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 HEARING—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 10.30 am.

CHAIR: Good morning. I declare open this public hearing 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 here today are: Peter Russo MP, the member for Toohey; Russell Field MP, the member for Capalaba; Michael Berkman MP, the member for Maiwar; and the Hon. Meaghan Scanlon MP, the member for Gaven, who is substituting for Melissa McMahon MP, the member for Macalister. On the phone we have Natalie Marr MP, the member for Thuringowa.

This hearing 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 also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

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BRODNIK, Ms Kate, Principal Policy Solicitor, Queensland Law Society

DEE, Ms Genevieve, President, Queensland Law Society

GNECH, Mr Calvin, Chair, QLS Occupational Discipline Committee, Queensland Law Society

MAROSKE, Mr Daniel, Member, QLS Occupational Discipline Committee, Queensland Law Society

CHAIR: Welcome. I invite you to make an opening statement.

Ms Dee: Thank you for inviting the Queensland Law Society to appear today. I respectfully acknowledge and recognise the traditional owners and custodians of the land on which we meet.

As the committee will be aware, the Law Society is the peak professional body for the state's legal practitioners. We are an independent, apolitical representative body. Our concerns with this bill are not politically motivated. They relate to the impact these amendments will have on the rights of individuals who have been referred to an investigative body with extraordinary powers. They relate to ensuring that procedural fairness is properly afforded and that any information published is done so appropriately so as to preserve the integrity of the state's corruption watchdog.

The society is supportive of a strong commission where complaints and complaint processes are unable to be weaponised. We are concerned that allowing the commission to report or make public statements before a matter is finalised will lead to increased attempts at weaponisation. The risks of harm associated with this, especially given the volume of complaints received by the commission in each year, cannot be ignored. We refer to comments made by the Hon. Catherine Holmes AC, SC in the *Independent review into the Crime and Corruption Commission's reporting on the performance of its corruption functions.* Public confidence indeed is likely to be damaged if a report is prematurely made on an investigation which comes to nothing. Nor is it clear why reporting on an incomplete investigation is likely to be educative or provide a deterrent—it may in fact be counterproductive if the premise of the report proves to be unfounded—or why those results cannot be achieved at the conclusion of the investigation. As the society has identified, there may be adverse consequences for individuals from premature reporting, including to their reputation, livelihood and wellbeing. This is particularly significant where complaints involve people in regional areas who may be more readily

identifiable and where the impacts of public statements and publication can be more acutely felt. As stated in our written submission, the bill should be amended so these new powers extend only to matters where no further action is to be taken by the commission.

I am joined today by Calvin Gnech and Daniel Maroske from the society's Occupational Discipline Law Committee and by our principal policy solicitor, Kate Brodnik. Calvin and Daniel routinely act for clients involved in these types of investigations and can speak to the importance of ensuring appropriate safeguards are in place. We could welcome any questions the committee may have.

CHAIR: I draw your attention to the part of your submission that states—

'Corruption matter' must be refined and limited to matters where an investigation has been finalised.

In July 1989, shortly before I was sworn in as a police officer, the famous Fitzgerald report was handed down. It was a very lengthy investigation into systemic corruption which was very public throughout the investigation. Are you suggesting that every investigation into any corruption matter should be kept secret until that investigation is completely finalised? If so, are there any circumstances where you could see that reporting prior to the investigation being finalised would be justified in the public interest?

Mr Gnech: You have identified perhaps the most significant event of corruption in the history of Queensland. Respectfully, sometimes it is not overly helpful to refer to the most significant event. The QLS is addressing more run-of-the-mill type events. To answer your question specifically, there will obviously be occasions where it is in the public interest to release information at an earlier time. If I could perhaps just jump to what I intended to say, that might answer the committee's question.

In circumstances where the CCC is the peak body for corruption in this state, there is an ongoing history of the development of corruption. We are in a position today where the definition of corrupt conduct is far wider than the traditional public viewing or interpretation of corruption. In our submission, that is a paramount factor that must be in the public interest when determining whether to release information. We do not want to see a situation where two things happen: innocent people have their reputations unnecessarily harmed; but, more broadly speaking, the CCC becomes a body that is used to weaponise complaints and is not fulfilling its obligations and functions under the CC Act.

Ultimately, the strong position of the QLS is that in any scheme where public information is being released it must be in the public interest and there must be strong language in the explanatory notes to protect against those types of factors that I am sure everyone would agree should not occur. In our submission, it is also very important that the wording is in such a way that we do not find we are in a vastly different space depending on who holds positions at the CCC. What I mean by that is that the power to release public information under a chairperson is done in an entirely different way pending, perhaps, a change in government or a change of position within the CCC. It is for that reason that we make the submission there must be strong language, both in the protections and also in the explanatory notes, around those safeguards.

