PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE

Members present:

Mr SW Davies MP (Chair)
Mrs JR Miller MP (Deputy Chair)
Miss VM Barton MP
Mr MJ Pucci MP
Mr IP Rickuss MP
Mr PW Wellington MP
Mrs DC Scott MP

Staff present:

Ms A Honeyman (Research Director)
Ms K Christensen (Principal Research Officer)

PUBLIC HEARING—MEETING WITH CRIME AND CORRUPTION COMMISSION

TRANSCRIPT OF PROCEEDINGS

TUESDAY, 22 JULY 2014

Brisbane

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Committee met at 10.31 am

BOOTH, Mr Paxton, Acting Senior Executive Officer (Corruption), Crime and Corruption Commission

LEVY, Dr Ken, Acting Chairperson, Crime and Corruption Commission

McFARLANE, Ms Dianne, Acting Chief Executive Officer, Crime and Corruption Commission

CHAIR: Welcome, ladies and gentlemen, to a very historic morning: the first official public hearing of the new PCCC. It is very exciting. We have an apology this morning. Ms Jackie Trad is unable to attend. Unfortunately, there was a tragedy in her electorate this morning. The committee was provided with a letter from the Leader of the Opposition appointing Mrs Scott pursuant to standing order 202. Mrs Scott has been provided with information on committee security also. We also have Mr Peter Wellington via teleconference today. I welcome Dr Levy and the commissioners and invite Dr Levy to make an opening statement to the committee.

Dr Levy: Thank you, Mr Chairman. Good morning, members, and Mr Wellington.

Mr WELLINGTON: Good morning, Dr Levy.

Dr Levy: The Crime and Corruption Commission is grateful for this opportunity to make some opening remarks at this inaugural meeting of the PCCC. We are now in the 22nd day of the life of the Crime and Corruption Commission. It commenced, of course, on 1 July and I am pleased to say that the transition went very smoothly. In the last couple of months we have arranged to implement some new internal systems and processes which will help align the important work of the changes in this legislation and to make the CCC a more effective body.

The most central issue of the governing legislation is the definition of 'corrupt conduct'. It is a new definition which is distinct from the former provision which dealt with official misconduct. There are some other legislative changes that will amend the way the CCC and the public sector manage allegations and complaints of corruption as a result of these changes. The act not only defines how the CCC must deal with allegations of corrupt conduct but also sets out the framework and how the CCC and public sector agencies will work together to tackle corruption. The public sector has always had an important role to play in stamping out corrupt conduct, and this was previously outlined in the Crime and Misconduct Act. There are also provisions in the Public Service Act which are relevant. The CCC has been working closely with the public sector to ensure that what is now defined as corrupt conduct does not prosper in Queensland.

On 19 June the Crime and Corruption Commission held an information session on the revised framework for handling complaints with representatives of the public sector, the Queensland Police Service, local governments, universities and some government owned corporations. That session was attended by approximately 300 attendees from those various organisations and dealt with the main legislative and operational changes to the legislation. The Ombudsman also presented on public interest disclosures before staff from the CCC then engaged in a question and answer style session for those in attendance. The feedback we received was that the participants found the information relevant and helpful, provided clarity about some of the key changes and helped to explain the complementary roles of the Public Service Commission, the Queensland Ombudsman and the responsibility of managers who work in the public sector.

Today the officers of the CCC will present from the commission a summary of those legislative changes—in particular, Mr Paxton Booth, to my right, who is the acting senior executive officer of corruption, and Ms Di McFarlane, to my left, who is the acting chief executive officer. The presentation will include aspects about the new definition, the reporting threshold, statutory declarations and section 40 of the act, which is the important section which delegates from the CCC to chief executives to deal with certain matters of corruption—certain types of issues which the CCC has delegated out and is, by and large, comfortable with departments managing. There are also some transitional arrangements in place.

In addition to the jurisdictional changes, we have also provided a summary of the agency's research function, the prevention function, the governance structure and changes to the parliamentary oversight of the CCC. The commission has started to receive some complaints by way of statutory declaration. We have some statistics which we can discuss with you later. We have also observed a decrease in the number of complaints when we compare the complaints lodged on 1 July to this time 12 months ago. It is too early to draw any real conclusions, but clearly there has been a decrease, which is what we expected. I note we appear before this committee also on 4 August, in a couple of weeks time, and we will certainly provide some further facts and figures at that time about the complaints data as part of our usual reporting.

Mr Chairman, I think that is all I will say by way of preliminary remarks. Unless you have any immediate questions, I might ask Mr Booth and then Ms McFarlane to take you through those PowerPoint slides which we have presented to the members.

CHAIR: Thank you, Dr Levy. Are there any questions regarding that opening statement? If you would like to go into your presentation, Dr Levy, that would be wonderful.

Dr Levy: I will ask Mr Booth to commence.

