



10 April 2017

Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane Qld 4000

Dear Sir/Madam

Thank you for the opportunity to provide a submission on the *Crime and Corruption and Other Legislation Amendment Bill 2017*.

The Local Government Association of Queensland (LGAQ) is grateful to the Department of Justice and Attorney-General for the invitation to comment on a consultation draft of the Bill.

The LGAQ wishes to make the following comments about the Bill before the Committee.

#### **Definition of corrupt conduct**

The Explanatory Notes state the following:

“The LGAQ raised concerns that removing the benefit or detriment requirement from the definition of ‘corrupt conduct’ may result in conduct of a councillor who inadvertently fails to update their register of interest within 30 days of the change in accordance with section 171B of the *Local Government Act 2009*, being considered corrupt conduct. While this may be the case, most cases about a failure to update a register of interest are dealt with as an inadvertent oversight and are managed quickly and effectively through the processes in the *Local Government Regulation 2012* (section 296). Also, before the public official refers the matter to the Commission under section 38 of the CC Act, the public official may have regard to all the documented information available to them in deciding whether an allegation raises a reasonable suspicion of corrupt conduct.”

The LGAQ is not convinced by these comments. They seem to suggest that the public official (i.e. the CEO of a local government) has a level of discretion in deciding whether an allegation raises a reasonable suspicion of corrupt conduct which the LGAQ does not believe exists under the new definition. If a case meets the requirements of the new definition, the public official has little choice but to notify the commission even if, for example, a failure to update a register of interest has occurred inadvertently. Furthermore, such oversights are currently “managed quickly and effectively” precisely because they are not defined as corrupt conduct. For these reasons, the LGAQ wishes to reiterate its opposition to the removal of section 15(1)(c).

***Recommendation: that the Bill be amended to retain section 15(1)(c)***

#### **Record keeping requirements for Units of Public Administration (UPAs)**

In its comments on the consultation draft, the LGAQ noted it had no issues with the new record keeping requirement but that the new provision needed to be expanded to clarify how these records should be kept by UPAs and who could access them. In the local government context, it is the council CEO who has the duty, under section 38 of the Act, to notify the CCC of corrupt conduct. This is a statutory obligation independent from the role of council CEOs defined in section 13(3) of the *Local Government Act 2009*. As a result, records kept by the CEO in relation to his/her obligation under the CC Act are the CEO’s own records, not the records of the council.



The LGAQ is aware of cases where inappropriate pressure has been applied on CEOs from within local governments to make available these records, with incorrect claims being made that these were records of the council. To avoid these situations from arising in future, the LGAQ urged the Government to use the opportunity presented by the insertion of the new record keeping requirement to clarify in the CC Act that these records were the public official's own records arising from the independent statutory obligation placed on the public official under the CC Act.

While the additional provisions now included in the Bill (sub-sections 40A(4) and (5)) do not fully address the LGAQ's points, they make it clear who can access these records (i.e. the commission). New section 40A is thus an improvement over the initial version and now acceptable to the LGAQ.

### **Confidentiality of complaints**

In its report on the review of the CCC, the Parliamentary Crime and Corruption Commission (PCCC) canvassed in some detail the question of confidentiality of complaints. The PCCC acknowledged the potential for abuse of the complaints system if the making of a complaint is not subject to an obligation of confidentiality. In light of the CCC's decision to canvass broader public opinion on the issue, however, the PCCC made no recommendation in relation to this issue.

The results of the CCC's inquiry on the issue were contained in its report *Publicising allegations of corrupt conduct: Is it in the public interest?* tabled in December 2016. The CCC recommended the government consider making it an offence for any person to publicise:

- a) allegations of corrupt conduct against a councillor or candidate during a local government election period; or
- b) the fact that a complaint (whether or not it involves corrupt conduct) has been, will be or may be made to the CCC against a councillor or candidate during a local government election period

without first notifying the CCC and allowing the CCC at least three months to determine whether the allegations have merit.

As mentioned in its comments on the consultation draft, the LGAQ would like to reiterate its strong support for the CCC's recommendation and urges the Government to adopt it as part of the Bill. The recommendation balances the need for an open and transparent election process with ensuring that false or misleading accusations about political opponents are not publicised to the detriment of the community and the council.

***Recommendation: that the CCC's recommendation to make it an offence to publicise allegations of corrupt conduct during a local government election period be adopted as part of the Bill.***

I trust these comments will assist the Committee with its consideration of the Bill. Should you have any questions about this submission, please do not hesitate to contact [REDACTED]  
– Intergovernmental Relations on [REDACTED]

Yours sincerely

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GREG HALLAM PSM  
CHIEF EXECUTIVE OFFICER