



PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE

Members present:

Mr JM Krause MP—Chair
Mr JA Sullivan MP
Mr JP Bleijie MP
Mr DJ Brown MP
Ms JM Bush MP
Mr MJ Crandon MP
Ms JC Pugh MP

Staff present:

Ms A Honeyman—Committee Secretary
Ms H Radunz—Assistant Committee Secretary

MEETING WITH THE PARLIAMENTARY CRIME AND CORRUPTION COMMISSIONER

TRANSCRIPT OF PROCEEDINGS

Friday, 15 September 2023

Brisbane

FRIDAY, 15 SEPTEMBER 2023

The committee met at 9.02 am.

CHAIR: Good morning, everyone. Welcome to this public meeting of the Parliamentary Crime and Corruption Committee. I am Jon Krause, the member for Scenic Rim and chair of the committee. Joining me today are Mr Jimmy Sullivan, deputy chair; Mr Don Brown, member for Capalaba; Ms Jonty Bush, member for Cooper; Mr Michael Crandon, member for Coomera; Ms Jess Pugh, member for Mount Ommaney; and Mr Jarrod Bleijie, member for Kawana, who is substituting for Dr Mark Robinson, member for Oodgeroo. The committee's proceedings today are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. As parliamentary proceedings, under the standing orders any person may be excluded from today's meetings at my discretion or by order of the committee.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available for review if necessary. All those present today should note that you may be filmed or photographed and images may also appear on the parliament's website or social media pages. The committee is beginning its meeting in public to deal briefly with some committee matters before commencing its public meeting with the Parliamentary Crime and Corruption Commissioner. The committee will then close the public part of the meeting and continue its meeting with the commissioner in private session. Following that, the committee will meet in public from approximately 11 am with the CCC before closing the public part of that meeting to continue the remainder of those proceedings with the CCC in private session.

Members have been provided with a copy of the agenda for today's meeting and I would move that the agenda for Friday, 15 September 2023, as circulated, be adopted. Those in favour? Aye. Against? That is carried. Are there any apologies? I have noted Dr Robinson's substitution with Mr Bleijie, so we will accept an apology from Dr Robinson. Are there any declarations of interest relevant to the public session for the parliamentary commissioner? If not, I will make my standing declaration that I always make. Apart from that, we will move forward. Members have been provided with the parliamentary commissioner's public report to the committee for the period 26 April 2023 to 6 September 2023. Deputy Chair, would you like to move that the committee authorises the publication of the parliamentary commissioner's public report to the committee for that period?

Mr SULLIVAN: Yes.

CHAIR: All those in favour? Aye. Against? That is carried.

KUNDE, Mr Mitchell, Principal Legal Officer, Office of the Crime and Corruption Commissioner

WOODFORD, Mr Michael, Parliamentary Crime and Corruption Commissioner

CHAIR: Now we can move forward to a discussion of the parliamentary commissioner's activities. Members have been provided with a copy of a briefing paper in relation to that report and we will now commence our public discussion with the commissioner, Mr Michael Woodford, whom I welcome here to the meeting this morning along with your Principal Legal Officer, Mr Mitchell Kunde. Mr Woodford, would you like to make an opening statement?

Mr Woodford: Thank you, Mr Krause. I am here to update the committee on the activities of the office over the last few months since we met on 2 May this year. You do have the report in advance which sets out the key outputs and significant events for the office over that period. The statutory auditing season is in swing at the moment. We are mid season. We have managed to undertake some of the audits and there are a few to go over the coming month or so. They look like they will all be wrapped up within the statutory time limits that we work to.

There have been quite a few section 329 notifications come through to the office. I note that there was a review in relation to that, I think, four or five years ago or thereabouts when the trigger, if you like, was looked at in terms of the threshold for things coming to the committee. That is a matter for the committee, of course, but it is something that I have been looking at since my time in the role

over the last couple of years and that may be something that the committee revisits in the future. As to whether it is something that the CCC wants to make any representation to the committee about over time, that is a matter for the commission. However, I have noticed that quite a few 329s are coming through and it has made me question whether or not that trigger is set just a little bit too finely, but that of course is completely a matter for the committee.

There have been a number of referrals that have come down to the office from the committee on various matters, including an urgent one most recently. We are doing our best to work through those referrals. A few have been completed over the period. There are still a couple that are ongoing. They will get done as we can get through them. Often the referrals that come down from the committee generate processes where very large amounts of material end up finding their way into my office and that material needs to be sifted and sorted to isolate the relevant information. In addition to that regular sort of work, there has also been engagement with both the state Attorney-General and the Commonwealth Attorney-General on various statutory matters. That, Mr Krause, is where we are up to with the work of the office over the period.

