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# ***JUSTICE, INTEGRITY AND COMMUNITY SAFETY COMMITTEE***

## **Members present:**

Mr MA Hunt MP—Chair  
Mr MC Berkman MP  
Mr RD Field MP  
Ms ND Marr MP (via teleconference)  
Mr PS Russo MP  
Hon. MAJ Scanlon MP

## **Staff present:**

Ms F Denny—Committee Secretary  
Ms E Lewis—Assistant Committee Secretary

## **PUBLIC BRIEFING—INQUIRY INTO THE CRIME AND CORRUPTION (RESTORING REPORTING POWERS) AMENDMENT BILL 2025**

### **TRANSCRIPT OF PROCEEDINGS**

**Monday, 24 March 2025**

**Brisbane**

## MONDAY, 24 MARCH 2025

**The committee met at 11.45 am.**

**CHAIR:** Good morning. I declare open this public briefing for the committee's inquiry into the Crime and Corruption (Restoring Reporting Powers) Amendment Bill 2025. My name is Marty Hunt. I am the member for Nicklin and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today. With me today are: Peter Russo MP, member for Toohey; Russell Field MP, member for Capalaba; Natalie Marr MP, member for Thuringowa, who is on the phone; Michael Berkman MP, member for Maiwar; and Meaghan Scanlon MP, member for Gaven, who is substituting for Melissa McMahon MP, member for Macalister.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I remind members of the public that they may be excluded from the briefing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings, and images may also appear on the parliament's website or social media pages.

I remind members that representatives from the department can provide factual and technical information, but defence of a government policy rests with the responsible minister. I ask everyone to please remember to press your microphone on before you start speaking and off when you are finished. Please turn your mobile phones off or to silent mode.

**ALLAN, Ms Kathryn, Director, Strategic Policy and Legislation, Department of Justice**

**BOURKE, Mr Greg, Executive Director, Strategic Policy and Legislation, Department of Justice**

**IMPSON, Mr Jamie, Principal Legal Officer, Strategic Policy and Legislation, Department of Justice**

**CHAIR:** Welcome. I invite you to make an opening statement before we move to questions.

**Mr Bourke:** I would like to respectfully acknowledge the Yagara and Turrbal people, the traditional custodians of the land on which we meet and pay my respects to their elders past and present. I thank the committee for the opportunity to appear and give a briefing on the Crime and Corruption (Restoring Reporting Powers) Amendment Bill 2025 to assist the committee with its inquiry.

As part of its first-100-days plan, the government committed to working with the Crime and Corruption Commission to bolster its reporting functions. This commitment was reinforced by the key deliverable in the Attorney-General's charter letter to restore the commission's powers to report on corruption risks in Queensland.

Before 2023, it was commonly understood that the commission and its predecessors had the power to make reports about particular corruption complaints or corruption investigations. However, in litigation brought in relation to a draft report about a corruption investigation the High Court held that there is no general power for the commission to report on a particular corruption complaint or corruption investigation. This is because the general power in section 64 of the Crime and Corruption Act 2001 is to be read in the context of the specific power in section 49. Section 64 enables the commission to report on the performance of its functions, other than the crime function. Section 49 enables the commission to report to particular people, a prosecuting authority, a head of jurisdiction or a chief executive about a corruption investigation where the commission has decided that prosecution proceedings or disciplinary action should be considered. The High Court considered that the power to make a report under section 49 was a specific qualified power. Because of this, the High Court held that the commission does not have an unqualified power to report on a corruption investigation to a different audience.

The bill will, therefore, establish a clear framework for the commission to report on and make public statements about corruption matters. It does so by: inserting new ways the commission performs its corruption functions which deal with reporting and making public statements; clarifying that the commission may report simultaneously the performance of more than one function; inserting a new reporting power specifically for corruption matters; and inserting a new power for making public statements about corruption matters. The new power for reports about corruption matters expressly provides that it applies even if the commission has reported under section 49.

These changes are designed to restore the powers of the commission to report and make public statements as they were previously and commonly understood to exist prior to the High Court decision. Transitional provisions will ensure the commission can rely on the powers to make a report or public statement for any corruption matter, including in relation to things that happened entirely or partly before commencement.

