



Election resources paper
Integrity Commission Tasmania
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2 September 2024

Dear Integrity Commission Tasmania,

Ethical conduct and misconduct risks in Tasmanian parliamentary elections: Consultation paper Have your say: The use and misuse of public resources in parliamentary elections

The Australia Institute Tasmania is pleased to make the following submission to this consultation paper. Our submission relates to several of the key issues for discussion and questions highlighted in the paper (submission prompts) on the use and misuse of public resources in parliamentary elections.

The Australia Institute has a long track record of research and engagement on democratic reform, both in Tasmania and nationally. We have published numerous reports and submissions and hosted public forums on topics including integrity in politics, political donations disclosure, truth in political advertising and other transparency and accountability mechanisms that relate to elections and democracy more broadly.

In the lead up to the 2024 Tasmanian elections, the Institute hosted a public forum and a candidates' roundtable discussion on integrity in politics.¹ During these forums, we shared our research and invited feedback. Participants also put forward their own ideas on fortifying Tasmania's democracy.

Drawing on this consultation, the Institute published the *Democracy Agenda for the 51st Tasmanian Parliament* in time for the first sitting of the new Parliament in May 2024 (Attachment A). The discussion paper provides information relevant to this consultation process. Among other matters, it outlines principles for a healthy democracy and the Australia Institute's nine principles for fair political finance reform. Sixteen actions to strengthen Tasmania's democratic architecture and improve the functioning of and representation within Parliament have been proposed. One of the recommendations has already been taken up – the establishment of the Joint Standing Committee on Electoral Matters (JSCEM).

Several of the recommendations in the Democracy Agenda relate specifically to strengthening transparency and accountability in the legal framework for the use and misuse of publicly funded resources in parliamentary elections. These include:

1. Strengthen political donations disclosure laws without delay.

Tasmania's new donations laws will facilitate one of the highest rates of public funding for election campaigns in Australia with the poorest oversight of donations received and (unlike other Australian jurisdictions that introduced or increased public funding) no expenditure

¹ Integrity in Politics: Public Forum, March 5, 2024
https://nb.australiainstitute.org.au/integrity_in_politics_public_forum

limits for general elections. Third party campaigners will be virtually unregulated (see Attachment A, pages 9–10).

To address this, changes are needed to strengthen donations disclosure requirements, including by:²

- a) Significantly lowering the proposed donations disclosures threshold from \$5,000 to \$1,000 and guaranteeing real-time disclosure of political donations.
- b) Broadening the definition of “gift” to capture all payments that might influence politicians.
- c) Requiring third-party campaigners to disclose relevant donations regardless of when they were made during the electoral cycle.
- d) Introducing a ban on donations from developers and the fossil fuel, tobacco and gambling industries.
- e) Ensuring public resourcing consistency and equity across both chambers.

2. **Laws about who receives public funding can strengthen democratic competition or weaken it.**³

Public funding in Australia is typically based on the candidate or party’s result at the previous election. This puts new entrants – whether they are new independent candidates or new parties – at a disadvantage, because they must raise through donations the money that established parties and candidates have received from the taxpayer.⁴

In addition, the design of public funding eligibility favours major parties. They are more likely to exceed the threshold to be eligible for public funding and more likely to have spent

² Australia Institute Tasmania, Human Rights Law Centre and Australian Conservation Foundation (2021) *Submission: Electoral Act review*, <https://australiainstitute.org.au/report/submission-electoral-act-review/>; The Australia Institute (2023) *Tasmanian civil society organisations call for electoral reform before it is too late*, <https://australiainstitute.org.au/post/tasmanian-civil-society-organisations-call-for-electoral-reform-before-it-is-too-late/>; (2023) *Inadequate electoral reform leaves truth and transparency behind*, <https://australiainstitute.org.au/post/inadequate-electoral-reform-leaves-truth-and-transparency-behind/>

³ See Browne (2023) *Principles for fair political finance reform*, <https://australiainstitute.org.au/report/principles-for-fair-political-finance-reform/>; (2024) *Submission - Review of the 2023 NSW election*, <https://australiainstitute.org.au/report/submission-review-of-the-2023-nsw-election/>; Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, <https://australiainstitute.org.au/report/submission-money-and-power-in-victorian-elections/>; Browne and Shields (2022) *Fortifying Australian democracy: submission to the inquiry into the 2022 election*, <https://australiainstitute.org.au/report/fortifying-australian-democracy/>; Browne and Walters (2023) *Securing transparency and diversity in political finance*, <https://australiainstitute.org.au/report/securing-transparency-and-diversity-in-political-finance/>; Morison and Browne (2023) *Submission: 2022 Victorian state election inquiry*, <https://australiainstitute.org.au/report/submission-2022-victorian-state-election-inquiry/>

⁴ Browne and Walters (2023) *Securing transparency and diversity in political finance*, pp 5–7



enough to be able to claim their full entitlement (in systems where public funding is only a reimbursement of costs, as will be the case in Tasmania should the legislation commence).⁵

A viable alternative to the current public funding model is the “democracy voucher” system in use in Seattle, Washington. It allows parties and candidates to raise money based on how much support they currently have among the public, not how many votes they received at the last election.⁶

The Australia Institute has identified nine principles for fair political finance reform.⁷

All candidates and contributors should be treated fairly. Five principles that advance this pillar are that political finance reform should:

1. Give voters a range of choices about who represents them
2. Not make it harder for new candidates to compete with incumbents
3. Provide a level playing field regardless of whether candidates are members of a political party or independents
4. Factor in the significant taxpayer-funded advantages of incumbency, with an eye to reducing disadvantages already faced by challengers
5. Account for spillover effects and economies of scale.

