

12 August 2020

Our ref: LP-MC

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

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

Dear Committee Secretary

Review of the Crime and Corruption Commission's activities

Thank you for the opportunity to provide a submission to the Review of the Crime and Corruption Commission's activities. The Queensland Law Society (**QLS**) appreciates the opportunity to contribute to the important work of the Parliamentary Crime and Corruption Committee (**Committee**).

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.

This submission has been compiled with the advice of the QLS Occupational Discipline Law and Criminal Law Legal Policy Committees, whose members have substantial expertise in this area. It raises several issues that we would appreciate the Committee considering in its review.

Current powers of the CCC

QLS has previously made submissions to this Committee regarding the broad meaning given to "corrupt conduct" in section 15 of the *Crime and Corruption Act 2001* (**CCA**). The practical effect of this definition is that the Crime and Corruption Commission (**CCC**) is able to investigate almost any grievance involving a public official.¹ We note, however, that the CCC's mandate is to combat and reduce the incidence of **major crime and corruption** in the public sector in Queensland (our emphasis).²

¹ [QLS Submission](#) to the Inquiry into the Crime and Corruption Commission's performance of its functions to assess and report on complaints about corrupt conduct - incorporated into Review of the Crime and Corruption Commission's activities dated 30 January 2020.

² See section 4 of the *Crime and Corruption Act 2001* (Qld).

Review of the Crime and Corruption Commission's activities

Based on this definition and the provisions of the CCA flowing from it, it is our view that there are sufficient powers and scope for the CCC to investigate the individuals, institutions and the conduct for which the Commission was created. There should be no further broadening of these powers in the absence of a strong evidentiary basis.

Further, 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. As stated in our submission to the previous inquiry, the infringement upon 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, and instances of their use, in order to uphold the operation of these fundamental legal principles upon which the proper and efficient administration of justice has been based.

Oversight and accountability

QLS has previously made submissions on the merits of further oversight of the CCC and a more effective complaints mechanism. We acknowledge the important role played by the Committee in monitoring and reviewing the performance of the functions and the structure of the CCC. We also acknowledge the work of the Parliamentary Crime and Corruption Commissioner. This work is critical and should continue.

QLS however considers that the creation of an additional monitor similar to the Commonwealth Inspector-General of Intelligence and Security who is charged with reviewing the activities of the CCC, the Office of the Independent Assessor (OIA) and relevant Police taskforces should be explored. As noted in our earlier submission, the Commonwealth 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 also has capacity to act independently to initiate inquiries, conduct regular inspections and monitor agency activities. This type of Office could also respond to complaints. Currently, complaints are directed to the CCC's chief executive and this Committee. While this Committee is independent from the CCC, it may not always be appropriate for it to consider a complaints made against the CCC and the OIA.

Establishing this additional monitor in Queensland would contribute to public confidence in these bodies and would provide further assistance to the Committee in ensuring their activities are being carried out appropriately and in accordance with the law.

Ongoing investigations

In recent 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 review whether there is an appropriate framework for 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.

Review of the Crime and Corruption Commission's activities

Evidence given in private hearings

Our members have raised concerns about the treatment of witnesses in closed hearings conducted by the CCC. In some instances, witnesses are not appropriately or adequately informed by the Commission about the risk of their evidence being disclosed to third parties – including, to the person the witness is giving evidence about.

In our view, this raises issues of professional conduct and ethics for the presiding officer and counsel assisting.

In addition, our members report that when the witness's evidence is disclosed to a third party (accused person), no warning or notice is given to the witness.

The Committee should review the manner in which information about the risk of their evidence being disclosed is provided to these witnesses, consider the establishment of frameworks and guidelines around the provision of this information and crucially, investigate compliance with these processes. Ensuring the appropriate treatment of witnesses, particularly in closed hearings will serve to instil greater confidence in participation.

Future comments

We note that the Committee is to hold public hearings for this Inquiry in 2021. Should our members advise of any further information relevant to this review, we will provide this information to the Committee.

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



Luke Murphy
President