understanding of the guidelines. I was making, I thought, a statement of fact that they are not legislated and thus don't carry the force of law. So I'm not aware of the penalty, for example, that would apply to former ministers if there were a breach.

CHAIR: Did you ever have a conversation of any kind with Mr Turnbull about his expectations under the standards?

⁹ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, p. 12.

Ms Bishop : I don't have any recollection of having a discussion about the particular standards; no, I don't.

CHAIR: Or Mr Abbott?

Ms Bishop : I don't recall any conversation with Mr Abbott about them. There may have been a discussion at cabinet, but I don't have any recollection of a one-on-one discussion with either then Prime Minister Turnbull or then Prime Minister Abbott.¹⁰

- 1.33 These excerpts demonstrate inconsistency and make it clear that there is no formal standard process by which Ministers are introduced to the standards nor their legal status. At best this represents process failure and at worst the lack of importance Prime Ministers are now assigning them.
- 1.34 A proper process must be established to ensure Ministers are informed of their obligations. The standards must also be legally enforceable, either by means of contract or by way of legislation/regulation.

Recommendation 2

- 1.35 There should be standard processes for incoming Ministers to be informed of the Statement of Ministerial Standards.**

¹⁰ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 6.

Recommendation 3

1.36 The Ministerial Standards should also be legally enforceable, either as a written contract between the government and the Minister or by way of Legislation and/or Regulation.

**Senator Rex Patrick
Senator for South Australia**

Government Senators' Dissenting Report

- 1.1 It is clear from the first sentence of the Chair's report that this inquiry has amounted to little more than a partisan exercise. The committee's time and resources could have been more usefully devoted to an objective and serious policy discussion of ministerial standards and the public expectations they are designed to satisfy. Adherence to ministerial standards has been a subject of commentary for both parties of government historically and likely will be for future governments of both persuasions. Instead, the majority report has made repeated and transparently partisan comments about the government and the Prime Minister, and fails to put forward any robust recommendations on how compliance with the ministerial standards could be improved. This demonstrates that the committee report can only be viewed as serving a partisan purpose.
- 1.2 In conducting this inquiry, the committee failed to unearth any evidence of wrongdoing or to make a coherent case as to how the ministerial standards have been breached. Furthermore, the report fails to assess the evidence produced by the Secretary of the Department of the Prime Minister and Cabinet, Dr Martin Parkinson AC PSM—first provided to the Prime Minister and then submitted to this committee—with respect to the distinction between the experience gained by former ministers by virtue of their ministerial and parliamentary service, and the divulging of specific information that is not publicly available for the purposes of personal advantage. The relevant evidence by Dr Parkinson states the following:
- Ministers gain experience, knowledge and information about a variety of subject matters in the course of their duties and through the normal decision-making processes of government.
- It is not reasonable to think that former Ministers can or will 'forget' all information or knowledge gained by them in the course of their ministerial roles. Nor, in my view, can the experience a Minister gains from fulfilling that role be extinguished when they undertake a role after leaving the Parliament.
- In this regard, a distinction should be drawn between experience a person gains through being a Minister and specific knowledge they acquire through performing the role. It is the latter which is pertinent to the [Ministerial] Standards.¹
- 1.3 No evidence provided by Mr Pyne and Ms Bishop and their employers substantiates any claims that either former minister has breached either limb of clause 2.25 of the ministerial standards.

¹ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, p. 2.

- 1.4 A truly non-partisan discussion would have inquired into whether former ministers of previous governments on both sides of politics may have breached the standards. For example, the Hon. Martin Ferguson, who served as minister for resources and energy during the Rudd and Gillard governments, attracted scrutiny for taking on a role as chairman of the Australian Petroleum Production & Exploration Association Advisory Board, and also as head of natural resources for Seven Group Holdings. Mr Ferguson took on these roles despite the obviously close nexus between his post-ministerial employment and his ministerial duties.² A 2018 Grattan Institute report discussed the circumstances of former small business minister, the Hon. Mark Arbib, who took on a role with Consolidated Press Holdings; and former communications minister, the Hon. Stephen Conroy, who took on a role with Responsible Wagering Australia, as examples of conduct that may fall short of public expectations.³
- 1.5 An objective inquiry could have looked into the circumstances of these former ministers in conjunction with more recent office holders and whether their post-ministerial employment breached the ministerial standards, and subsequently evaluate whether the current ministerial standards should be retained or modified in some way.
- 1.6 Government senators support the *Statement of Ministerial Standards* (ministerial standards) as an appropriate mechanism to ensure that all ministers and former ministers live up to the high standards expected of them by the Australian people at all times.
- 1.7 The ministerial standards were first established by former Prime Minister the Hon. John Howard in 1996 and has been maintained by governments of both political persuasions since that time. The ministerial standards outline the standards expected of ministers by the incumbent Prime Minister. Where ministers have not conducted themselves in a manner that meets this benchmark, they have been counselled or demoted. This process has worked for both sides of politics since 1996.
- 1.8 This inquiry has focused on whether two former ministers—Mr Pyne and the Ms Bishop—in accepting employment have contravened the post-ministerial employment provisions of the ministerial standards.

