



# Premier of Queensland

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## Queensland Government submission to the Parliamentary Crime and Misconduct Committee's Three-Yearly Review of the Crime and Misconduct Commission

The Queensland Government welcomes the opportunity to provide input into the Parliamentary Crime and Misconduct Committee (the PCMC) review of the Crime and Misconduct Commission (the CMC), undertaken every three years, under section 292(f) of the *Crime and Misconduct Act 2001* (Qld) (CM Act).

As any recommendations made by the PCMC as part of this three-yearly review will be subject to consideration and formal response by the Queensland Government, the following submission will provide factual information to facilitate the PCMC in its review. This submission will:

- advise the PCMC of contemporaneous reviews involving the CM Act;
- refer to the PCMC the issue of maximum tenure for assistant commissioners and senior officers of the CMC; and
- detail a number of operational matters raised by Queensland Government departments.

### Contemporaneous reviews involving the CM Act

The Queensland Government recently announced its response to the recommendations of the Independent Panel in its report titled *Simple, Effective, Transparent, Strong: An independent review of the Queensland police complaints, discipline and misconduct* (the Independent Panel's report). A copy of the Independent Panel's report, submissions received, and the Government's response are available online at [www.premiers.qld.gov.au/publications/categories/reviews/qps-complaints.aspx](http://www.premiers.qld.gov.au/publications/categories/reviews/qps-complaints.aspx). The documents make some significant recommendations, including in relation to the role and operations of the CMC.

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Queensland  
Government

In addition to the Independent Panel's report, the following reports have made recommendations as to review of, or amendment to, the CM Act:

- The former PCMC's 2009 Report No. 79 *Three Yearly Review of the Crime and Misconduct Commission* (the PCMC's 2009 Report) recommended a review of chapters 3 (Powers) and 4 (Hearing and deciding claims of privilege and excuse) of the CM Act and other procedural amendments. The Government response committed to undertaking this review.
- The report of the Committee System Review Committee recommends that the CM Act be reviewed with a view to having lay members included on the membership of the PCMC and to enhancing the transparency of the operations of the PCMC (recommendation 46). This recommendation was noted by the Government in its response and referred to the Department of Justice and Attorney-General for consideration in its review of chapters 3 and 4 of the CM Act.

To ensure consistency and internal cohesion, all amendments to the CM Act resulting from the above recommendations will be progressed concurrently.

#### Review of Chapter 3 and 4 of the CM Act

The review of Chapters 3 and 4 of the CM Act arising from the Government's response to the PCMC's 2009 Report is underway.

The PCMC's 2009 Report recommends a review of the chapters 3 and 4 powers in the CM Act to:

- develop uniform provisions with generic application across the CMC's functions (recommendation 17);
- expressly nominate the grounds of privilege a witness may rely on to refuse to answer a question at a CMC hearing; and
- clarify that these are the only privileges that may be claimed (recommendation 14).

The review will also consider the issue of admissibility of evidence given by a person who has claimed the privilege against self-incrimination in a proceeding about the falsity or misleading nature of an answer given during a Crime and Misconduct Commission hearing (recommendation 15). The Independent Panel report similarly recommended an independent review of the use of the privilege of self-incrimination in disciplinary hearings across the entire public sector.

The review of the provisions of the CM Act arising from the PCMC's 2009 Report is underway and will be completed in the same timeframe as amendments arising from the Government's response to the Independent Panel's report and the Committee System Review Committee report.

### Tenure of senior staff at the CMC

In the Independent Panel's report, Recommendation 5 states:

*It is recommended that the ongoing need for a maximum tenure of 15 years for assistant commissioners and 'senior officers' of the CMC (as provided for under section 247(3A) of the Crime and Misconduct Act 2001), be referred by the responsible Minister to the PCMC for its consideration in monitoring the CMC's progress in succession planning and recruitment strategies in the next three year review of the CMC in 2012.*

The Queensland Government has supported this recommendation. The Government hereby refers Recommendation 5 of the Independent Panel's report to the PCMC for its consideration in the current review.