To answer your question, yes, there will be occasions where it is in the public interest to release information prior to the end of an investigation, but the safeguards would have to be extremely strong for that to occur to protect against any reputational harm that is ultimately found to be unnecessary.

CHAIR: As you identify, I intentionally went to the most serious corruption investigation in Queensland. You would concede there is scope for public information to be released under similar circumstances or systemic circumstances such as those. You outlined that safeguards should be in place, but this bill does have safeguards in it. Do you think they are inadequate?

Mr Gnech: No, we do not think they are inadequate. The space we make submissions in with regard to safeguards is: it does not matter whether we are talking about this bill or any other bill or piece of legislation; safeguards are applied in a discretionary way, and there is no way of getting around that. It is, unfortunately, the way the legislation works. Safeguards will be applied in a discretionary way, so it is important that the explanatory notes are very strongly worded with regard to how those safeguards are to be applied, particularly around the public interest test, to ensure, as I have previously said, there is not a complete change in scope in how the release of information is undertaken when the people who hold the position within the CCC are exercising the discretion that is allowed for them under the act.

Ms SCANLON: As the QLS may be aware, in relation to the inquiry into the CCC's investigation of former councillors of Logan City Council the former PCCC chair wrote—

The only statutory limitation on the dissemination of material held by the CCC, including that obtained under coercion, is whether the CCC considers it 'appropriate' to be disseminated. It is not hard to see that this has the potential to create significant public policy problems, especially in terms of procedural fairness and natural justice, if such material is disseminated in particular circumstances.

I note that in your submission you raise concerns about the CCC being permitted to report and make public statements at any time, even prior to an investigation being completed. Can you elaborate further on some of those unintended consequences?

Mr Maroske: It might be helpful to give a little bit of context to my background. I was previously a senior lawyer with the CCC before I moved into private practice, so I suppose I have seen corruption allegations both inside and outside the tent—apologies for the clunky analogy. There is no doubt that being named as a subject officer in a corruption allegation is a very significant event in any person's life. It is often coupled with either parallel disciplinary proceedings or criminal proceedings, potentially. We do experience a number of people seeking leave, whether it be for mental health issues or something like that. I do not want to downplay the significance of being named in something like this. Throughout the processes that I have been involved in—whether it be assessing, investigating, advising, being part of the hearings et cetera—often these complaints essentially lead to no further action or an outcome where nothing has been substantiated. I suppose it is the risk that something might be made public or commented on in circumstances where, at the end of the day, no outcome is arrived at and there is a significant risk that might arise from that that could be avoided had comment been reserved until such time as that has been completed.

Mr FIELD: With respect to retrospective validation of reports and statements, the Attorney-General said in her explanatory speech that the ramifications of the Carne High Court decision were significant for the operations of Queensland's CCC. She further stated—

In fact, the CCC has, as a result, removed 32 investigative reports and 256 media releases from its website.

Does the Queensland Law Society believe these reports and statements should be validated so they can be restored to the website?

Ms Brodnik: As stated in our submission, we have a fundamental objection to the retrospective validation of those reports. Following on from what Calvin and Daniel have said, the people who were the subject of those investigations proceeded through the process based on the law at the time, which were the then current provisions of the CC Act. They did not have the benefit of being subject to the new safeguards that are in this bill. As stated in the department's response to a number of submitters' concerns, they do not apply retrospectively and there is no practical way you can go back in time while someone is going through an investigation and afford them procedural fairness.

As the law currently stands, the publication of those media statements and reports is limited to what is in the act. Because of the fundamental infringement on a person's right to procedural fairness and to be certain about the law at the time they are going through the process, we would say that those media statements should not be on the website following the passage of this law. It might be appropriate that for investigations that commence after that point they go on the website and are reported in any way that the CCC is now empowered to do, but for anything before the law changes that would just be unfair.

Mr FIELD: Are there any examples that come to mind where that should not be so?

Ms Brodnik: I do not have any examples of individual media statements, but our point is that procedural fairness needs to be applied across the board. You cannot pick and choose who you are able to give that right to.

Mr Maroske: When the CCC finalises the report, there is a decision that has been made that they have taken the steps they need to in order to provide procedural fairness. That is a decision that has been made at a point in time, and we are talking about reports that are published many years after that decision was made. It may be that circumstances have changed such that the impact on those impacted people—and we are not just talking about the subject officers but witnesses, whistleblowers and people like that who may have wanted to remain anonymous—or circumstances have changed that that anonymity has not quite been followed or it might be that the positions or roles have changed or they have moved out of the public sector. There is a whole range of circumstances where there might be a risk to procedural fairness in releasing it now, some years later. It needs to be re-evaluated before that report is released.