The bill also introduces several new safeguards which build upon the commission's existing obligations under the Crime and Corruption Act and the Human Rights Act. Under the Crime and Corruption Act, the commission is bound to act independently, impartially and fairly, having regard to the purposes of the act and the importance of protecting the public interest. Under the Human Rights Act, the commission must carry out its functions with due regard to its obligations under this act—that is, to make decisions that are compatible with human rights.

The new safeguards in the bill have also been informed by the work of the Hon. Catherine Holmes AC, SC in her *Independent review into the Crime and Corruption Commission's reporting on the performance of its corruption functions*. The new safeguards include a set of criteria that the commission must have regard to when reporting on or making a public statement about a corruption matter. Firstly, a set of general criteria apply to guide commission decisions. For example, the commission must consider the need for accountability and transparency in government or whether releasing the information is otherwise for the public benefit. For public statements, the bill also introduces a prohibition on the inclusion of any recommendations in relation to a corruption matter in a public statement unless they were included in a report to which the statement relates. This reflects the fact that the form of a statement is not conducive to the inclusion of an objective factual summary which is required under section 64(2) in relation to a report that makes recommendations. A separate set of criteria will apply where a person's identity is readily apparent or can be reasonably ascertained from a report or public statement. For example, the commission must consider the standing and status of the individual and whether this warrants greater scrutiny.

The criteria are not exhaustive and the commission may have regard to any other relevant factor in making a decision about whether to report or make a public statement or what to include in a report or statement. Ultimately, the criteria are designed to apply flexibly and allow the commission to determine when and how releasing information to the public about corruption matters will be in the public interest. The commission will reach its decision after considering each of the criteria and weighing them up against each other and any other relevant factor.

While not necessarily a new safeguard, the bill inserts a new provision clarifying that the commission does not have the power to make findings, recommendations or statements that suggest the person is guilty of corrupt conduct. The commission is established as an investigative body. It is bestowed special powers that are not ordinarily available to the Police Service or indeed to other units of public administration. The commission relies on these powers to gather evidence and then refer it to other appropriate authorities or entities for their consideration about what action to take. For example, the commission may refer evidence arising from a corruption investigation to the police for consideration as to whether criminal charges should be laid. In exercising these special powers when conducting investigations, the commission is not making any findings of corruption.

The bill clarifies that the commission is also subject to the same limitation when making reports, be they to the public or to an appropriate authority or entity or in relation to public statements. This limitation extends to making a finding, recommendation or statement in a report or statement that prosecution proceedings or disciplinary action should be considered in relation to a person. This is, in effect, the threshold that applies before the commission can make a report under section 49 to an appropriate authority or entity.

I note one submitter to the committee raised that this limitation in the bill appears at odds with the bill's declaration that the commission may include a factual statement that it has reported under section 49. However, there is a distinction between the two provisions. The commission will be able to make a succinct, procedural statement that a report has been made under division 5—that is, the

division where section 49 is located. Specifically authorising this type of statement and limiting others is designed to minimise the risk of statements being made by the commission which may be misinterpreted as tantamount to a finding of corruption.

The scope of the limitation in new section 48B, insofar as it extends to the commission indicating that there is insufficient evidence to support the start of a proceeding against a person, was also raised by the submitter. While it may seem appropriate for the commission to make a comment that its investigations have not uncovered evidence of corruption, there is a risk where an investigation involves multiple subjects. A statement that there was insufficient evidence uncovered in relation to one person is likely to give rise to an inference that such evidence was, in fact, uncovered in relation to another. The limitation does not prevent the commission making a factual comment about information that is already in the public domain—for example, the fact that a person has been charged or convicted of an offence or had their position terminated as a result of disciplinary action.

An additional safeguard included in the bill is to expand the scope of procedural fairness that must be afforded to a person who is the subject of adverse comment in a report or public statement. Recent decisions of the High Court in relation to what procedural fairness entails have confirmed the general law in relation to anti-corruption commissions.

In 2024, the High Court handed down an important decision in the case of *AB v Independent Broad-based Anti-corruption Commission*, with respect to the proper construction of the procedural fairness provision in the Victorian Independent Broad-based Anti-corruption Commission Act 2011. In that matter, the Victorian commission gave the plaintiff a redacted version of its draft report to afford procedural fairness. The report contained proposed adverse findings against the plaintiff, but the Victorian commission did not give the plaintiff access to particular documents upon which it based its findings. In a unanimous joint judgement, the High Court held that the Victorian commission was required to give the plaintiff the adverse material upon which the adverse findings were based. This could usually be achieved by giving the person the substance of the material, which will involve a full account of its essential content.

