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24 March 2014

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Sir

Re: *Crime and Misconduct and Other Legislation Amendment Bill 2014*

I write in response to the Committee's invitation for members of the public to provide written submissions on the above mentioned Bill. I provide the following comments, observations and suggestions for the Committee's consideration.

1. Change of position title – "Chairperson" to "Chairman"

The Bill proposes to amend the current legislation by omitting references to "chairperson" and replacing them with "chairman". The first express indication in the Explanatory Notes to the Bill of this proposal is on page 22, where it is mentioned almost as an aside: "... Also, the Minister must consult with chairman (sic) (as renamed by this Bill) ...". The original legislation, the *Criminal Justice Act 1989*, included the term "chairman". However, in 1993 the Parliament amended the legislation, *inter alia*, to replace the term "chairman" with what the relevant Explanatory Notes said was the more "gender-neutral" term "chairperson".¹ And so it has remained for the last 20 years, until now.

Exactly why the decision has been made to revert to the old terminology of "chairman" – which not only contradicts the justification accepted by Parliament in 1993 for changing it to "chairperson" but which is also out of step with the gender inclusive values and expectations of modern Queensland society – is unclear. This is because neither the Explanatory Notes to the Bill nor the Minister's introductory speech to the Parliament make mention of the reasoning for the proposed reversal.²

As the proposal is currently presented the community would rightly be entitled to view it as a backward step in the ongoing effort to achieve full gender equality since reverting to the seemingly less inclusive title of "chairman" could give the distinct impression that women are deemed neither suitable nor able to occupy this particular role.³ In the absence of any compelling reason to revert to the previous title of "chairman", the current title should be retained.

¹ See Explanatory Notes to the *Criminal Justice Amendment Bill 1993*, p. 6, source: <<https://www.legislation.qld.gov.au/Bills/47PDF/1993/CrimJusticeAmdB93E.pdf>>

² Section 23(1)(h) of the *Legislative Standards Act 1992* (Qld) requires explanatory notes to include "a simple explanation of the purpose and intended operation of each clause of the Bill." By not providing the rationale for the decision to reverse the 1993 enactment and resume using the previous title of "chairman", the Explanatory Notes to the *Crime and Misconduct and Other Legislation Amendment Bill 2014* may be non-compliant with section 23(1)(h) on this point.

³ Any argument made that "chairman" is gender inclusive would be ignoring the fact that the term was omitted by Parliament in 1993 for the very reason that it was seen as being non-inclusive which necessitated its replacement by the gender-neutral term "chairperson".

2. Removal of requirement for bipartisan support for Commissioner Appointees

The Bill proposes to dispense with the current requirement, which has been in place for some time, for the appointment of Commissioners to be with the bipartisan support of the relevant Parliamentary Committee.⁴ While the Bill requires the Minister to consult with the Committee on proposed appointees to Commissioner roles,⁵ there is no obligation to obtain the Committee's unanimous consent for such appointments. The concern has been expressed by some that this proposal could see the Government being able to appoint candidates to these pivotal roles without them having cross-political support.⁶ Such an outcome could inadvertently undermine public confidence in the impartiality of appointees in the exercise of their responsibilities.

As with the previous issue, I note that no rationale was included in the Explanatory Notes to the Bill or in the Minister's introductory speech to Parliament for the decision to dispense with the current arrangements for proposed Commissioner appointees to have the bipartisan support of the relevant Parliamentary Committee.⁷ However, given the Commission's unique role in dealing with official corruption, and the particular responsibility of the Committee in overseeing the Commission's functions and in reporting on same to the Parliament, it is only reasonable that there should be bipartisan Committee support for those nominated to fill the most senior roles within the agency to ensure public confidence in the appointment process and outcome. Allowing the continuation of the current requirements – i.e., for Commissioners to be appointed with bipartisan Committee support – would also align with the checks and balances function of parliamentary committees, a vital accountability mechanism particularly for unicameral systems such as in Queensland.⁸ As with the previous issue, unless a compelling case for change can be made in this instance, the current requirements should be retained.

I trust that the above comments, observations and suggestions will assist the Committee in its deliberations.

Yours faithfully

Don Willis

⁴ Minister's introductory speech on the Bill, Queensland Hansard, 19 March 2014, p. 703; Explanatory Notes to the *Crime and Misconduct and Other Legislation Amendment Bill 2014*, p. 3

⁵ Explanatory Notes to the *Crime and Misconduct and Other Legislation Amendment Bill 2014*, pp. 3, 21-22

⁶ See Brisbane Times, "Government to give itself power to appoint watch dogs", 19 March 2014, source: <<http://www.brisbanetimes.com.au/queensland/government-to-give-itself-power-to-appoint-watchdogs-20140319-3532g.html>>

⁷ Accordingly, the comment under footnote 2 is also relevant to this point.

⁸ For example, see Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, G. E. Fitzgerald (Chairman), 1989, pp. 124-125