CHAIR: Would you agree that it was widely considered to be lawful behaviour before the High Court made its decision? Those reports were considered to be quite lawful at the time?

Mr Maroske: Yes, I understand the point that is being made. While we have the opportunity to examine the situation now, that is why we are having this conversation.

Ms SCANLON: Your submission raises concerns about the scope of public statements and reports on matters assessed as frivolous and vexatious. Does the QLS have any views about the CCC's ability to make comments on reports while at the same time being limited in making particular comments as set out in proposed new section 48B? For example, new section 48B(1)(c) states—

(1) Despite any other law ... the commission must not—

...

(c) make any finding or statement that there is evidence, or insufficient evidence, supporting the start of a proceeding against a person.

Ms Brodnik: Sorry, could you repeat the question?

Ms SCANLON: Does the QLS have any views about the CCC's ability to make comments and reports while at the same time being limited in making particular comments, as set out in proposed new section 48B?

Ms Brodnik: I believe a few of the other submitters raised some potential difficulty or some tension between that provision and the other provisions that allow them to report. The QLS's perspective is that, providing the CCC, in making any preliminary comments, were able to effectively apply the new safeguards that are in place and ensure they were not doing anything to compromise unnecessarily the reputation, livelihood and wellbeing of a person, then it is up to the CCC as to how and when they will make those comments.

Ms SCANLON: Do you believe that proposed section 48B, though, does do what you said, which is protect the reputation or livelihood of that person, sufficiently?

Ms Brodnik: Not insofar as it would still allow the provisions in the bill to proceed, which is to allow a report or public statement to be made at any time. Our submission is that there are reasons you wait to the end of a process to make a statement on it. New section 48B does put expressly in the act that the commission is not to report that it has found in any way. The concern is that it can still make a statement prematurely, in our submission.

Mr Maroske: I think the question is getting at: can the CCC positively come out and exonerate someone and say, 'We don't have enough evidence and therefore this is why we have taken the decision we have'? That turns back to the risk of the fact that this has gone to the CCC in the first place being known to the public. Had that initial report not been made and had this discretion been exercised to not have things out in the public eye, I suppose that turns back to the previous discussions we were having.

Ms MARR: Does the Queensland Law Society agree that the bill's provisions are consistent with the natural justice obligations at common law by affording the person a right to be heard and providing procedural fairness?

Mr Gnech: Yes is the answer to that question but for one aspect—and that is part of the QLS submission. That is, upon those procedural fairness processes being completed, the final stage of that procedural fairness is to notify the person of the outcome of that decision so that they know in advance what is being published and how their submissions have been received.

Mr BERKMAN: If I understand your evidence so far, you have highlighted that considerations of the public interest need to be central to any decision-making about the making of reports and the release of statements. Does that concept of public interest require further clarification in any amendments or changes to the bill to more clearly direct the circumstances in which such a release or report is made?

Mr Gnech: Our focus is on the explanatory notes. The bill itself addresses the concern about public interest but it is really important because—and I have already addressed this—safeguards are a discretionary interpretation by the decision-maker of the day. We impress upon the committee to ensure that everything, from the explanatory notes to governmental policy, is really strong so we do not have a big difference depending on who is holding a certain position at the time. It does not matter whether it is the final decision about releasing the report or making an interim release at the beginning; the safeguards need to be really strong to prevent what Her Honour former Justice Holmes said in her report when she spoke about 'public confidence is likely to be damaged'. That public confidence is not a general public confidence only; it is a public confidence in the organisation of the CCC as well. Without a strong organisation, a strong watchdog, public confidence is generally lost, and if these types of powers are wielded in a way that causes a lack of confidence that is a major problem.

CHAIR: Ultimately, as we have discussed, from the most extreme example to the most benign, there has to be some mechanism or reporting and there has to be some decision-maker. We are not talking about a constable of police deciding to release a report; we are talking about a chair of the CCC. Given that the CCC has significant safeguards such as those proposed in the bill as well as the Parliamentary Crime and Corruption Committee and the parliamentary commissioner, why is the QLS not satisfied these mechanisms are sufficient to ensure a responsible use of the power to publish a report? How do you think the safeguards that are proposed in the bill can be improved?

Ms Brodnik: As we have said, the way the safeguards have been drafted in the bill seem sound to the society. The fact is that the commission must have regard to well thought out—and we cannot come up with another factor that should be included. Our concern is not that the safeguards are not there; our concern is that, as Calvin said, there is a discretion to use them, and the release of information needs to be weighed against the benefit to the public, to the commission and to society as a whole.