In line with the High Court's decision, the bill includes amendments to clarify the obligation to provide procedural fairness in line with the common law. The bill also introduces clear timeframes for the process. A person will have 30 days to make any submissions on a draft report or statement or related evidence and the opportunity to apply to the commission within 14 days for an extension of time. If the commission refuses the request for an extension, the person will have a further 14 days to apply to the Supreme Court for an extension of time.

I note that some submitters have raised an issue that the obligation to provide procedural fairness does not extend to reports that are not published by the tabling process. As is the case under the current act, the bill requires all commission reports to be tabled or published through the process outlined in section 69, which requires the Speaker or the Clerk to table the documents in the Legislative Assembly. Once the report is tabled in this way, the commission could republish the report, for example on its website, as it is already part of the public record. No changes to the procedural fairness provisions are considered necessary, as all reports in the first instance will be tabled or taken to have been tabled.

The bill amends section 69 in relation to the tabling of commission reports to ensure that the decision to table the report rests solely with the commission. Under current section 69, only particular reports are required to be tabled. This applies to a report on a public hearing or a research report or other reports that the Parliamentary Crime and Corruption Committee directs the commission give to the Speaker for tabling. Under the bill, the commission will simply require to table every commission report. To be clear, this does not have the effect of making reporting on corruption matters mandatory; however, if the commission chooses to prepare a report under the new power inserted by the bill and the report is finalised and signed by the chairperson then the report must be tabled.

Finally, the bill includes provisions to validate past reports and public statements including any related action taken at the commission. It is acknowledged that some submitters oppose the bill's retrospective validation provisions. The approach taken in the bill is designed to ensure legal certainty. It is ultimately a policy matter for government. That concludes my remarks.

**CHAIR:** We just heard some evidence from former Logan City councillors—specifically, concerns around fair treatment and accountability of the CCC. With the new guidelines and restrictions around reporting, could you outline what role the parliamentary commissioner and the PCCC will continue to have as oversight of the CCC?

**Ms Allan:** The role of the Parliamentary Crime and Corruption Commissioner and the role of the Parliamentary Crime and Corruption Committee remain unchanged by this bill. The Parliamentary Crime and Corruption Committee will continue to oversight the functioning of the CCC and the Parliamentary Crime and Corruption Commissioner is able to assist the PCCC in discharging its oversight functions under the Crime and Corruption Act.

**CHAIR:** Would it be fair to say that what was operating before was generally considered to be accepted lawful behaviour in terms of reporting and that this is a restoration of those powers but with enhanced safeguards that are overseen by these bodies? Would that be a fair summary?

**Ms Allan:** Certainly, the policy objective of the bill is to restore the CCC's powers to make public reports and public statements as they were considered to exist prior to the High Court decision, as you have noted, with additional safeguards. To the extent to which the Parliamentary Crime and Corruption Committee will oversee the activities of the CCC, including the exercise of its new reporting powers and public statement-making powers under the bill, that will be the case.

**Ms SCANLON:** Thank you for appearing before the committee. The previous bill introduced by Labor in the last term gave greater weight to transparency than the need to protect individual rights in cases involving investigations of elected officials. Why does this bill not hold politicians to a higher standard, like in the bill introduced by the former Labor government?

**Ms Allan:** The approach taken in this bill is ultimately a policy matter for government; however, there are a number of criteria that will apply to the making of any report or public statement under the bill. They include a number of general criteria and specific criteria. The criteria that apply in relation to whether or not an individual should be identified extend to whether the standing and status of the person warrants greater public scrutiny as well as the seriousness of the person's conduct. They may be considerations that would be relevant to whether or not, for example, an elected official's conduct warranted greater scrutiny.

**Mr Bourke:** That is a specific legislative example in section 64A when you are weighing up standing and status. An example is where a person is an elected official. It is signposted in that way.

**Ms SCANLON:** I acknowledge the points you have made. The Holmes review, though, does expressly outline the need for there to be a report for elected officials. Do you accept that this bill has failed to respond to the Holmes review recommendations that advised an elected office holder report be prescribed?

