

Crime & Misconduct & OLAB 2014
Submission 015



Submission to The Legal Affairs and Community Safety Committee

*Crime and Misconduct and Other Legislation
Amendment Bill 2014*

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Introduction

The Queensland Nurses' Union (QNU) thanks the Legal Affairs and Community Safety Committee (the Committee) for providing the opportunity to comment on the *Crime and Misconduct and Other Legislation Amendment Bill 2014* (the Bill).

The QNU is the principal health union in Queensland. Nurses are the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNU covers all categories of workers that make up the nursing workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 50,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses¹ in Queensland are members of the QNU.

One of the policy objectives of the Bill is to 'improve the management of personal conduct and work performance of Queensland public service employees' (Explanatory Notes p. 2). The Bill proposes a number of consequential amendments to the *Crime and Misconduct Act 2001*, the *Public Service Act 2008* and other Queensland legislation and regulations to support the policy objectives. Our submission addresses some of the proposed changes.

Amendments to the *Public Service Act 2008*

Our overall concerns relate to terminology and definitions contained in the proposed amendments. Specifically:

Section 26 - Work performance and personal conduct principles – currently states

In recognition that public service employment involves a public trust, a public service employee's work performance and personal conduct must be directed towards –

- (a) achieving excellence in service delivery; and
- (b) ensuring the effective, efficient and appropriate use of public resources; and
- (c) giving effect to Government policies and priorities; and

¹ Throughout this submission the terms 'nurse' and 'nursing' are taken to include 'midwife' and 'midwifery' and refer to all levels of nursing and midwifery including Registered Nurses and Midwives, Enrolled Nurses and Assistants in Nursing.

- (d) collaborating with other departments with a focus on public service-wide priorities as well as department-specific priorities; and
- (e) providing sound and impartial advice to the Government; and
- (f) improving all aspects of the employee's work performance; and
- (g) carrying out duties impartially and with integrity; and
- (h) acting honestly, fairly and in the public interest; and
- (i) interacting with staff members under the Ministerial and Other Office Holder Staff Act 2010 respectfully, collaboratively and with integrity; and
- (j) observing all laws relevant to the employment; and
- (k) ensuring the employee's personal conduct does not reflect adversely on the reputation of the public service; and
- (l) observing the ethics principles under the *Public Sector Ethics Act 1994*, section 4; and
- (m) complying with an approved code of conduct and any approved standard of practice as required under the *Public Sector Ethics Act 1994*, section 12H or 18.

Clause 84 of the Bill inserts a new item (2) under section 26 that states

- (2) Also, a public service manager must take all reasonable steps to ensure each public service employee under the manager's management is aware of the following -
 - (a) the work performance and personal conduct expected of the employee;
 - (b) the values of the public service and of the department or public service office in which the employee is employed;
 - (c) what constitutes corrupt conduct under the *Crime and Corruption Act 2001*.
- (3) Further, a public service manager must -
 - (a) pro-actively manage the work performance and personal conduct of public service employees under the manager's management; and
 - (b) if a case of unacceptable work performance or personal conduct arises, take prompt and appropriate action to address the matter.

(4) In this section -

public service manager means a public service employee whose duties involve or include managing other public service employees in the carrying out of their duties.

Currently the Dictionary in Schedule 4 to the *Public Service Act 2008* does not define 'work performance' or 'personal conduct'. Given the proposed amendment 'clearly attributes responsibility for managing work performance to line managers and ultimately CEOs' (Explanatory Notes, p. 33) we suggest that the Dictionary should now provide a clear definition for these terms.

We also seek clarity around the meaning of 'pro-actively manage' and 'unacceptable work performance'. Both of these terms may attract some level of initial understanding, however, given Clause 85 of the Bill enables the Public Service Commission to conduct

reviews under Part 6 about the handling by departments of work performance matters, managers need to understand their increased responsibility and accountability.

We believe that staff affected by these new provisions will need information and training to raise their level of awareness and skills. Specifically, this should address the ways to 'pro-actively manage' work performance and personal conduct, the consequences of not doing so, and the process for dealing with 'unacceptable' work performance or personal conduct as it relates to current performance management schemes.

Amendments to the *Crime and Misconduct Act 2001*

Our comments in respect to these amendments are general. We note that for some reason the amendments refer to 'chairman' rather than 'chairperson'. The introduction of gendered titles is inconsistent with the rest of the *Crime and Misconduct Act 2001* and we would suggest are not appropriate.

The Bill amends section 292(f) to extend the interval at which the parliamentary committee conducts its statutory review of the activities of the commission from every three years to every five years. We suggest that five years is too long and the review period should remain at three years. The problem is not the duration rather the need for more resources to ensure effective implementation.

References

Explanatory Notes *Crime and Misconduct and Other Legislation Amendment Bill 2014*.