² ABC News, 14 October 2013, <https://www.abc.net.au/news/2013-10-07/milne-ferguson-lobbying-code/4997304> (accessed 24 September 2019); The Australian, 2 October 2013, <https://www.theaustralian.com.au/national-affairs/ferguson-vows-to-obey-rules-in-new-lobby-job/news-story/42f6e8b817726a7067fc7d91ec1b53b5> (accessed 24 September 2019); Crikey, 17 June 2014, <https://www.crikey.com.au/2014/06/17/martin-fergusons-revolving-door-puts-energy-industry-in-a-spin/>.

³ Grattan Institute, 'Who's in the room? Access and influence in Australian Politics', September 2018, <https://grattan.edu.au/wp-content/uploads/2018/09/908-Who-s-in-the-room-Access-and-influence-in-Australian-politics.pdf>.

- 1.9 An independent inquiry undertaken by Dr Parkinson, at the direction of the Prime Minister, did not find any evidence that the former ministers have failed to comply with the ministerial standards.⁴ Both Mr Pyne and Ms Bishop have since publicly expressed their understanding of the obligations imposed upon them by the standards, and their unequivocal intention to abide by those standards.⁵

The facts about Christopher Pyne

- 1.10 Mr Pyne's appointment as a Minister ceased on 29 May 2019. Mr Pyne accepted employment with EY in April 2019 but did not commence work with the firm until 7 June 2019. EY has set out a timeline of its dealings with Mr Pyne from 1 March 2019 to the date that Mr Pyne's employment commenced.⁶

- 1.11 In public comments on Twitter shortly after his new position was made public, Mr Pyne explained how he was able to accept employment with EY and continue to meet his obligations under the ministerial standards:

I know my responsibilities under the [Ministerial standards] and I will abide by them. No one has been able to point to any instance of a breach of the [Ministerial standards]. Asserting something does not make it fact.⁷

- 1.12 Mr Pyne put forward his view on the ministerial standards, specifically in relation to post-ministerial employment:

The clause has two elements—a commitment not to lobby or have business meetings with members of the government, public service or defence force on defence matters with which a Minister has had official dealings in the last eighteen months and to not take personal advantage of information to which the Minister has had access, but is otherwise not generally available to the public.⁸

- 1.13 Mr Pyne outlined how he is compliant with the ministerial standards:

I have not taken personal advantage of information I received as a Minister in the Defence portfolio that is not otherwise publicly available. I have not lobbied or had business meetings with any members of the government,

⁴ Advice from Dr Parkinson to the Prime Minister, 19 July 2019, pp. 4, 6.

⁵ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, pp. 9–10; Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

⁶ EY, *Submission 4*, p. 4.

⁷ Christopher Pyne, 29 June 2019, <https://twitter.com/cpyne/status/1145173148733591554> (accessed 26 July 2019).

⁸ Christopher Pyne, 29 June 2019, <https://twitter.com/cpyne/status/1145173148733591554> (accessed 26 July 2019).

public service or defence force on any matters I have had official dealings as a Minister in the last eighteen months.⁹

- 1.14 Mr Pyne stated that providing consultancy services to a private company does not automatically place a person in breach of the ministerial standards:

The providing of occasional high-level strategic advice does not require lobbying, advocating or undertaking any activity back into government nor providing or using any information a former Minister may have learnt as a Minister that is not generally available to the public.¹⁰

- 1.15 Mr Pyne continued noting that major policy decisions of the government are 'freely available to the public' and that 'giving advice about those policies does not require using information that a former Minister has learnt that is not generally available to the public'.¹¹ Mr Pyne explained what he would bring to his new role with EY and how he would prevent breaches of the ministerial standards:

Of course, I have twenty six years of experience of the Parliament and politics, experience in the Health, Ageing, Education, Industry Innovation and Science portfolios and as Leader of the House that gives me knowledge of government and politics and how it works that is valuable in the post political world. Having that knowledge does not breach the [ministerial standards].