**CHAIR:** Member, I think you are asking a policy question of the department. I will allow the department to answer as they see fit, recognising that that is a policy question. If you have a response to that, I am happy for you to give that.

**Mr Bourke:** The Holmes report prescribed a range of types of report, and this bill takes a more general, flexible approach in relation to reporting but with specific criteria. I think our previous answer talks to the issue you have flagged about signposting that certain types of individuals may warrant greater scrutiny. Again, the approach this bill takes is not through those prescriptive report types. It does take a different approach. That was really a policy decision of government.

**Ms Allan:** Just as a general observation, neither the Holmes report nor the government bill mandates reporting. All forms of reporting were to be at the discretion of the commission.

**Mr FIELD:** What measures in the bill ensure that individuals affected by the reports or public statements are afforded the appropriate procedural fairness? Could you please provide the committee with more information about the expanded procedural fairness framework in the bill?

**Mr Impson:** Certainly. The bill will expand on the current procedural fairness requirements as outlined by Mr Bourke to relate to the High Court's decision in *AB v IBAC*. That requires at the common law that the material upon which some adverse comment is based should be given to the person if it is not available within the report and the person might need it to be able to make a fair response. The bill also introduces a discretionary procedural fairness power for the commission to provide procedural fairness to a person who is identified in a report but about whom adverse comment is not made. The distinction with the current position is that the requirement only applies if the person has an adverse comment made about them.

**Mr BERKMAN:** I want to ask some questions that go to the QLS submission and their evidence a moment ago, particularly around the role that the public benefit plays in the criteria for either making a public statement or reporting on an issue. I appreciate that in the department's response you have effectively said that it is a matter of government policy that there is no hierarchy of the application of those criteria. I am interested in whether there is scope to, without necessarily creating a hierarchy, emphasise the primacy of public benefit in these decisions.

**Mr Impson:** The bill also relies on the commission's overriding obligation under section 57, which requires that at all times it must act having regard to the purposes of the act and the importance of protecting the public interest. That obligation will apply to the commission's new reporting and public statement-making powers under the bill. The criteria were also designed to give substance to the overriding obligation to act in the public interest in this particular context.

**Mr Bourke:** A hierarchy—I know you are saying not that—would provide greater rigidity. I think each individual matter will present with a different factual scenario that will require a balancing. Most public interest tests will largely require a balancing of different factors, and having regard to the particular context of that matter will be up to the commission as the decision maker to take those into account. This gives them very clear guidance about the factors they should be turning their minds to, though.

**Mr BERKMAN:** That kind of overarching public interest in the objectives of the act I think is a very useful context. Given their concerns, QLS suggested that the explanatory note could potentially make that clearer. I suppose that is drafted now; it is what it is. Might there be some further emphasis placed on that overarching public interest in the second reading debate to, I guess, allay QLS's concerns?

**Mr Bourke:** The scope of what would occur in a second reading debate would be a matter for the Attorney.

**CHAIR:** I was going to suggest that, but I will allow you to respond if you have a response.

**Mr Bourke:** The operationalisation of this will be at the commission's discretion. Obviously, they will have a framework to give effect to how they might go about relaying information to an individual. That would be a matter to specifically put to them. We did hear aspects of the Law Society's comments. As you said, the explanatory note is what it is and it is there for public consumption.

**Ms MARR:** You touched on this in your opening statement, but, considering the recent release of the Trad and Carne CCC reports in the Legislative Assembly, how will reports of this nature by the CCC be made public in the future under this bill? In answering, can you please talk us through the steps from corruption complaint to final tabling in parliament?

**Ms Allan:** The bill introduces a new reporting power that allows the commission to prepare a report on a corruption matter, and 'corruption matter' is defined in the bill. That sets the scope of when and how the commission will be able to report. A corruption matter is defined broadly as 'a complaint about, or information or matter ... involving, corruption made or notified to the commission, or otherwise coming to its attention, whether or not the complaint has been assessed or any action has been taken in relation to the complaint'. It also applies to 'a corruption investigation, whether or not the investigation is complete'. It will be at the commission's discretion as to when and how it wishes to report or make a public statement about a corruption matter, provided that falls within that broad definition of 'corruption matter'.