The Hon. Catherine Holmes AC, SC in her report, when she considered these issues, found that there is no justifiable public benefit in most circumstances in releasing anything before an investigation has been completed. Then taking into account the risks of harm that we have spoken about, you have potentially valid safeguards. Taking a step back, the QLS does not submit that matters should be reported on before they are finalised. Once the matter is finalised and the CCC has decided to take no further action and the other steps it has decided to pursue are being taken, that is when the QLS says those safeguards really need to be implemented in a way that the drafters of this legislation have envisaged. Whether that be the development of particular guidelines within the CCC or whether, as Kelvin said, these explanatory notes can be extracted and ensured they are known to the subjects of the investigation but also to the public, it is really crucial that they then be used in the way they were intended to be used.

CHAIR: The comments also were that it should be the exception rather than the norm in relation to the release of early information. Ultimately, someone has to be responsible for that decision. Accepting that the safeguards are there, as you have, and accepting that there are extreme circumstances where reporting could be done before an investigation is complete, does this bill do that?

Ms Brodnik: The bill does not say it is only in extreme circumstances, though. The report does, and that might be the intention, but the bill does not say in extreme circumstances.

CHAIR: The circumstances are at the discretion of the CCC chair as overseen by the bodies I mentioned.

Ms SCANLON: The QLS has obviously seen the Holmes recommendations, the former Labor government's bill that stemmed from that review and this bill. Does the QLS have any views on elements of the previous bill that could be included in this bill to enhance public confidence?

Ms Brodnik: I am not sure we have considered that in preparation for today. We would be happy to take that question on notice and come back to you.

Ms SCANLON: That would be great, thank you. As you outlined, there are matters that the commission must consider when making a report. In relation to how those particular elements contradict each other, have you considered which one gives more weight and whether the bill sufficiently addresses that problem?

Ms Brodnik: I think the safeguards are listed out, and you are correct in saying that some of them can be considered by bouncing off each other. That would be a matter for the person who is making the decision at the time. Our position is that the public interest element needs to be front and centre, and how that is assessed will really need to be considered perhaps by referring back to the notes or having some guidelines produced for the commission to use.

Ms MARR: I want to go back to the retrospectivity scenario. In terms of the retrospective validation of past reports, if they do not occur does the Queensland Law Society have views on what this means for the transparency of historical corruption reporting in Queensland and making these reports readily available for Queenslanders?

Ms Brodnik: I am not sure Queenslanders might be interested in potentially reading those reports. Our concern is that the subjects of those reports have not been able to take advantage of the new safeguards in this bill. As Daniel commented earlier, depending on the time that has passed, a number of personal circumstances may have changed for those people and so our concern is with the impact on those people's rights if the reports are released.

Ms MARR: My question was more about the transparency of historical corruption reporting in Queensland, and I think Queenslanders are concerned about that. They may not read it, but I am sure they are concerned about transparency with historical corruption for our state.

Mr Maroske: I suppose on that point it is not so much that the report should never see the light of day, but if the process of retrospective validation and release is going to happen then perhaps there needs to be another round, for want of a better word, of procedural fairness afforded so that any circumstances which were not addressed at the time the report was being made are addressed at the time the report is sought to be published.

CHAIR: Are there any further comments, as we have run out of time for this particular stage of the hearing?

Ms Brodnik: Just to build on Daniel's last point, if that is going to happen, surely those people who are the subject or who are involved in those reports should be given notice that those reports are now going to be released.

CHAIR: Thank you, and thank you for your time today. One question was taken on notice. Your response is required by close of business on Thursday, 27 March 2025 so that we can include it in our deliberations.

PIDGEON, Mr Phil, Private capacity

SCHWARZ, Ms Trevina, Private capacity

Ms Schwarz: Good morning, Chair and committee members. I was a previous councillor at Logan City Council and I am here today as a witness with regard to a submission that I have forwarded to the committee.

Mr Pidgeon: Thank you for the invitation today. I am here as a former Logan City councillor of 22-plus years, giving evidence as a witness for this inquiry.

CHAIR: Thank you. I now invite both of you to make an opening statement before we go to questions.

Ms Schwarz: Thank you, Chair. I appreciate the invitation to attend the committee today. I would like to suggest to committee members—some of you I have not seen before and am unsure of your knowledge of the Logan case—that, if possible, you could take an oversight of the three submissions I have placed previously to the PCCC and a further submission to the Community Safety and Legal Affairs Committee. Two of those were confidential. If the committee needs me to release those to you, I am more than happy to do so if that is required. I think those submissions would greatly assist you in deliberating how to move forward with this bill.