I intend to ensure that anyone I provide advice to has rigorous processes and procedures in place to ensure I am not put in a position where the Ministerial Code of Conduct might be breached.¹²

- 1.16 In its submission to the subsequent committee inquiry, EY outlined that Mr Pyne was engaged in order 'to provide EY with consulting services for two days a month for a period of 6 months, with an option to extend'.¹³

- 1.17 In his evidence to the committee at its public hearing, Mr Mark Stewart of EY provided an explanation of Mr Pyne's role and affirmed both Mr Pyne's and EY's commitment to Mr Pyne's compliance with the ministerial standards:

What Mr Pyne has been engaged to do is to assist us in interpreting and understanding the myriad public defence policy documents, such as the defence white paper, and attend meetings with myself and my defence

⁹ Christopher Pyne, 29 June 2019, <https://twitter.com/cpyne/status/1145173148733591554> (accessed 26 July 2019).

¹⁰ Christopher Pyne, 29 June 2019, <https://twitter.com/cpyne/status/1145173148733591554> (accessed 26 July 2019).

¹¹ Christopher Pyne, 29 June 2019, <https://twitter.com/cpyne/status/1145173148733591554> (accessed 26 July 2019)

¹² Christopher Pyne, 29 June 2019, <https://twitter.com/cpyne/status/1145173148733591554> (accessed 26 July 2019).

¹³ EY, *Submission 4*, p. 2.

industry colleagues. Neither of these roles would put Mr Pyne in a position where he would breach the Statement of Ministerial Standards.

Both Mr Pyne and myself have made it clear that EY has rigorous processes and procedures in place to assist Mr Pyne in adhering to the Statement of Ministerial Standards—for example, this includes a direct line of reporting to me. It includes a contractual agreement with Mr Pyne. It includes our and his adherence to a global code of conduct which reinforces EY's culture of objectivity and independence.¹⁴

- 1.18 In his evidence to the committee, Mr Pyne reiterated his understanding of the obligations imposed upon him by the ministerial standards, as well as his intention to comply with the standards.¹⁵

The facts about Julie Bishop

- 1.19 Palladium has provided a timeline in its supplementary submission which sets out its interactions with Ms Bishop up to her appointment as a non-executive director on the board of that company.¹⁶

- 1.20 Ms Bishop resigned as a Minister of the Government on 26 August 2018. Following a series of discussions with Palladium, starting in 5 June 2019, on 29 June 2019 Palladium issued a letter of appointment as a non-executive director to Ms Bishop. Ms Bishop signed this letter of appointment on 30 June 2019 and subsequently signed the Directors consent and disclosure document on 4 July 2019.¹⁷

- 1.21 In its submission, Palladium emphasised that Ms Bishop is not an employee. To further explain Ms Bishop's role, Palladium has set out the issues that Ms Bishop will engage with as a non-executive director, which includes:

- providing leadership and guidance on the strategic objectives of Palladium, as well as overseeing management's implementation of strategic objectives.
- approving business plans and operating budgets.
- monitoring the financial performance of the Company and approving major capital expenditure.
- Undertaking governance activities such as the appointment and assessment of senior officeholders, approving governance documents, and overseeing external audits.
- identifying significant risks to the Company and ensuring those risks are minimised or mitigated.

¹⁴ Mr Mark Stewart, Partner, EY, *Committee Hansard*, 5 September 2019, p. 28.

¹⁵ Mr Christopher Pyne, *Committee Hansard*, 5 September 2019, pp. 9–10.

¹⁶ Palladium, *Submission 8.1*, p. 2.

¹⁷ Palladium, *Submission 8.1*, p. 2.