**Ms SCANLON:** With respect to the previous comments made, as you would be aware the PCCC provided a report into the investigation of matters pertaining to the CCC and the Logan City Council. Without verballing the chair, there were comments made to the effect of some of the concerns where there is discretion and where the act is not clear. Would you accept that the previous CCC reporting bill introduced by the former Labor government expressly gave weight towards transparency of reports in relation to elected officials whereas this bill is relying on the discretion of the CCC in balancing those factors in the same way that they would for any other matter that comes before them?

**CHAIR:** That question is about a previous bill. If you want to comment on this bill, the bill before us—

**Ms Allan:** I think, as we have stated, the bill introduces a set of criteria that will apply whenever the commission is deciding whether or not to make a report or public statement. One of those criteria, when it comes to the decision of whether or not to identify an individual as the subject of a report, goes to the standing and status of that person and whether, because of that, it warrants greater scrutiny of their conduct. I think we have pointed to the particular examples that are provided in the bill.

**CHAIR:** The Queensland Law Society in their submission and evidence outlined concerns with the CCC being able to make a report prior to the completion of an investigation. We explored extremes of the Fitzgerald inquiry and how public that was and how a large investigation like that can take some time and there might be some appropriateness in reporting during that. What are some of the benefits of the CCC being able to make a report prior to an investigation being finalised? Can you provide an example of when it might be useful for the CCC to report early on a corruption matter?

**Ms Allan:** Yes. Because of the broad definition of ‘corruption matter’, the CCC could conceivably prepare a report before an investigation or assessment was finalised. That will obviously be a matter for the commission having regard to the general criteria that apply, which require it to have specific regard to whether it has finalised its assessment of the corruption matter and any action it has taken, the seriousness of the matter as well as whether the report or statement may prejudice any proceeding that the CCC is aware of or any reasonably foreseeable future proceeding in relation to the corruption matter or any ongoing investigation by the CCC or a law enforcement agency.

Depending on the prevailing circumstances that present themselves, it may be that the CCC considers that the circumstances, balancing all of the factors, warrant a public report. To give you a specific example, potentially there may be conduct that is ongoing in a unit of public administration that the CCC has been investigating involving multiple people. Perhaps the investigation is at different points along the way with respect to how various people have been engaged in the particular conduct but it is of such a serious nature that they feel that a report is necessary to be released in the public domain to ensure that particular corruption risk is brought to the attention of the public sector and the broader public.

**Mr Bourke:** That picks up the commission’s corruption prevention function that they hold as well. As per Kathryn’s example, there are some benefits in getting learnings about broader corruption risks about a particular practice out to units of public administration. Again, it would be at the discretion of the CCC, but I think that acknowledgement really goes to the heart of their prevention function, that is clearly within their remit under the act.

**CHAIR:** If somebody is aggrieved by that process and feels the CCC has gone outside the scope of the standards that are set down, is there a process they can follow to air their grievance and have it heard or oversights? What would be the procedure?

**Ms Allan:** In the first instance, the procedural fairness provisions in the bill would apply. Any person who is identified in the report as the subject of adverse comment would be given the opportunity to make submissions in response to that adverse comment. That would be the first step. If after that procedure had run its course and ultimately the report was published, in accordance with the procedural fairness provisions that are in the bill that person would be given the opportunity to make submissions to the commission in relation to the adverse comment. That person’s submissions need to be fairly stated in the report when it is published, so they would be on the public record as well. If at that point, after the publication or tabling of the report, the person wished to pursue other avenues, or even prior to the publication, there are options available to them. This bill does not alter any existing legal avenues that may be available to the individual, for example, in the form of a judicial review application.

**Mr BERKMAN:** I want to touch again on the criteria for the reporting and making of public statements. The criteria are, I would suggest, quite broad, including ‘any other relevant matter’. Again, QLS raised concerns about the breadth of that discretion and the potential that it could be applied very differently by different decision-makers at different points in time. Do you have any response to that?

**Ms Allan:** The criteria have been drafted to ensure the commission is required to have regard to the particular factors that are set out in the legislation. Beyond that, it will be a matter for the commission to interpret how they should apply to a particular situation in order to give them the flexibility to take into account, for example, exceptional circumstances if they arise. They are designed to be able to be interpreted depending on the circumstances that present themselves.

**Mr FIELD:** Could the department confirm that the commission retains discretion on whether to prepare and table a report? Could you explain how that addresses concerns about mandatory reporting?