The Logan matter is positioned as potentially the most significant case of a travesty of justice served by the CCC. What has happened with the CCC has a significant bearing on this proposed bill. We all know that the CCC is already surrounded by significant legislation, guidelines and procedures and has immense powers that are not duplicated by any other jurisdiction. The findings of the PCCC report No. 108, including the volume of additional information, of the 57th Parliament shows that these powers were blatantly abused in the case of the Logan councillors. The CCC's actions and investigation were strategically delivered in order to blindly obtain a desired outcome—the CCC's desired outcome. It is well documented in the PCCC inquiry findings that the CCC's actions and decisions were made with bias and prejudice. They acted outside their powers, they overreached and potentially acted unlawfully. It is alarming that this proposed bill may inadvertently support these illegal actions under the guise of a reasonable excuse or be considered appropriate.

These actions of the CCC have caused immense suffering to innocent people's lives, both financially and psychologically, and are still yet to be set right by the CCC. Please allow me to detail just some of these actions and comments that, under the broad wording of this proposed bill, may potentially and inadvertently be deemed as lawful and valid. On the day that we were charged, 26 April 2019, the then chair of the CCC called an extraordinary media announcement followed by responding to journalists' questions. This announcement was captured nationally and internationally. It was headline news for all media outlets. It was on the television, radio, papers, social media—it was everywhere. It was inescapable. We were publicly guilty by the words—the emotive words—and actions that were directed to us by the CCC and the chair. Seven innocent people were crowned with the title in a household as a criminal of fraud due to these actions of the CCC. The chair of the CCC publicly used words such as 'dishonesty' and 'quite disingenuously' to describe us personally. He went further and stated 'you deserve elected officials that put the needs of the community first'. At the same time, the chair of the CCC used favourable and congratulatory language towards those star witnesses that were later found to have made false and vexatious complaints.

These despicable actions of the CCC did not stop there. The then chair, who referred to himself in *Hansard* as the 'top dog of the watchdog', presented to the Institute of Public Affairs and Administration conference, which was publicly broadcast online. During that presentation he once again unjustly and wrongfully commented—

We've charged the 'Fab 7' plus the mayor with fraud based upon their disgraceful conduct, dishonest conduct …

These comments were made by the CCC chair, who recommended that these fraud charges be laid. This was all before the matter was unassessed, unproven and untested. The two examples that I have mentioned are two of many that the CCC have undertaken which have irreparably harmed and changed people's lives.

The bill proposes to legislate and retrospectively introduce an explicit power for the CCC to make a statement to the public about a corruption matter in a way they consider appropriate. This is explicitly contrary to findings and recommendations of previous inquiries and it does not support natural fair justice or procedural fairness.

I would like to finish on the subject of consultation and with consideration of well-documented failings of the CCC in these past previous years and the number of formal inquiries that now exist as a result. It is concerning that it appears only the consultation and the making of this bill was given to the audience of the CCC. It is of great concern that the government is considering retrospective legislation to validate egregious actions and public statements by the CCC that are clearly incorrect, unlawful, partial and overreaching and had no basis. Thank you for listening.

Mr Pidgeon: I am certainly not a lawyer and I certainly want to reassure you that I have no political motivation here today other than to get a fair go for people in the future and make sure people are treated fairly. I have some very serious concerns in relation to the wording in this proposed bill. Any reasonable person who reads this, knowing what we have been through personally, should have alarm bells ringing. I certainly have some questions that are raised to me—and maybe you could help answer these today—on how the draft was arrived at for the bill, because I know from my experience of 20-plus years that normally it is officers within the bureaucracy who generate the wording and come forward with that. I certainly have questions on how the framing of the bill has come to such a stage and who was consulted to allow it to get to that stage—putting in wording that is causing this concern not only with us but also with other submitters. I certainly would be interested to see how much involvement the CCC has had in the framing of this bill. if they have had any involvement, I think that is a direct conflict of interest, to be really honest. They should be at arm's length on this matter. You people are the ones who make the decisions here and make the legislation.

Let's get into what I said and why it is so important. My concerns really centre around the wording in this bill around retrospectivity: the validation of past actions and statements that have been made that could be interpreted as being lawful and appropriate. I am not going to go over old ground here—hopefully you have read my submission—but I will draw your attention to clause 471 of the bill, which proposes to validate any action taken or decision made by the commission in relation to the report as if the commission had complied with this act and any other law applying in relation to the preparation and making of the report. Clause 472 of that bill, which I am sure you are well aware of, appears to validate any statement made to the public about information or matter involving corruption, deeming any action taken by the CCC to be, and to have always been, valid and lawful.