- ensuring proper reporting to the Australian Securities and Investments Commission and any other relevant statutory bodies.¹⁸

1.22 In her submission to the committee, Ms Bishop stated that she was in compliance with the ministerial standards, specifically with the sections relating to post-ministerial employment:

I remain in compliance with both [post-ministerial employment] items in that I have not sought nor do I intend (within 18 months of my Ministerial resignation) *to lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matter for which I held Ministerial responsibility.*

Further, I have given an undertaking that I will not *take personal advantage of information to which I had access as a Minister, where that information is not generally available to the public.*

My personal conduct since retiring from the Cabinet and the Parliament meets the requirement to be *consistent with the dignity, reputation and integrity of the Parliament.*¹⁹

1.23 Furthermore, Ms Bishop placed her statements into context:

- I resigned as Minister for Foreign Affairs on 26 August 2018.
- I have not served in nor have I attended any meetings of the Morrison Government Cabinet.
- A new Budget was handed down on 2 April 2019.²⁰

1.24 In her evidence to the committee, Ms Bishop reiterated her understanding of and commitment to the ministerial standards:

I do understand the obligations, and I have stated on numerous occasions that I will comply with these standards for the 18 months from my ministerial resignation on 26 August 2018. I'm aware that those standards mean I'm unable to lobby or hold business meetings with any minister or government official on matters for which I held ministerial responsibility. I've given the undertaking required to not take personal advantage of information not readily available to the public.²¹

1.25 Ms Bishop also informed the committee of her belief that her 'personal conduct since retiring from the cabinet and the parliament meets the requirement to be consistent with the dignity, reputation and integrity of the parliament',²² and expressed her intention to 'abide by the standards under the statement'.²³

¹⁸ Palladium, *Submission 8.1*, p. 3.

¹⁹ The Honourable Julie Bishop, *Submission 9*, p. [1].

²⁰ The Honourable Julie Bishop, *Submission 9*, p. [1].

²¹ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

²² Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

²³ Ms Julie Bishop, *Committee Hansard*, 5 September 2019, p. 3.

Dr Parkinson's investigation

- 1.26 At all times, the government through the Prime Minister, has sought to be transparent about questions of former ministers' compliance with the ministerial standards. In his letter to the President of the Senate, the Prime Minister explained that upon becoming aware of the circumstances surrounding the former ministers' employment, he sought guidance from the Secretary of the Department of the Prime Minister and Cabinet. On receipt of Dr Parkinson's advice, the Prime Minister made this available to the Senate and by extension the Australian public.²⁴
- 1.27 Prior to responding to the Prime Minister, Dr Parkinson conducted a thorough investigation including interviews with both Mr Pyne and Ms Bishop. Dr Parkinson was clear in his findings:

On the basis of information available at this time, I have no grounds to believe that either Mr Pyne or Ms Bishop have breached the Standards.²⁵

Conclusion

- 1.28 Government senators disagree with the findings of the majority report. Having accepted Dr Parkinson's advice and in the absence of any new evidence to the contrary, government senators believe that neither Mr Pyne nor Ms Bishop have breached the ministerial standards. The absence of any evidence of non-compliance put forward in the majority report demonstrates the partisan nature of its findings. The strongest recommendation made is for a third inquiry into the matter, following the committee's work and Dr Parkinson's report. It is difficult to imagine what a third inquiry would uncover that the first two have failed to.
- 1.29 Government senators note that the information provided by the Prime Minister was the most detailed in relation to any independent investigation into compliance with ministerial standards. Furthermore, Dr Parkinson, who conducted the investigation, made a submission to the inquiry and appeared before the committee to answer questions. These actions are consistent with a government committed to transparency and upholding the high benchmarks appropriately required by the Prime Minister of ministers and former ministers.
- 1.30 Government senators note it was appropriate that Mr Pyne and Ms Bishop made themselves available to demonstrate to the committee that they are aware of their post-ministerial obligations and to explain how their actions meet the expectations of the Prime Minister and the Australian public. Government senators believe that former ministers should meet the ministerial

²⁴ Tabled document, Advice from Dr Parkinson to the Prime Minister, 22 July 2019.

²⁵ Advice from Dr Parkinson to the Prime Minister, 22 July 2019, p. 6.

standards whilst they seek post-parliamentary employment and in their conduct in that employment.