CHAIR: Thank you very much for that. We will go to questions. Deputy Chair, do you want to start off today?

Mr SULLIVAN: Sure. I do have quite a few questions, but most of them I suspect will be more appropriate for the private session, so when I ask please answer to the capacity that you can in this session. The first thing I wanted to confirm from your public report relates to paragraphs 11 and 13 in relation to inspections of the CCC controlled operations and other inspections under chapter 13. Is it fair to say that—either you or Mr Kunde—you are fairly comfortable with how they proceeded and that everything was in order?

Mr Woodford: Yes. There has been no change in what I have experienced when I have gone down to the commission for those particular meetings.

Mr SULLIVAN: Both the cooperation and in terms of the content?

Mr Woodford: Yes, no change at all. I have been most satisfied with what I have found when I have got there, both with the content of the material that has been supplied and the cooperation and assistance given by the staff at the commission.

Mr SULLIVAN: You also talked about the interaction with the Commonwealth Attorney-General's department in relation to electronic surveillance legislation. Is that going okay? Do you want to express anything more on that point?

Mr Woodford: That is all progressing as quickly as it can progress, but that is out of our hands.

Mr SULLIVAN: Yes, understood.

Mr Woodford: That is all progressing fine. We were supplied with some draft provisions from the Commonwealth and the approach taken by the Commonwealth was to pick up the purposes of both the committee and the Office of the Parliamentary Commissioner and use those Queensland statutory provisions to guide what level of information would be available, and I made representations to the Commonwealth Attorney-General about that. It was just far too excessive for what was actually needed. Those representations were made and then some amended draft came down and then that has gone off for comment to the commission, and the committee will have seen how the commission has responded in relation to that. I thought that the commission may have thought that the parliamentary commissioner's office—me—was perhaps seeking to overreach a little in terms of material. That was not the intent of my representations to the Commonwealth Attorney-General. Indeed, we started out with the Commonwealth Attorney-General to say, 'Slow down. Don't pick up something from our act and think that that's necessary in your act.' What I will say though is that you will have seen the correspondence from the commission in terms of a limit that they suggest on that material and I think that is a sensible recommendation that they are making. I do not think I need to go into the detail of why, but, yes, that work is progressing but it does take time.

Ms PUGH: With regard to the section 329s and noting an increase, I wonder if you can speak broadly to any trends that you can see, I suppose—touching on any trends that you feel comfortable to mention in a public setting. It would be useful for the committee to hear your insights on that.

Mr Woodford: There are a couple of parts to it. There are 329s that most certainly should come to the committee and that may require investigation. Let us go down to the other end of the spectrum of things. When a person at the commission is engaged with, for example, the police integrity unit—or whatever it is called—and an email is sent and perhaps an incorrect document is

annexed and it is going between two bodies that are intimately involved in integrity and understand the sensitive nature of material that is passing between the bodies and a human error is made, people are not robots. My concern is that in that sort of circumstance, which is something of an innocent nature, you end up with a whole process that is triggered.

There are internal processes within the commission that can deal with that sort of thing, but that generates the same machine kicking into gear as much more serious allegations which means this committee is troubled with these things and my office is troubled with these things. If we put all of that to the side, you have people down in the commission who are notified that they have done something and the whole process of going through a parliamentary committee and the parliamentary commissioner is reviewing this rather insignificant mistake. The committee may receive that and I may receive that and I may come to a view that this has very low order of significance, but for the person down at the commission who is subject to this cloud hanging over their head I think that that might be a completely different matter. I am always attune or I think collectively people should not be operating under those significant stresses unless it is really necessary, so I just wonder whether the trigger is a little too fine. Things like that can have an impact upon the institutional culture of organisations like the commission, so that is my concern about it.

The work comes through. You have to do your work. We have to do our work. In the back of my mind I am thinking there is a person at the commission that is subject to all of this now. We can do all of our work, but that person, I bet, is feeling this. I just do not know that they need to feel that you have a parliamentary committee and a commissioner looking at it, when the internal processes at the commission are adequate to deal with those sorts of matters. It is a continuum, but it has come into my mind over my period there and I just wonder. I raised this with Mr Kunde this morning and he helpfully advised me that there was, I think, four years ago a harking into this very issue when there was consideration of the amendment of the provision. I was delicate not to overstep in raising my concerns with you. However, Ms Pugh, you have raised it, so I have unloaded.