I am not just some random guy off the street here; I have experience in government and I have dealt quite a lot with legislation and its creation. I have come to Parliament House on a number of occasions previously. Never in my 22 years of working, particularly in local government at that ground level, have I seen legislation like is being proposed that would overtly seek to wipe out or erase any previous actions—or rewrite history, as I would put it.

We have had three inquiries as a result of the CCC's previous actions—very serious inquiries that I believe had bipartisan support across the board: the inquiry into the Logan City councillors; the commission of inquiry which followed that, in August 2022; and, of course, the Holmes report. I am not going to go into the detail of those inquiries—we all should be familiar with those—but I am going to read just four of the findings of the Logan matter, if you are not familiar with them. Finding 11 states—

The committee finds that the discretion to charge the 7 Logan City Councillors and Mayor with fraud in respect of Ms Kelsey's public interest disclosure and termination as chief executive officer miscarried because all material considerations and evidence were not taken into account and weighed.

Finding 14 states—

The committee finds that as Chairperson, Mr Alan MacSporran QC, did not ensure that the Crime and Corruption Commission acted, at all times relevant to the matters the subject of the inquiry resolution, independently and impartially. That failing is serious and reflects poorly on the Crime and Corruption Commission.

Finding 1 states—

The Crime and Corruption Commission's actions were not in accordance with the Public Interest Disclosure Act 2010 and exceeded the specific limits on the Crime and Corruption Commission's powers under that Act.

Finding 2 states—

In assisting Ms Kelsey as a public interest discloser within the Queensland Industrial Relations Commission process the Crime and Corruption Commission acted outside its specific powers in the Crime and Corruption Act 2001.

These inquiries occurred because there was clear evidence that the operation, transparency, the culture and the conduct of the CCC were compromised and subsequently proven to be unlawful—something that this proposed bill, in my personal opinion, seeks to nullify to some degree. I do not honestly see the culture or the conduct of the CCC changing still at this point in time. The very suggestion of this bill to retrospectively recognise any previous inappropriate or wrongful action taken by the CCC as lawful and valid is really a kick in the guts for the many people who have suffered as a result of their actions—people who have fought hard to bring this to the fore, to bring this before people like yourselves to examine and to help improve the situation. It is, indeed, the previous invalid and unlawful actions of the CCC that have caused these multiple inquiries costing taxpayers millions of dollars unnecessarily. It is the previous actions of the CCC that have led to 54 recommendations to government to drastically restructure and change the CCC to be more transparent, to ensure impartiality and to act lawfully. It is these previous actions of the CCC that have caused us to be here today discussing this bill.

During the discussion before, you were talking about safeguards and whether they are appropriate or not. That is a very good point. We thought that the safeguards that were in place previously were enough and obviously they were not. The CCC have demonstrated by their previous behaviour that they had zero regard for the safeguards that were in place or the legislation that said they could not do things. They deliberately went outside of the judge's orders and they acted in contempt to deliver material to a council when they were told not to. They said—and it is on the record—that the law does not apply to them.

How do you think the safeguards in this bill will change that? Obviously, previous behaviour informs future behaviour. That is an old saying. We talk about extreme circumstances, and I believe, Mr Chair, you might have mentioned that. I think it was already in the previous act where the chairman can act in extreme circumstances. We have seen how that works. It is not enough to contain someone. There need to be penalties in place. There need to be other things to ensure that people in these very important positions follow what they are there to do.

I will finish on this: recognising the fact that we have all these well-documented and, I would say, disgraceful actions and conduct of the CCC made against many innocent parties—not just Trevina and me—and recognising that we have had three inquiries with very damning findings and recommendations, I would plead with you to please examine and review the wording in this bill and not bury, if I could put it that way, what has occurred. We cannot rewrite history here. What has happened has happened. We need to move forward, but we should not erase history in doing so. I do not understand how anyone could write this knowing the history. Putting wording in there to say that all the previous things that have been said and all the previous things that have happened will all be acknowledged as appropriate, lawful and just is not right. That does not wash. It does not pass the pub test with anybody. I will leave it at that, Mr Chair. Thank you.

CHAIR: I just wanted to note—and I will clarify this with the department, with whom we are having a briefing later on today—proposed sections 471 and 472 relate to corrupt conduct only, not criminal matters. In relation to the things you have submitted today related to fraud charges et cetera, that does not come under the scope of this bill.

Mr Pidgeon: Mr Chair, may I respectfully challenge you on that. I have raised this very issue about the interpretation of the wording 'corrupt' and 'corrupt conduct'. I have been informed multiple times, and even during previous inquiries, that the term 'corrupt conduct' includes fraud and everything else. They capture it all under the one meaning. This is my concern—and I have always had this concern: corrupt conduct is completely different to criminal conduct. However, the people who are applying these meanings and taking these actions are not doing what you think they are doing.