Senator James Paterson
Deputy Chair
Liberal Senator for Victoria

Senator Paul Scarr
Liberal Senator for Queensland

Appendix 1

Submissions and additional information

Submissions

- 1 Deloitte
- 2 Transparency International Australia
 - 2.1 Supplementary to submission 2
- 3 Dr Martin Parkinson AC PSM, Secretary of the Department of the Prime Minister and Cabinet
- 4 EY
- 5 The Ethicos Group
- 6 Grattan Institute
- 7 Accountability Round Table
- 8 Palladium
 - 8.1 Supplementary to submission 8
- 9 The Hon. Julie Bishop
 - 9.1 Supplementary to submission 9

Answers to Question on Notice

- 1 Dr Martin Parkinson AC PSM, answers to questions on notice from public hearing in Canberra on 30 August 2019, received 6 September 2019
- 2 Mr Christopher Hirst, answers to questions on notice from public hearing in Canberra on 5 September 2019, received 13 September 2019
- 3 EY, answers to questions on notice from public hearing in Canberra on 5 September 2019, received 13 September 2019
- 4 Attorney-General's Department, answer to written question on notice from Senator Jenny McAllister (Chair).

Tabled Documents

- 1 Extracts from Lobbyist Register - GC Advisory, tabled at a public hearing in Canberra on 30 August 2019.
- 2 AusTender Contract Notices - du Monde, tabled at a public hearing in Canberra on 30 August 2019.

Appendix 2

Public hearings and witnesses

Friday, 30 August 2019

Committee Room 2S3, Parliament House
CANBERRA

Department of the Prime Minister and Cabinet

- Dr Martin Parkinson AC PSM, Secretary

Thursday, 5 September 2019

Committee Room 2S1, Parliament House
CANBERRA

The Hon. Julie Bishop, Private capacity

The Hon. Christopher Pyne, Private capacity

Department of Foreign Affairs and Trade

- Mr James Gilling, First Assistant Secretary - Pacific Bilateral, Office of the Pacific

Palladium

- Mr Christopher Hirst, Chief Executive Officer

Transparency International Australia

- Ms Serena Lillywhite, Chief Executive Officer

EY

- Mr Mark Stewart, Partner - Defence Industry Leader
- Mr Mark Phelps, Managing Partner

Appendix 3

Motion referring inquiry, 22 July 2019

- (1) That the Senate notes—
- (a) the Prime Minister's Statement of Ministerial Standards of 30 August 2018, at paragraph 2.25 concerning post-ministerial employment, states that "Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public";
 - (b) that Mr Christopher Maurice Pyne served as the Minister for Defence Industry from 19 July 2016 to 28 August 2018, and as the Minister for Defence from 28 August 2018 to 11 April 2019;
 - (c) that Mr Pyne has taken employment with consulting firm EY and that, in his own words, he is "looking forward to providing strategic advice to EY, as the firm looks to expand its footprint in the defence industry";
 - (d) that media reports indicate that AusTender government contract notices show that over the past four years EY has secured over 830 contracts with the Australian Government worth more than \$370 million, including 138 contracts with the Department of Defence worth \$148 million;
 - (e) that EY has publicly identified the Australian Government's investment in new defence capabilities, including the future submarines project and the future frigate project as major business opportunities;
 - (f) EY's statement that Mr Pyne will help build EY's defence-related business in South Australia and elsewhere, including helping to "lead conversations about what all states need to do to meet the challenges and opportunities this defence investment will bring";
 - (g) EY's subsequent statement that Mr Pyne "will not be lobbying or meeting with public sector MPs, public service or defence in his EY role" and that he will be "supporting the private sector side of the business"; and
 - (h) Mr Pyne's further statement that he intends "to ensure that anyone I provide advice to has rigorous processes and procedures in place to ensure that I am not put in a position here the Ministerial Code might be breached".

- (2) That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 10 September 2019:
- (a) compliance by former Ministers of State with the requirements of paragraph 2.25 of the Prime Minister's Statement of Ministerial Standards, dated 30 August 2018, including, but not limited to the undertakings given by Ministers to comply with their obligations concerning post-ministerial employment, and action taken by the Prime Minister and the Department of the Prime Minister and Cabinet to ensure full compliance by former Ministers with paragraph 2.25 of the Ministerial Standards; and
 - (b) any related matters.