

INTEGRITY AND OTHER LEGISLATION AMENDMENT BILL 2023

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**Crime and Corruption
Commission**

QUEENSLAND

[REDACTED]

21 July 2023

Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

Via email: egc@parliament.qld.gov.au

Dear Committee Secretary

**Re: Review of the *Integrity and Other Legislation Amendment Bill 2023*
Submission by the Crime and Corruption Commission**

I refer to the Committee's invitation for submissions to the Review of the *Integrity and Other Legislation Amendment Bill 2023*.

Please find **attached** the submission of the Crime and Corruption Commission.

Yours sincerely

[REDACTED]

Bruce Barbour
Chairperson

Review of the *Integrity and Other Legislation Amendment Bill 2023*

Submission by the Crime and Corruption Commission

Introduction

The Crime and Corruption Commission (CCC) is committed to fostering an ethical and transparent culture in public administration in Queensland.

The purposes of the *Integrity Act* to encourage confidence in public institutions by:

1. helping ministers, members of the legislative assembly, and others to deal appropriately with ethics or integrity issues; and
2. regulating contact between lobbyists and State or local government representatives, and contact between lobbyists and key representatives for the Opposition, so that lobbying is conducted in accordance with public expectations of transparency and integrity;

are closely aligned with the CCC's purpose to continuously improve the integrity of, and reduce the incidence of corruption in, the public sector.

The CCC has a statutory responsibility to achieve its purpose by investigating cases of corrupt conduct, particularly more serious cases of corrupt conduct, and helping units of public administration to deal effectively and appropriately with corruption by increasing their capacity to do so.

The CCC considers that two factors which are central to good government are equal access to decision makers and ensuring decisions are transparent and free from undue influence. Effective lobbying regulation is an important tool in preventing corruption, increasing transparency and improving the quality of government decision-making.

Recent focus on regulation of lobbying

The CCC notes that there has been a focus on the issue of lobbying in recent years through the following reviews of Queensland's integrity framework:

1. Strategic Review of the Integrity Commissioner's functions by Mr Kevin Yearbury in 2021 (Yearbury report); and
2. Review of culture and accountability in the Queensland public sector by Professor Peter Coaldrake in 2022 (Coaldrake report).

Earlier this year, the CCC published its *Influence and transparency in Queensland's public sector* corruption prevention report, aimed at addressing the corruption risks associated with improper influence on government decisions. The CCC's corruption prevention report included seven recommendations to address areas identified at risk of corruption.

Implementation of review recommendations in the Bill

The *Integrity and Other Legislation Amendment Bill 2023* (the Bill) is the second tranche of legislation to support the implementation of some of the Coaldrake report recommendations and some related Yearbury report recommendations.

The CCC notes and generally supports the proposed implementation in the Bill of the following recommendations from the Coaldrake report:

1. Recommendation 1: Strengthening the independence of the position of the Auditor General;
2. Recommendation 3: Strengthening lobbying regulation and introducing a prohibition on dual hatting;
3. Recommendation 12: Enhancing the independence of the core integrity bodies through the involvement of parliamentary committees in setting their budgets; and
4. Recommendation 13: Providing the ombudsman with authority to investigate complaints against private organisation carrying out functions on behalf of government.

and the following Yearbury report recommendations:

1. Recommendation 9: clarifying the term 'lobbyist';
2. Recommendation 10: confirming that statutory officers are responsible for reporting unregistered lobbying;
3. Recommendation 12: allowing the Integrity Commissioner to request meeting records from government and opposition representatives;
4. Recommendation 13: enabling the Integrity Commissioner to seek an explanation or issue a direction without first having to issue a show cause notice;
5. Recommendation 14: enabling the Integrity Commissioner to warn lobbyists for alleged misconduct without reference to the Crime and Corruption Commission; and
6. Recommendation 18: Enabling the Integrity Commissioner to issue directives concerning the application of policies as circumstances require.

The CCC considers that the proposed amendments in the Bill will assist in strengthening Queensland's integrity framework.

Bill definitions of 'government representative' and 'Opposition representative'

The CCC notes that the proposed amendments to the *Integrity Act 2009* in the Bill do not expand on who is considered a 'government representative' or 'Opposition representative'. In particular, Members of Parliament (who are not Ministers, Assistant Ministers, the Opposition Leader or the Deputy Opposition Leader) and electorate employees are not captured under the definition of a 'government representative' or 'Opposition representative', although local government Councillors are captured under the definition of a government representative with the result that lobbyists are required to disclose their contact with these individuals.

The CCC's *Influence and transparency in Queensland's public sector* corruption prevention report raised this issue for consideration and recommended "broadening the scope of who is required to register and disclose lobbying activities by expanding the definition of a 'government representative' and 'Opposition representative' to include all Members of Parliament and electorate employees". Without seeking to limit the ability of Members of Parliament to make representations on behalf of their constituents, the CCC considers that transparency of influence and regulation of lobbying interactions should apply equally to all elected officials. There is no clear rationale for differential

treatment of lobbyist engagement with Members of Parliament (who are not Ministers, Assistant Ministers, the Opposition Leader or the Deputy Opposition Leader) and local government Councillors under the *Integrity Act 2009*. Like Councillors, Members of Parliament promote and advocate the interests of their constituents and they are regularly approached by members of the community seeking to advance their special interests. This is a legitimate process and fundamental to informing and enhancing government policy. However, the close connections of Members of Parliament to the community and their advocacy role can place them at increased risk of being susceptible to improper influence — particularly in situations where they have received a benefit from the community member who is seeking their assistance and advocacy, or in situations where they have developed relationships with members of the community over a long period of time. While Members of Parliament may not necessarily have the same authority as Councillors, Ministers, Assistant Ministers, the Opposition Leader or the Deputy Opposition Leader to directly make decisions, they have the capacity to influence decisions and government priorities, including through parliamentary debates, party discussions, sponsoring petitions and their role on parliamentary committees.

The CCC considers that the current definitions of ‘government representative’ and ‘Opposition representative’ in the *Integrity Act 2009* create a regulatory gap which is a corruption risk. The risk is heightened by there being no legislative requirement for all Members of Parliament to publish their diaries or make public information about contact with members of the community seeking to influence decisions. The CCC notes that this issue has been considered recently in comparable legislation in Victoria, where it is proposed to extend the definition of a government representative to include all Members of Parliament and electorate employees.

In-house lobbyists and the definition of ‘lobbyist’

The CCC notes and supports the inclusion of offence provisions applying to persons and entities who are not a registered lobbyist and to prohibition of success fees in the Bill. These will be constructive improvements to the integrity framework in Queensland.

The CCC notes that there are gaps in the scope of lobbying activities which are subject to registration requirements and regulation in the *Integrity Act 2009* which are not addressed by the Bill. The CCC’s *Influence and transparency in Queensland’s public sector corruption prevention report* recommended that the Queensland Government consider “amending the definition of a ‘lobbyist’ to ensure it focuses on the activity of influencing rather than the particular individuals or organisations, or the frequency of that behaviour (including removing exemptions for in-house lobbyists, trade unions and other interest groups)”. Recent recommendations made in New South Wales and Victoria provide support for Queensland broadening the scope of its transparency requirements to include in-house lobbyists and other groups and individuals seeking to influence government decisions. Lessons can be drawn from international models which require in-house lobbyists and other groups seeking to influence government decisions to register and make entries in lobbyists’ registers.

This submission does not contain confidential information and is suitable for publication.

21 July 2023