

30 January 2020

Our ref: LP-MC

Parliamentary Crime and Corruption Committee
Parliament House
George Street
Brisbane Qld 4000

By email: pccc@parliament.qld.gov.au

Dear Committee Secretary

Inquiry into the Crime and Corruption Commission's performance of its functions to assess and report on complaints about corrupt conduct

The Queensland Law Society (**QLS**) appreciates the opportunity to provide comments to the Inquiry into the Crime and Corruption Commission's performance of its functions to assess and report on complaints about corrupt conduct (**Inquiry**).

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

Preliminary issue – timeframe for the Inquiry

QLS received email correspondence from the Parliamentary Crime and Corruption Committee (the **Committee**) regarding this Inquiry on 17 December 2019. This was immediately prior to the Christmas/New Year period office closures and typical leave period for QLS staff and many of its members. Some of these members are only just now returning from leave.

Accordingly, QLS has not been able to prepare a comprehensive response to this Inquiry. We have, however, made some general comments below.

We also note that the inquiry page on the Committee's website does not set out the timeframe for this Inquiry or provide other details about reporting and whether there will be a public hearing. We would be pleased if the Committee would confirm these details.

Terms of Reference

We consider the Inquiry should consider the following issues:

- The definition of "corrupt conduct" in section 15 of the *Crime and Corruption Act 2001* (**CCA**) is extremely broad and, in our view, allows the Crime and Corruption Commission (**CCC**) to investigate almost any grievance involving a public official. It is our strong view there are sufficient powers and scope for the CCC to investigate the individuals,

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institutions and the conduct for which it was created. There should be no further broadening of these powers in the absence of a strong evidentiary basis.

- Some of the CCC's legislative powers abrogate cornerstone principles of our legal system; for example, powers to compel an individual to give evidence even if doing so may tend to incriminate them and the derivative use of evidence. This is a significant concern. The rescission of cornerstone principles should only be contemplated in a case where a clear justification exists and as a last resort. In our submission, these powers have not been appropriately justified. We urge the Committee to review the CCC's powers in light of these fundamental legal principles.
- Over the past few years, the CCC has conducted what appear to be ongoing investigations into a number of institutions such as various local government councils. The Committee should consider whether there is an appropriate framework for these ongoing investigations. Where possible, there should be certainty for individuals involved in these investigations. It is also in the public interest for investigations to have clear parameters.
- QLS considers there is benefit in further oversight of the CCC. The parliamentary committee serves an important purpose, but we see merit in an additional monitor similar to the Commonwealth Inspector-General of Intelligence and Security reviewing the activities of the CCC, the Office of the Independent Assessor and relevant police taskforces. At the federal level, the Inspector-General can undertake a formal inquiry into the activities of an Australian intelligence agency in response to a complaint or a reference from a minister. The Inspector-General can also act independently to initiate inquiries, conduct regular inspections and monitor agency activities. Establishing this role in Queensland, would contribute to public confidence in these bodies and ensuring their activities are being carried out appropriately and in accordance with the law.
- In addition, we note there is currently no complaints mechanism available to individuals and the public. An inspector-general or similar office could also carry out this function.
- One of the terms of reference for this Inquiry is "*the CCC's development and announcement of recommendations for legislative amendments arising from its assessment of complaints*". We consider policy development is best achieved through the relevant government department and requires extensive consultation with relevant stakeholders. Policy that relates to the integrity and powers of a body should be developed in consultation with that body, however, should also be driven by the minister and department and should be based on cogent, independent evidence.
- The CCC's media policy dictates how it interacts with the media in different types of matters and at different stages of each investigation.¹ We consider the Committee should

¹ <https://www.ccc.qld.gov.au/media/media-policy>

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assess whether this policy and the CCC's adherence to it is having a perceived or practical effect on the progress and outcomes of investigations.

We look forward to hearing from the Committee regarding QLS's further contribution to this inquiry.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully

A handwritten signature in black ink, appearing to read 'L. Murphy', with a large, stylized flourish extending from the end of the signature.

Luke Murphy
President