CHAIR: I am happy to canvass that with the department later on. You mentioned that you were in the room, I think, when I was talking about the extreme examples of corruption as uncovered during the lengthy Fitzgerald inquiry. Do you accept that there may be cases where the CCC should be able to report corruption investigations publicly before recommendations or findings are made?

Mr Pidgeon: Mr Chair, as a person who has been through a process, I have no issue. I used to have complaints made all the time, as we all do. You are all elected members—

CHAIR: Yes, I have been a police officer so I know.

Mr Pidgeon: Yes, you know. I have no issues with that. It is not really good if you are an elected member and you have someone having a go at you and making a serious allegation, but that is part of the role you have taken on. When you are in that role you accept that. Where I draw the line is when it goes further and the people who are investigating then make public commentary or make judgements of guilt before the innocent party has had their day in court to be judged fairly. All that does is completely destroy a person's reputation.

For both Trevina and me, our whole lives have been affected. We are not just talking about us; we are talking about our families, relatives and friends. The amount of damage that has been done is beyond belief, all because somebody decided to get in front of a television screen and say, 'This person is guilty,' or 'This person is despicable'—whatever the wording that was used. You should not be allowed to do that. By all means, announce it as an investigation. That is fine. I have no issue with that. No reasonable person should take issue with the fact that, if you are in the public arena, you are being investigated. Tell people you are being investigated and then it will all fall out through the process. It is important to not go further and assassinate a person's character or reputation or destroy their career by utterances or divulging information before they have had a chance to argue it before their peers. I thought that was a basis of our Westminster system.

CHAIR: Would you concede that the 36 reports and so on were broadly accepted as lawful behaviour before the High Court decision and that this bill is seeking to restore those powers but with extra safeguards, acknowledging that the CCC does have oversight by the parliamentary committee? Is it not better than it was before?

Ms Schwarz: Correct me if I am wrong, Phil, but where we are coming from is what actually occurred in our case. They were not just factual statements that were made; they were opinionated and they were emotive. The statements that were used were that our conduct was disgraceful and dishonest and that we acted with dishonesty and quite disingenuously. They are the opinionated comments that were put forward to the broader community not just in a report but in front of the media and it was televised everywhere. They are opinionated and emotive comments.

Dr Horton actually raised that a number of times—that a lot of the CCC's reports, including those done internally, used opinionated and emotive wording, not factual. The CCC does have to have some sort of reporting power and there is no reason, potentially, that it should not be able to report facts such as, 'We have charged local councillors with fraud.' That is enough. Because it used emotion and opinions, we were guilty in the public eye before we had our day in court.

Mr BERKMAN: I really appreciate your time here today. First of all, Ms Schwarz, you mentioned the submissions that you had made in previous processes. It sounds to me like they might be valuable for the committee to read, if they were able to be provided at a later date. Could you just in general terms give us an overview of what was said in those submissions?

Ms Schwarz: Certainly. My personal impact submission details the intensity of how it actually impacted me. I am not very proud of some of the information that is in there, which it why it was confidential. It gives you a raw indication of what something going so catastrophically wrong can do to a person's life and to their family. I think that is quite telling.

From the legal representative side, about which I was speaking before, that emotion and opinion has come out and it is more from a legal perspective. Using the words 'considered appropriate' and 'reasonable excuse' in legislation is very broad language. In my short seven years of being a councillor and the chair of governance, I tried to ensure that any local law that we wrote was not for a particular personality or a particular person but was for whoever actually held that position, because otherwise people can get into a political fray—and, dare I say, I think that is what the CCC did at the time of our case. They were trying to prove systemic corruption in local government and I think the CCC and the chair started to cross paths with that political fray, and I am concerned that this bill will allow that to happen.

Mr Pidgeon: I might add to that: if any of you sitting here today were ever accused of something, I would expect that you would not want it tried in the media; you would want to be treated fairly. I would treat anybody like that. This goes to the core of this whole issue. It is just about treating people fairly and making sure they are accorded fair and true justice. We have seen previous actions of the CCC—and I will go back to this one about the corruption interpretation—and this is where it all comes apart. The CCC charged seven people with fraud under section 408C of the Criminal Code. If you read the PCCC report, the 108th report—and I think the honourable Ms Scanlon was a part of that—

Ms SCANLON: No.

Mr Pidgeon: My apologies. You seem to be very well read on it. If you go into the detail of that and look at the findings, the summary and the recommendations, the CCC were hunting for a way to charge us. They wanted us gone, and that is recognised. They had said that they did not want to see us. 'Let's just find a charge to suit to get rid of this.' They really scraped the bottom of the barrel with the interpretation of fraud in section 408C.