Political finance reforms should be targeted and effective. Four principles that advance this pillar are that political finance reform should:

6. Focus on those who most clearly threaten democracy and accountability
7. Ensure that public funding is fit for purpose
8. Strive for fairness and increased transparency
9. Distinguish between bona fide contributions and “cash for access”.

These principles should guide any political finance reforms adopted by the Tasmanian Parliament, whether public funding, donation caps or spending caps (see additional information in Attachment A, pages 10–12).

3. Immediately introduce truth in political advertising laws, modelled on existing legislation in other jurisdictions.

Truth in political advertising laws allow for misleading and deceptive political advertising to be withdrawn and retracted. This would include all forms of political advertising whether taxpayer-funded or otherwise.

In South Australia, truth in political advertising laws have existed since the 1980s. In 2020, at the behest of a crossbencher, the ACT Legislative Assembly unanimously passed truth in political advertising laws that came into effect in July 2021.⁸

⁵ Browne (2024) *Submission - Review of the 2023 NSW election*, pp. 12–14; Browne and Connolly (2023) *Submission: Money and power in Victorian elections*, pp 12–15

⁶ Morison and Browne (2023) *Submission: 2022 Victorian state election inquiry*, pp 17–19

⁷ Browne (2023) *Principles for fair political finance reform*

⁸ Elections ACT (2021) *Changes to ACT Legislative Assembly campaign finance and truth in political advertising laws commence today, 1 July 2021*, <https://www.elections.act.gov.au/news/2021/changes-to-campaign-finance-and-truth-in-political-advertising-laws-to-commence-from-1-july-2021>

Truth in political advertising laws are extremely popular. Not only do they enjoy support from all sides of politics, but Australia Institute polling research in 2021 found that they are also supported by nine in ten Tasmanians (87%) – including over 80% support from across all voting intentions.⁹ Tasmanian Labor and crossbenchers support truth in political advertising laws (see additional information in Attachment A, page 13).¹⁰

4. Reinstate fixed four year terms for the House of Assembly

Fixed terms give certainty around election dates and lessen the advantages of tax-payer funded incumbency for the government of the day when they call an election at the exact point it is most politically advantageous (see additional information in Attachment A, page 16).

All other Australian states and territories have fixed four-year terms.¹¹ Former premier Will Hodgman, while in opposition, proposed a private member's bill to introduce fixed terms, and it received in principle support from the Labor Government and the Greens.¹²

5. Adopt Integrity Commission recommendations on reforms to grants administration for funding commitments made during election campaigns.

The Tasmanian Government has been widely criticised for how it handles financial commitments made to communities during election periods, which has been described as 'pork barrelling'. The Democracy Agenda (Attachment A, pages 14–15) summarises the three Integrity Commission recommendations that should be adopted in full, as a matter of priority, to address the deficient process of current funding commitments made during election campaigns.

6. Significantly increase Integrity Commission funding and expand its powers to allow investigation of third parties.

Former Victorian IBAC Commissioner, the Hon Robert Redlich AM KC, recently described the amount of funding the Integrity Commission currently receives as 'disgraceful'.¹³ He also finds the legislation governing the Integrity Commission wanting in a 'vast number of ways,' including that the Commission's jurisdiction is constrained by its inability to investigate third parties, even those intrinsically linked with the political process, such as political parties or lobbyists.

⁹ The Australia Institute (2021) *Polling: Good government in Tasmania*, p 1, <https://australiainstitute.org.au/report/polling-good-government-in-tasmania/>

¹⁰ MacDonald (2024) *Labor challenge to Tasmanian Liberals over integrity investigations ahead of March 23 election*, <https://www.abc.net.au/news/2024-03-07/labor-challenge-to-tasmanian-liberals-over-integrity/103553274>

¹¹ Electoral Council of Australia and New Zealand (2022) *Electoral Systems – Australia*, <https://www.ecanz.gov.au/electoral-systems>

¹² Green (2008) *Fixed term parliaments for Tasmania*, <https://www.abc.net.au/news/2008-08-18/fixed-term-parliaments-for-tasmania/9389042>

¹³ The Hon Robert Redlich AM KC on ABC Hobart Mornings, 10 July 2024, <https://www.facebook.com/AusInstituteTas/videos/860565752604997>



Furthermore, the Commission is unable to investigate elected representatives, including Ministers and the Premier, during an election period when parliament is prorogued. The Commission's jurisdiction must be expanded to enable the investigation of any person that adversely affects or could adversely affect, directly or indirectly, the honest or impartial exercise of public administration (Attachment A, pages 17–18).

Other recommendations aim to strengthen Tasmania's democratic architecture more broadly, improve functioning of Parliament and representation in Parliament, including:

7. Immediately enshrine Tasmania's new Lobbyists Code of Conduct in legislation, as recommended by the Tasmanian Integrity Commission.
8. Adopt a range of immediate and longer-term actions to improve the functions of the *Right to Information Act* and increase the transparency and accountability of Tasmania's public institutions.
9. Trial the proactive disclosure of cabinet documents within 30 business days of decisions.
10. Review the *Public Interest Disclosure Act 2002* (whistle-blower legislation).
11. Legislate detailed disclosure of ministerial diaries on a monthly, or more frequent basis.
12. Publish incoming briefs to new ministers following an election or a change in minister.
13. Immediately reinstate a Joint Standing Working Arrangements Committee to examine and recommend measures to improve the performance and efficiency of Parliament.
14. Establish a comprehensive and educative induction process for new parliamentarians.
15. Establish a Joint Parliamentary Inquiry to develop a preferred model to provide for dedicated seats for Tasmanian Aboriginal people in the Parliament.

The proposals highlighted in this submission and detailed in the attached Democracy Agenda provide prioritised measures that would make the use of public resources in parliamentary elections more democratic and ensure public money is better spent.

Yours sincerely,

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