**Mr Impson:** The commission will continue to retain a discretion about whether it prepares and signs a report. Once the report is signed, there is a requirement that it would fall within the tabling provisions in section 69, but the effect of that is just that every report that is published will be tabled. The commission will still have a discretion, before that is enlivened, to decide if it wants the report to be released.

**Ms SCANLON:** Can the department provide what has changed from the previous bill introduced—what has been removed or added to this bill—and how it aligns with the Holmes review? I appreciate that you may need to take that question on notice because I assume there will be quite substantial responses. I have a follow-up question, unless you have an answer to that question today.

**Mr Bourke:** To be clear, member: you are asking about the approach of this bill versus Holmes, or this bill versus the former government’s bill?

**Ms SCANLON:** Both. I would like to know how the previous bill compares with this bill—what has been added or removed—and how this bill before the House aligns with the Holmes review recommendations.

**Mr Bourke:** I can talk you through the approach of this bill in line with Ms Holmes's report. It is not entirely consistent with the independent review report, but this bill partially implements some recommendations of the independent review. The key similarity lies in the criteria introduced by the bill. These are broadly similar to the factors recommended by the independent review report as part of the public interest. For example, both require the commission to consider the need for transparency and accountability in government, the seriousness of the matter and the impacts on an individual's privacy and reputation. A key difference lies in the fact that the bill—I think we touched on this earlier—does not implement different report types recommended by the independent review or the recommended circumstances for making a public statement. As outlined in the statement of compatibility for the bill, the policy position preferred by the bill was to allow the commission the flexibility to make reports and statements in the way that it determines is appropriate and necessary. The statement of compatibility notes that subjecting the commission's ability to make reports or statements to strict conditions is unnecessary having regard to the safeguards adopted in the bill and may prevent important information about corruption from being released when appropriate. That is probably a precis of the difference between the two.

**Ms SCANLON:** I note the commission of inquiry relating to the CCC outlined that, other than in exceptional circumstances, before a charge is laid by a seconded police officer the CCC must seek the opinion of the DPP. That followed some of the inquiries made into particularly the Logan City Council. The Holmes review makes recommendations that there should not be comments made at large. Given that this bill allows statements to be made and reports to be made before an investigation has been completed, with some significant scope, how have you reconciled those previous recommendations from the commission of inquiry with what is now in this bill?

**Ms Allan:** As Mr Bourke alluded to, the general criteria that apply in relation to making a report or public statement—while not putting hard and fast limitations on the commission in terms of when they can report—do require the commission to have regard to whether it has finalised its assessment of a corruption matter and any action it has taken in relation to that and also to have regard to the extent to which making a report or statement may prejudice any proceeding that is ongoing or an ongoing investigation.

**Ms MARR:** To what extent does the bill reflect the commission's historical practice and the public's expectation of transparency in anti-corruption efforts? How does restoring the commission's reporting powers improve public confidence in the integrity of government and public institutions?

**Mr Impson:** The primary policy objective of the bill is to implement the government election commitment to restore the commission's reporting powers. The bill will make sure that the commission is allowed to make reports in a way that it was previously considered to be able to, subject to the new safeguards that are introduced by the bill. This means that the commission will be able to continue its practice of making reports about corruption investigations or corruption matters as defined in the bill, and these will be able to be released to the public in line with the new safeguards that are introduced by the bill. The commission will also be required to consider, as one of the criteria when determining whether to make a report and what to include in a report, the need for accountability and transparency in government and the public sector. This reflects the existing position at international human rights law in relation to Australia's obligations under the convention against corruption.

**Mr BERKMAN:** The PCCC submission talked about some notional distinction between the publication and tabling of reports. There is an obligation in the bill for any report that is prepared to be tabled and then when it is tabled it is effectively in the public domain and for all intents and purposes is published. I wonder if there is anything I am missing in that.

**Mr Impson:** While the bill refers to a report being tabled or published under section 69, this is because of the difference between tabling and publishing in the Legislative Assembly. It does not in and of itself create an alternative way for the commission to publish a report. As the department mentioned in the departmental response at pages 19 to 21, not all documents that are tabled in the Legislative Assembly are necessarily published. The Legislative Assembly must order that a document is published. If the Speaker tables the document when the House is sitting, standing order 33 provides that the document is deemed to be published by order of the Legislative Assembly and if the Clerk tables the document when the House is not sitting, section 69 of the Crime and Corruption Act provides that the document is taken to have been tabled in and published by order of the Legislative Assembly.