When I was first advised of this charge, I said, 'What do you mean fraud? I have not stolen any money.' 'No, but your action of sacking somebody cost somebody some money.' Okay. Hold on a second. Words can be manipulated and misinterpreted. With respect, when you go back and have further discussions, you really have to focus and zero in on how people will interpret some of this wording. Is 'corruption' corruption or is 'corruption' fraud in some other criminal defence?

People will interpret it to suit their own outcome, in my experience. I would humbly ask that you make sure you put gates and fences around some of this wording and lock it down, because humans are humans and there will be no stopping another person in the future coming along and saying, 'I interpret the wording like this.' Unless you tell them the dictionary definition of that wording and what it means and constrain it to that, people will take it out of context or will take it out of its meaning and you will end up with another Logan situation and a whole heap of inquiries.

I do not know if that makes sense. I hope it does. Focus on some of the wording because, in my experience of dealing with bureaucracy as chair of committees, there is a whole heap of different interpretations that officers and people down the line can apply unless you put guardrails around it. Thank you.

Ms MARR: I did have a question but I think it has been answered in that conversation so I will defer to the chair.

Mr FIELD: You said in your submission that you were concerned about the past conduct. Do you think that restoring and validating the CCC's reporting powers with the appropriate safeguards will actually address some of the concerns by ensuring the CCC operates under clear and transparent guidelines?

Mr Pidgeon: It is all a matter of interpretation. Our primary concern here today is not to bog you down with a whole heap of things and throw grenades at you; it is simply about the retrospectivity proposed in some of the wording here. The dangerous bit is to validate previous actions and say that they were lawful. They were not. It has been clearly identified in findings, Russell, that they were not. If you have not read the 108th report, I encourage you to, if anything, read the findings, please. This was done with QCs. It was a very thorough process. That is our main concern here today. There are other sections of the bill which are great.

To give you some life experience here from my perspective: when I was dealing with proposed legislation in council, we would get a 500-page report. If someone down the line wanted to slip something through the process, they would put a single page in the middle with two lines hoping you would not notice it. I am not saying anyone is doing anything dishonest here, but your interpretation of the wording may not be what they think. The question would be: is there any harm in removing that reference to make previous actions valid, lawful or appropriate? What would be the harm in removing it? Would it hurt anybody? I do not think it does. Does it change anything going forward? I actually do not think it does. I actually question why it is in there. Why is it in there to recognise previous actions? Are you not going forward in this process?

CHAIR: Could you perhaps accept that, for those 32 reports, for example, a lot of work went into those reports by certain officers believing they were acting lawfully under the previous law, which the High Court ultimately made a determination on in order to protect them from the people who thought they were acting lawfully in producing those reports? When you say it would not hurt anyone to not have that protection in there or to have those reports released, can you see that the state possibly exposes itself to litigation for what was considered at the time lawful and proper conduct? I accept that you do not consider so in your case.

Mr Pidgeon: The state is already facing litigation. Through three inquiries it has been recognised very clearly that there was wrongdoing. Respectfully and very humbly, we would say that you already have a serious case before you, which you have inherited. I will give credit to the previous government because they recognised this and worked in a bipartisan way with the current government to say, 'Something wrong has happened here.' Two previous premiers have said, 'Something is wrong here. We do not want it to happen to anyone else.' Recognising that, it is not opening anyone up to that, I do not believe. Regardless of what you put in there, if someone is going to be litigious or mischievous in the sense of being litigious, they are going to do it anyway.

I believe that in our particular situation, without getting into the gutter, we have a very strong position in that sense. We will carry that on separately from this committee. I would like it recognised that there was wrong done—and it has been publicly acknowledged that wrong was done—but to put this in the bill and say that no wrong was done is not appropriate.

It was revealed in the inquiries that the CCC very well knew what they were doing. They were told by a judge not to do certain things and they said, 'Two to the valley—we are going to do it because we do not think you have authority.' There are heaps of examples, particularly in the Logan case, which you will read in the report, where they disregarded certain directions and participated in certain actions knowing that they were doing the wrong thing. We cannot undo that. We have to recognise that.

Might I say most respectfully: we recognise the wrongs that happened 200 years ago by acknowledgement of country and recognising the custodians of the land. We do not throw that out and say, 'What has happened has happened. It was appropriate at the time and it was lawful and legal.' It probably was at the time and for that particular generation. As we are more informed and smarter and better as a society, we acknowledge that. Going forward, we need to make sure that we continue to acknowledge what has occurred, we learn from it and we move forward smarter as a result.

CHAIR: We have run out of time for this hearing. I declare this hearing closed. Thank you for your attendance.

The committee adjourned at 11.33 am.