Ms PUGH: Please do. You have spoken about the workload issue. I am interested if you could expand on the second part of my question around the trends, if you can speak to any of that. It sounds like, from what I am hearing—and I do not want to verbal you—that you are seeing a trend at the lower end?

Mr Woodford: That is correct. It is not a decreasing trend. I do not think it is increasing terribly much either. There is a consistent flow of these sorts of matters.

Mr Kunde: Certainly when there is one person, I must say, I do not know how you deal with that. It is probably something that the committee does need to be aware of, if there is a repeat.

Ms PUGH: Yes, absolutely.

Mr CRANDON: On that, if we saw something coming through of a repetitive nature, then perhaps it might be worth a closer look?

Mr Woodford: Yes.

Mr CRANDON: Following on from that, Mr Woodford, and your comments about the investigations that you are undertaking for us at our request—and, of course, there is that urgent one that came in—without saying too much, the committee did give consideration to the workload prior to making the decision to ask you to look into that particular urgent matter.

Mr Woodford: I appreciated that.

Mr CRANDON: Interestingly, though, it brought my mind to this bigger question of police investigating police and, in the case of this particular matter that you were looking at, the CCC investigating the CCC, if you like, without going into any details. It turned out that there was a fairly simple level of proof, if you like, that was available to everyone. It came to my mind: is the CCC in those sort of investigations too close to the action to see the wood for the trees, so to speak? Would you like to comment on those things about police investigating police or the CCC investigating the CCC type events?

Mr Woodford: I do not think you can come to a conclusion that with all matters that is not the right way to go. With respect to that particular urgent matter that we looked at, there were a couple of key human errors there, one by a complainant—'complainant' in inverted commas, if you like—which everyone accepts was a very honest mistake. No-one has any doubt whatsoever about that. But then the investigation of it by the institution of the commission—yes, there was a very simple way. The truth of the matter to be discerned was so obvious, and perhaps that is why we were there. It did become obvious once we were there. I do not see any great difficulty for the CCC to be conducting its own internal investigations into matters going on there, as the police does through its own various
Brisbane

integrity units. From my exposure with the commission, where you have matters, for example—and I am speaking completely hypothetically—of officers of a sufficient high standing who are normally of that standing because they have lengthy careers of decades, thus connected or know a lot of people, they are attuned in those circumstances of the need to go externally to get people to assist them who do not suffer, if you like, from being tainted with those connections.

In the particular matter that you are referring to, Mr Crandon, what was very interesting for me was it was a matter dealing with that sort of a situation. An external lawyer was presiding in the matter, and it was external counsel who was assisting. Putting aside the reason I was there, when Mr Kunde and I undertake these investigations, we are attuned to having a wide focus to seeing what is going on. One of the things that jumped out to me was, 'This is very interesting. This is a high-level matter and the commission has the foresight to know that and to have people here, though not connected with any of these institutions.' That is a long answer to your question, but I think these organisations—at least what I am seeing—have that flexibility to internally investigate when necessary. They have the understanding and the competence to go and seek external assistance when it is necessary. This was a good example of that.

Mr CRANDON: Thank you for the follow-up on that. To clarify—and you are talking about the event that was being undertaken at the time and had external legal professionals—their investigation of the event, was that sent externally as well, or was that done internally?

Mr Woodford: With that, the brakes were slammed on and it was referred straight to the committee.

Mr CRANDON: So they did not do any investigation?

Mr Woodford: Absolutely none.

Mr CRANDON: My apologies. Yes, I now recall the matters.

Mr Woodford: That was what was so impressive, I guess, about the presiding officer on the matter: he had the foresight, despite others urging for a continuation of proceedings, to say, 'Stop it.' Then the chair of the commission had the foresight to immediately refer it.

CHAIR: We might move on from that one.

Mr BLEIJIE: Mr Woodford, off the topic a little bit, I am keen, for you, as the Parliamentary Crime and Corruption Commissioner, to share your insights or reflections on the Carne matter that was handed down in the High Court and how you see that impacting your role, the committee's role and the parliament's role. It is a big issue this committee is going to be dealing with.

Mr Woodford: That is a broad question, Mr Bleijie. The judgement just came down yesterday or the day before.

CHAIR: Two days before.