**Mr Bourke:** It is quite technical. It will, in effect, be tabled. It is just the minutiae of the mechanics of the process and how it gets there.

**Mr BERKMAN:** For practical purposes, the tabling of a report makes it publicly available, whether it is formally published or not?

**Mr Impson:** Yes.

**CHAIR:** The CCC has a couple of functions, one being its corruption arm and the other being criminal investigations. I want to get clear the definition of both, specifically related to the evidence given earlier by former Logan City councillors around their criminal matters. Are there restrictions in this bill in relation to corruption? Can a criminal offence be deemed to be corruption under that definition and, if so, what restrictions will be in place in the future about media statements et cetera being made in relation to those things?

**Mr Impson:** The starting point is that the bill is not altering what is considered corrupt conduct; it is allowing reports and statements to be made in relation to corruption matters as defined in the bill. Broadly speaking, there are two broad types of corrupt conduct captured by the act under section 15(1). First, there is conduct which, if proved, would be a criminal offence. This is capable of capturing any criminal offence with elements which involve the other parts of the definition, and this can apply to anyone who is captured by the act. Second, there is conduct which, if proved, would be a disciplinary breach providing reasonable grounds for terminating a person's services. This is a separate limb which applies to people other than elected officials. That is the starting point for what is corrupt conduct under the act.

In relation to restrictions on publishing information about criminal conduct, as Ms Allan said, the criteria will require the commission to consider if a person is able to be identified from a report or public statement and what effect the statement or report could have on prejudicing a proceeding that is reasonably foreseeable. In relation to a criminal matter that could come before a court, the commission would need to make sure that any statement it is making is not prejudging the outcome of that matter.

**CHAIR:** With that in mind, if the CCC were to make a comment in the media in relation to a criminal matter, the restrictions are quite tight in relation to what they can say in terms of factual information only—for example, 'a person has been charged'—rather than commentary about behaviour et cetera.

**Mr Impson:** There is no express restriction on the commission making such a statement. The commission is required to consider the effect it could have on prejudicing a proceeding. The restrictions come in relation to a section 49 report and what comments the commission can make about the actions that have been taken in respect of a person. It cannot say that the person is guilty of an offence or that the person should be found guilty or should be prosecuted for an offence. It can make a procedural statement to the effect that it has made the section 49 report for it to be considered by a unit of public administration or a prosecuting authority.

**Ms Allan:** Adding to what Jamie has said, new section 48B inserted by the bill makes it very clear that the commission cannot make any finding or statement that a person has engaged in, or is about to engage in, corruption; or any finding, recommendation or statement that a person should be prosecuted for a criminal offence or that they should be considered for prosecution proceedings or disciplinary action. That limitation will now be very clearly stated on the face of the act.

**Ms SCANLON:** The Queensland Law Society raised some concerns about public statements and reports in relation to matters assessed as frivolous and vexatious. Given the CCC can make comments and reports while at the same time being limited by section 48B, as you outlined, if a matter is not being referred to a unit of public administration because there is insufficient evidence, how is someone exonerated if you cannot make any comment to that effect?

**Ms Allan:** To return to the criteria that apply, there would be nothing to prevent the commission from making a statement to the effect that a matter had been investigated and then indicating the outcome of their investigation. It is not exonerating the individual as such, but they would be able to put in the public domain the results of their investigation and the fact that no referral had been made.

**Ms SCANLON:** Proposed section 48B(1)(c) says the commission must not 'make any finding or statement that there is evidence or insufficient evidence'. You are saying the CCC could not say there is insufficient evidence. They would just have to say, 'We have not referred this further,' and that would be, in effect, exonerating that person?

**Ms Allan:** Ultimately, that would be a matter for the commission. Yes, it is clear they cannot say there is insufficient evidence because there is a risk, I suppose, if the commission can make a statement to the effect that there are other individuals involved in the investigation and the same statement is not made about them then the implication would be there was sufficient evidence with respect to those individuals.