The PCMC would be aware that, in 2006, the CM Act was amended to extend the maximum term of appointment for assistant commissioners and senior officers, from eight to ten years, and allow an extension for a further term, up to a maximum of 15 years. Prior to 2006, the CM Act provided that assistant commissioners and senior officers in the CMC could only hold office for a maximum of eight years, resulting in difficulties in recruiting and retaining suitable staff.

The former PCMC's 2006 three-yearly review recommends 'that future Parliamentary Crime and Misconduct Committees monitor the issues of succession planning and senior staff retention and renewal at the Crime and Misconduct Commission' (recommendation 3). The Government supported this recommendation and the Government response to the former PCMC's 2006 report indicates that the CMC agreed to monitor its succession planning initiatives, including the impact over time of the increase in tenure of senior officers.

### Departmental responses to the PCMC

Queensland Government departments have a resoundingly constructive and professional relationship with the CMC. In addition to the submissions which have previously been provided to the PCMC, the following paragraphs outline comments provided by several departments on operational matters.

#### *Queensland Health*

Queensland Health (QH) advises that:

1. the Devolution project, a co-sponsored project by QH and the CMC that commenced in 2008, has progressed well;
2. the Ethical Standards Unit's remote access to the CMC's COMPASS database and case management system to record and manage allegations of official misconduct is valuable, particularly because information relating to such allegations can be recorded by both agencies in 'real time'; and

3. the use of clearly articulated criteria and explanation of decisions to not formally assist with a cooperative investigation may assist agencies to gauge when it is appropriate to request assistance on larger and more complex investigations, particularly in light of the National Health reforms and impending organisational changes in QH. The Ethical Standards Unit looks forward to working closely with CMC to progress the Integrity Framework and Devolution projects. QH considers that these significant organisational initiatives will present unique challenges in the near future as the Local Health and Hospital Networks evolve through health reform.

#### *Public Service Commission*

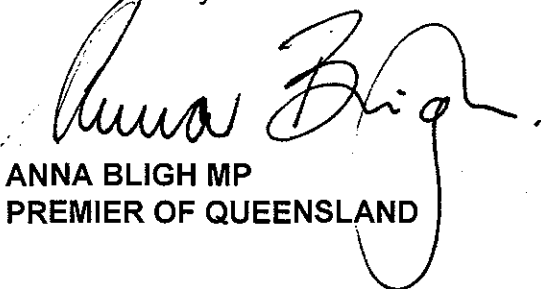
The Public Service Commission's (PSC) role as the oversight agency for public interest disclosures under the *Public Interest Disclosure Act 2010*, and the PSC's functions under the *Public Service Act 2008* to enhance and promote an ethical culture and ethical decision-making across the public service, have significant congruence with the CMC's misconduct mandate. This has resulted in a greater level of cooperation being developed between the PSC and CMC in supporting public sector agencies to enhance and promote an ethical culture.

An example of this cooperation can be seen in the three public interest disclosure guides, which were developed as a joint project between the PSC, CMC and Queensland Ombudsman. Representatives of the CMC actively participate in many of the sector-wide ethics networks that the PSC facilitates, including the Public Sector Ethics Network and the Public Interest Disclosure Coordinators Network. The CMC Chairperson, along with the PSC Chief Executive and other integrity agency heads also participate in the Integrity Committee, which provides a strategic leadership forum to discuss ethics and integrity issues and share information about integrity agency activities.

CMC representatives have also contributed to PSC projects such as the development of agency resources to support codes of conduct developed in accordance with the *Public Sector Ethics Act 1994*.

I trust this information is of assistance to you and wish the PCMC well in its deliberations.

Yours sincerely



**ANNA BLIGH MP**  
**PREMIER OF QUEENSLAND**