Mr Woodford: I have not pored over every sentence of it to analyse what it is going to do for me personally. I think my work is largely driven by what the committee engages me to do, so I am one step removed from what Carne has to offer. Certainly the committee is going to require quite a bit of guidance on that, and I am hoping the lawyers that were involved for parliament, effectively, in the matter will be giving some guidance. No doubt minds need to turn to the amendments to legislation because, of course, the High Court is the end of the road.

Mr BLEIJIE: No Privy Council.

Mr Woodford: I was reminding Mr Kunde of that. He was giving me his interpretations of the decision. It is an interesting decision. I looked at, with Mr Kunde, section 24 of the act in terms of prevention reports, and that did not receive any mention at all. You can understand the logic of the decision, but that decision is going to need to be analysed in some detail. It is either going to require a shift in the way procedures are undertaken or some amendment. I guess the committee gets back to looking at issues of tabling reports.

The clear message, when I read the judgement, was the High Court's view is that once an investigation has been undertaken and there is no charging or anything like that, then publication of the report, tabling of the report in parliament, was not something that had a sound legislative basis. That is really what I took from the decision. However, when you look at things like section 24 and the functions of the commission, one key function of the commission is the education of community through the publication of various reports. Then you get to consider that the commission is entitled to publish reports; it just so happens that a lot of the time publication comes through via tabling in parliament, for obvious reasons. Taking into account what the High Court has had to say, you are then moved to ask yourself, 'If we are really going to table a report in parliament that is preventive,

so it has an educative function, should the report not have the same character of tabling a report in parliament that identifies a particular individual? Those are the sorts of matters that need to be considered, it seems to me, the High Court was really saying.

It is a little unseemly to have an investigation, not have charging, then with parliamentary privilege have something tabled in parliament that has the consequences—it has an educative function, no two ways about that—of carrying with it the punitive aspect of a person's reputation being tabled before parliament. Reading the first few paragraphs of the judgement, that to me was the strong theme that I saw coming from that. I think if you get the philosophy of where the High Court was coming from—and they are interpreting the law, they are not putting in place policy; that is not their job—that seemed to be the real drive behind those judgements.

Then you come to the policy considerations for parliament and for parliamentarians to think about what do you want to do moving forward. Is it okay to receive a report from the CCC that did not result in corruption charges, but you still want to table that report in parliament? These are difficult questions that make people feel uncomfortable, but that is the question you have to ask. Would you feel it is fair if the CCC conducted an investigation in relation to you and then they found no corruption charges, but it was able to be put before a committee and then the report was tabled in parliament because amendments to legislation allowed that to take place? It was a section 69 report. If it was another report, would you feel comfortable if that was a report about you, being tabled in parliament, even though you had been raked over the coals and your life had been turned upside down for a long period of time, but nonetheless, through the legislative device, the report of the CCC could go before parliament? These are the things you are going to have to balance.

CHAIR: Are they public policy considerations?

Mr Woodford: They are, and this is why when I read the judgement—and I have not read it in depth—my mind turned to prevention and I thought, 'Look, there's an educative function. If that is really what is to be achieved here through the process then if a failed corruption investigation takes place and there are no charges, consideration needs to be given as to how these reports come here and if it is a truly preventative report well then it should be of that character and not a report which is a de facto tabling of an investigation.' Anyway, they are matters for parliament to think about and for this committee and you need to get to a view on that before you can then engage the legislative drafters because the lawyers will rake over the decision and tell you what you can and cannot do, but then if you want to move beyond what is permissible at the moment and really think about it you need to ask yourself those difficult questions.

CHAIR: One of the difficulties with that position of the High Court now is that notifications that someone has been, what is the word, cleared of allegations, also cannot be made by the CCC. It is all part of weighing up those considerations.

Mr Woodford: That is correct. There are a number of parts to it. I am just picking up, I guess, the big bit, but operationally, in the communications between the commission and the committee and what it can report on, yes.

CHAIR: We will go back to questions from the other side.

Mr BROWN: I think the last time we met we were discussing concerns about reports and how the CCC produced those reports and gathered the information and submissions. Is it a deeper concern about the role of the CCC and how they should be functioning when producing these reports but also the processes and clarifying what their role is, whether it is an educational report or a report into someone specific?

Mr Woodford: Mr Brown, I think that is right and I think that is what the High Court is saying. Part of that is to work out what sort of report you are giving. If it is a preventative report—well, the High Court did not get into that, but for our purposes, if it is a preventative report it should be a preventative report. It should not just be an investigative report and then styled a preventative report. Is that what you are getting at?