**Mr FIELD:** On every single corruption investigation will a report need to be prepared by the CCC?

**Mr Impson:** The bill does not change the existing provisions in relation to what the commission must report on, so the position will continue that it is not required to report on every corruption matter. It is a matter for the commission to determine which corruption matters it wishes to report on, and it will do so guided by the new safeguards inserted by the bill.

**Ms SCANLON:** Given the scope that the CCC will have to report, I note the commission of inquiry recommended the CCC transition to a predominantly civilianised model for its corruption division. Can you provide the committee with an update on where the CCC is at with that transition? I appreciate it may be a question better suited to the CCC itself.

**Mr Bourke:** I suspect it would be a matter best directed to the CCC.

**Ms MARR:** Has the department considered the potential consequences of failing to validate past reforms, and how does the bill address those risks?

**Ms Allan:** The consequences of not validating past reports and statements would be that there was not legal certainty in relation to those past reports and statements, and the implication may be that the commission felt it was unwilling to restore those past reports and statements to its public website.

**Mr RUSSO:** The explanatory notes state—

*Clause 8 amends the heading of section 50 from 'Commission may prosecute corrupt conduct' to 'Commission may apply to QCAT about corrupt conduct'.*

Why does the commission have to go to QCAT?

**Mr Impson:** The provision in section 50 is one of the ways in which the commission can deal with corrupt conduct. There are obviously other options, where a prosecuting authority could prosecute someone for a criminal offence. The change to the heading reflects the issue that, when you are making an application under QCAT, it is for a finding by the tribunal that a person has engaged in corrupt conduct. That is distinct from another finding—for example, that someone has engaged in a criminal offence and should be liable to sentencing. The change to that heading reflects the distinctions between those applications and the fact that one has only civil consequences and one carries criminal consequences.

**Ms Allan:** These are not substantive changes included in this provision. They are really just to reflect a change in drafting style to the existing provisions. The change to the heading reflects the change that would be made under section 9 of the Crime and Corruption and Other Legislation Amendment Act 2024, which has not yet commenced. Accordingly, a later clause in the bill omits that section from that act because the change is now made here.

**CHAIR:** How does the bill clarify the commission's role as an investigative body rather than a prosecuting authority, and in what ways does the bill clarify that findings of corruption are reserved for other authorities and not the commission itself?

**Ms Allan:** The primary way the bill does that is by the insertion of new section 48B into the act, which provides a clear limitation on the commission's ability to make findings, recommendations and statements about whether or not a person has engaged in corruption and prevents them from making any recommendation that a person be prosecuted for a particular offence. That is because the commission's role is limited to investigating those matters and those sorts of decisions are for other bodies to make.

**Ms SCANLON:** I am mindful of the considerable time the department has taken in drafting multiple iterations of bills in relation to the reporting functions of the CCC. What instructions was the department given in relation to this bill? Specifically, were you asked to craft this from scratch, or was the department instructed to expand on the Crime and Corruption Amendment Bill 2023?

**CHAIR:** I will get some advice before you answer that. Member, that question relates to a process of cabinet and I am not sure whether they would be able to answer that. I will allow them to comment on the question itself, but I do not think that question is in order.

**Mr Bourke:** I tend to agree, Chair. Obviously we had regard to the fact, as you pointed out, that there is a 2023 bill, a 2024 bill and an independent review. We were not blind to the body of work that exists here and regard was had to all aspects of that in developing the bill. You will see different elements of different things having regard to different aspects of what has developed as quite a significant body of work around the appropriate scope of the commission's reporting powers.

**CHAIR:** Member for Thuringowa?

**Ms MARR:** I will defer to the chair, thank you.

**CHAIR:** Could you outline how the bill prevents the commission's reports and public statements from prejudicing ongoing or foreseeable legal proceedings?

**Ms Allan:** The new criteria that will be inserted by the bill require the commission to have regard to whether or not the making of a report or public statement may prejudice any proceeding that the CCC is aware of or any reasonably foreseeable future proceeding in relation to the corruption matter.

**Ms SCANLON:** Given some of the recommendations about publicly reporting cabinet documents, will this be a cabinet document that will be publicly disclosed?

**Mr Bourke:** That is a matter for government determination.

**CHAIR:** That is a decision for government, member. I rule that question out of order. It being 12.45 pm, I close the briefing. There were no questions taken on notice. Thank you for your attendance today.

**The committee adjourned at 12.45 pm.**