

## **Review of the Crime and Corruption Commission's activities**

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Submission to the  
Parliamentary Crime and Corruption Committee

# **Review of the Crime and Corruption Commission's Activities**

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1. The Queensland Council of Unions (**QCU**) is the peak council of registered unions in Queensland representing 25 affiliated unions and around 400,000 workers. We have a proud history of representing the voices of Queensland workers since 1885, and have been advocating for their industrial, social, and political interests since that time.
2. We welcome the opportunity to make a submission to the Parliamentary Crime and Corruption Committee's (**Committee**) Review of the Crime and Corruption Commission's (**CCC**) Activities.
3. Our submission is intended to address a matter relevant to the Committee's examination of the CCC's corruption function, including:
  - a. the handling of, and reporting on, complaints of corruption, including analysis of any resource issues that may impact assessment and outcome timeframes; and
  - b. the application of the principles for performing this function, including the devolution principle.
4. Specifically, our submission relates to the duty of care public sector agencies owe to employees who are the subject of workplace investigations about alleged 'corrupt conduct' (as defined in section 15 of the *Crime and Corruption Act 2001*), whether conducted by the CCC or the public sector agencies themselves following referral to them by the CCC.
5. Public sector agencies owe a duty of care to provide adequate support to employees who are the subject of workplace investigations. Specifically, public sector agencies have a duty to:

- a. ensure, so far as is reasonably practicable, that the health (and safety) of employees who are the subject of workplace investigations and the conditions at the workplace relevant to workplace investigations are monitored for the purpose of preventing illness or injury arising from the conduct of the agency;<sup>1</sup>
- b. manage psychosocial risks in accordance with Part 3.1 of the *Work Health and Safety Regulation 2011*;<sup>2</sup> including by:
  - i. identifying reasonably foreseeable hazards that could give rise to risks to the health and safety of employees who are the subject of workplace investigations;<sup>3</sup>
  - ii. eliminating those risks so far as is reasonably practicable, or if it is not reasonably practicable to eliminate the risks, to minimise those risks so far as is reasonably practicable in accordance with the hierarchy of control measures;<sup>4</sup>
  - iii. reviewing and, as necessary, revising the control measures implemented so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health or safety;<sup>5</sup> and
- c. comply with an approved code of practice for the purposes of the *Work Health and Safety Act 2011*,<sup>6</sup> namely the *Managing the risk of psychosocial hazards at work Code of Practice 2022* which specifically identifies poor organisational justice and poor workplace relationships

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<sup>1</sup> *Work Health and Safety Act 2011* ('WHS Act'), s 19(3)(g).

<sup>2</sup> *Work Health and Safety Regulation 2011*, r 55C.

<sup>3</sup> *Ibid* r 34.

<sup>4</sup> *Ibid* r 35 and 36.

<sup>5</sup> *Ibid* r 38.

<sup>6</sup> *WHS Act*, s 26A.

(including a lack of fairness and equity in dealing with workplace issues) as psychosocial hazards.<sup>7</sup>

6. However, public sector agencies are failing to meet this duty of care, particularly as it relates to the arrangements in place to support the wellbeing of employees who are the subject of workplace investigations about alleged 'corrupt conduct'.
7. In the experience of our affiliates' members, employees who find themselves in this circumstance are often left with little support. They are:
  - a. provided with limited reasons for their suspension from duty;
  - b. suspended from duty for significant periods of time (up to years) because investigations relating to these matters are rarely dealt with in a timely manner, nor are the show cause / disciplinary processes that follow;
  - c. provided with little communication about the progress of their matter; and
  - d. rarely provided with welfare checks, or any other support for their welfare beyond the provision of contact details for an employee assistance program.
8. Further, the arrangements relating to their suspension, or that have been put in place to support their wellbeing (if that does occur), are very rarely reviewed.
9. It is commonly accepted that by their very nature workplace investigations and disciplinary processes can give rise to a risk of psychological harm to a worker who is the subject of them. This is the case even when they are not poorly

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<sup>7</sup> See Page 6, section 3.1.1 and Appendix 3.

managed. Workplace investigations and disciplinary processes are foreseeable hazards and the risks associated with them are exacerbated by the circumstances above.