Mr BROWN: There is the ability to do an investigation and there is also an ability to report quarterly to this committee. There is nothing stopping the CCC to report, without naming names, what they have found in certain investigations. They do it. We have a report right here. What we have been questioning over probably 12 months or longer now with Logan and a number of other reports that have been produced by the CCC is the lack of legislative direction for the CCC and what their role should be when they turn their attention to different matters and getting that guidance right if we do need to amend the act. It does seem that we are heading down that path.

Mr Woodford: It certainly seems like you are heading down that path. If there is a perception that that needs clarification that should be part of the process. It would seem to me that on what has fallen from Carne, the nature of reporting needs to be completely reconsidered, doesn't it, and to work out the various types of report and what can happen with them.

CHAIR: I have a question following on from that. I want to query that last statement, Mr Woodford, the nature of reporting needs to be reconsidered, and put it to you it is not the nature of reporting that needs to be reconsidered but rather the legislation which has been construed much more narrowly than everyone thought it was.

Mr Woodford: I was wrong by saying the nature of the reporting. What I meant was the legislative devices by which reporting gets dealt with. Sorry about that.

CHAIR: Because for a long time—I do not know how long but for a long time—there has been an understanding around Queensland that the CCC could publicly report. They have been found not to have that power for corruption investigations.

Mr Kunde: They can publicly report. They do not need to run it through the committee and have it tabled. They can always do that, but obviously—

CHAIR: But not now.

Mr Kunde: They can still report. I would have thought they would do it under 24. The High Court is looking at them tabling it under section 69 and that is the issue there. I think there is nothing stopping them publishing that report as a preventative report under section 24.

Mr BROWN: Picking up on that, Mr Kunde—

Mr Kunde: Sorry, I should clarify. I do not know if it would be the same content. I do not know the content of this, obviously, but they could publish a report discussing an investigation and the lessons learnt from that investigation under section 24. They could do it without referring it to the committee. They could just publish it as a public report.

Mr BROWN: Do you think they would run into the same legal troubles that have been raised in the Carne case?

Mr Kunde: Depending on if it is a report on an investigation that has not resulted in charges or whether it is a report on lessons learnt and preventative issues that arise from the report. They are two different things.

Mr BROWN: This comes back to our point about clarification in the legislation about their role.

Mr Kunde: I think section 24 is pretty clear. Subsection 24(i) allows them to report on ways to prevent major crime and corruption. If the report was directed at that, I do not think there would be any, but, as I say, I do not know what the report is. I have never seen it.

Mr CRANDON: On all of that, I have in front of me a report titled *Influence and transparency in Queensland's public sector*, a report that was delivered by the commission in January of this year following a call for submissions back in June 2022.

Mr Woodford: Which is a section 24 report.

Mr CRANDON: Which appears to be a section 24 report, but I cannot seem to find anything in here that says we are publishing this under section 24. Would there be a requirement there?

Mr Woodford: There is no requirement if it has that quality.

Mr CRANDON: Just thinking about that, and we have spent a fair bit of time on that report as a committee discussing various aspects of the process and the final delivery of it, it seems that there is a lot of opinion given in the report with not a lot of substance behind it, with not a lot of reference back to, for example, the public submissions or the submissions that were purported to become public at some time according to the original 'have your say' document. The commission was loathe to consider publishing those documents, even though of the 50-odd 10 were meant to be confidential and the rest were meant to be able to be published.

Mr Woodford: Did they say we are loathe to publish that, but we are content to supply the committee with a copy of all of that as part of the preventative report with appendices that you can table? Do you see my point? Do you understand my point?

CHAIR: It is a rhetorical question.

Mr CRANDON: We may discuss this in the closed meeting.

Mr Woodford: That is really what I was getting at earlier. It is a bit like you are happy to wound but you are not happy to strike.

Meeting with the Parliamentary Crime and Corruption Commissioner

Mr BLEIJIE: Mr Chair, if I may, I was not aware that Mr Crandon was going to raise that report, but I declare that I was a submitter to that. I was not aware he was going to raise it.

CHAIR: Are there any other questions?

Mr CRANDON: I just wanted to touch on that as an example—a fine example, I think.

CHAIR: If there are no further government questions, before we close is there anything else you would wish to place on the record today about anything related to your role?

Mr Woodford: Thank you, Mr Krause. I have probably said enough.

CHAIR: In that case, we will close the public session here this morning with the commissioner. Thank you for your time. We will move into private session.

The committee adjourned at 9.42 am.