**CASE STUDY:**

*The Australian Workers' Union of Employees, Queensland (**AWUEQ**) represents thousands of workers in the Queensland Public Sector including Queensland Health, Youth Detention, Disability Services and Park Rangers.*

*AWUEQ members are sometimes subject to being suspended by public sector agencies in relation to allegations of misconduct.*

*Many times, the public sector agency, through their Ethical Standards Unit, will refer the allegation/s to the CCC as a matter of course.*

*The member is then suspended indefinitely from work and directed not to contact anyone in the workplace.*

*Depending on the details of the matter, the member may not even be informed of the allegation/s, who the complainant is or whether a workplace investigation is or will be undertaken.*

*The member is then subject to the timeframes imposed by the CCC and the public sector agency in relation to the matter.*

*It is not uncommon for an AWUEQ member to be suspended for years if the matter has been referred to the CCC.*

*For example, the AWUEQ is currently representing a member employed by a public sector agency who has been suspended pending a workplace investigation and consequent show cause process for approximately two and a half years. This process has had a significant impact on the member's psychosocial health as well as personal and family wellbeing.*

*Further, the AWUEQ has previously assisted a member at a public sector agency who was indefinitely suspended pending a workplace investigation for over 12 months. It is the understanding of the union that the member was suffering from trauma when suspended and tragically the member took their own life whilst suspended.*

10. This is an experience shared by employees who are the subject of workplace investigations about alleged conduct other than 'corrupt conduct'. However, they are at least provided with the right to request that the Public Sector Commission (**PSC**) conduct a periodic review about a procedural aspect of the relevant public sector agency's handling of their suspension, workplace investigation and/or disciplinary process in accordance with section 124 of the *Public Sector Act 2022* and the following PSC Directives:
  - a. Suspension (Directive 06/23);
  - b. Workplace investigations (Directive 01/24); and
  - c. Discipline (Directive 05/23).
  
11. Given the overwhelming majority of complaints about alleged 'corrupt conduct' assessed by the CCC are referred to the appropriate public sector agency, with no further advice required by the CCC (3,387 out of the 3,733 requiring further

action – which equates to 90%),<sup>8</sup> there is no reason why these employees should not be afforded the same rights. The matter is not being monitored by the CCC, nor is the public sector agency required to provide outcome advice to the CCC. It is entirely in their hands, and their handling of alleged ‘corrupt conduct’ matters ought to be subject to the same level of scrutiny as any other matter. Given the potential seriousness of alleged ‘corrupt conduct’ matters, including matters that can result in significant reputational damage for public sector agencies and senior officers of public sector agencies (including those who may be charged with handling the matter) appropriate scrutiny is paramount.

12. The propensity of particular public sector agencies to classify almost every conduct matter as ‘corrupt conduct’, therefore circumventing the relevant rights to periodic review referred to above, further contributes to this issue.
13. Because employees who are the subject of workplace investigations about alleged ‘corrupt conduct’ are provided with limited reasons for their suspension from duty, they also do not have the appropriate level of detail to make an assessment about the legitimacy of the agency’s classification of their matter which ultimately hinders their ability to determine if and how they may exercise their rights to dispute the matter.
14. To address the matters above, the QCU provides the following recommendations for the Committee’s consideration:

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<sup>8</sup> Crime and Corruption Commission, Annual Report 2024–25, 39 (Table 1).

### Recommendation 1

- a. The *Crime and Corruption Act 2001* should be amended to require the CCC, when referring complaints to the appropriate public sector agency, to provide the agency with written advice about whether the alleged conduct actually meets the definition of 'corrupt conduct' in section 15 of the Act, including the reasons for forming their view of the matter;
- b. The *Public Sector Act 2022*, and any other relevant legislation, should be amended to require public sector agencies to ensure that a notice of suspension issued to a relevant employee be accompanied by a copy of this advice, in the appropriate form (i.e., redacted if necessary).

### Recommendation 2

- a. Employees who are the subject of suspensions, workplace investigations, and disciplinary processes about alleged 'corrupt conduct' should be afforded the right to request a periodic review about a procedural aspect of the relevant public sector agency's handling of their suspension, workplace investigation and/or disciplinary process;
- b. The process for periodic reviews of suspensions, workplace investigations, and disciplinary processes about alleged 'corrupt conduct' should require CCC assessment prior to the PSC conducting the review with the CCC reserving the right to conduct the review depending on the nature and circumstances of the particular matter (noting that the CCC can currently 'review or audit the way a public official has dealt with corrupt conduct, in relation to either a particular complaint or a class of complaint', pursuant to section 47(1)(b) of the *Crime and Corruption Act 2001*).

15. We encourage the Committee to carefully consider these recommendations and welcome the opportunity to attend a public hearing to discuss them further should an invite be extended.