Mr BOOTHMAN: One of the key changes in the new Crime and Corruption Act is a new definition of corrupt conduct, which is now in section 15 of the act. It is effectively a combination of the old sections 14 and 15 in the CMC Act with three new elements. The definition consists of four parts. All four parts of the definition of corrupt conduct must be satisfied to meet the statutory definition of what amounts to corrupt conduct under the act. To paraphrase the current requirements in section 15, it requires that conduct must adversely affect or be such that it could adversely affect the performance or functions of powers of a unit of public administration or a person holding an appointment in a unit of public administration. The conduct must result directly or indirectly in the performance of functions or exercise of powers, as I mentioned above, in a way that is either not honest or impartial, involved a breach of the trust either knowingly or recklessly, or is a misuse of information in connection with the performance of a function or the exercise of a power. The third element is that it must be engaged in the purpose of providing a benefit or causing a detriment to a person. Lastly, the conduct must be such that it would if proved be a criminal offence or a disciplinary breach providing reasonable grounds for terminating a person's services.

The key changes in that definition are as follows: firstly, the addition of the words 'knowingly or recklessly' in terms of a breach of the trust. These are new words but the commission has always applied this interpretation to the type of conduct that could be a breach of the trust under the previous legislation. I think the word 'knowingly' speaks for itself, but in terms of 'recklessly' there must be an awareness by the person engaging in the conduct that there was a real or apparent risk and nevertheless the person without just cause went through with the conduct.

The third change in the act is the inclusion of the additional element of a benefit or detriment. Benefit and detriment are defined in the act quite broadly, but it is now a new requirement that when someone is considering whether or not conduct meets the definition they have to identify that it has obtained a benefit for that person or some other person or has caused a detriment to some person for it to be corrupt conduct now.

Lastly, there is the change from the use of the word 'could' if proved to 'would' if proved in the context of whether the conduct would be a criminal offence or be serious enough to be a disciplinary breach requiring the termination of someone's services. Obviously the ability for conduct to result in a termination of someone's services could perhaps be an area where it might be a bit subjective in terms of someone's opinion as to what type of conduct might result in someone's dismissal. The commission is attempting to put some objectivity around that and is communicating to agencies that they should be assessing the conduct against objective criteria such as what are the reasonable expectations on their employees considered against the organisation's code of conduct, for example.

Subsection 2 in the new section 15 also now provides a list of criminal offences that might be corrupt conduct. There are two important things to take away from this. The list is not conclusive. Just because someone engages in conduct which is an offence listed in that section does not automatically mean it is corrupt conduct. The conduct still must satisfy all four elements that I spoke about before for it to be corrupt conduct. Secondly, the list is not exhaustive. Just because someone's conduct does not necessarily fall into the criminal offence listed in subsection 2 it still might be corrupt conduct—again, provided all the four elements of the definition are met.

The other thing that is important to take away from this is that when conduct is first assessed by a department or agency it may not meet all four elements of the definition of corrupt conduct initially, but the department may start to deal with that information as a disciplinary matter or a

managerial matter. In the process of dealing with it, if new information arises to the person who is dealing with it that then satisfies any part of the definition of corrupt conduct that was missing before, then an obligation would again arise to report that conduct to the CCC.

I think it is also important to note here when we are talking about the definition or the jurisdiction of the CCC there is a clear difference between what falls between the CCC's jurisdiction and what the CCC will be focusing its resources on in terms of the most serious and systemic corrupt conduct. Just because a matter is caught by the definition of corrupt conduct does not necessarily mean that it is still going to be a matter the CCC will itself investigate or take on. For matters that are perhaps less serious, it is still the responsibility of the departments and the agencies to deal with themselves either as an investigation or perhaps as a managerial response depending on the seriousness and the nature of the allegations.

CHAIR: Mr Booth, are you going to get to the thresholds, because that is something that some people have spoken to me about?

Mr BOOTHMAN: In terms of the threshold, I suppose there are two things which affect that and I will get to one shortly which is the section 40 directions, which are directions that the CCC issues to departments about what must be reported to us and how that is to be reported. The threshold in terms of what constitutes corrupt conduct has been raised from official misconduct by the addition of those three elements that I have just spoken about. There is then the additional requirement or consideration as to how that corrupt conduct will be dealt with by the commission, whether it will be investigated by the commission itself. It might be the subject of a close review or monitoring by the commission, or in some circumstances it may not be reported to the commission at all and we will just audit a department or agency about how they are dealing with those types of matters. I will deal with that in a little more detail shortly.

CHAIR: Thank you.

Mr Booth: Another way in which the threshold has been raised is the changes to section 38, which is the statutory obligation on public officials to report corrupt conduct to the CCC. There is now a requirement that the public official hold a reasonable suspicion that the conduct is corrupt conduct within the definition. Previously, the definition or the obligation arose on a bare suspicion by the public official to report official misconduct, so the introduction of the new term of a 'reasonable suspicion' is something which also raises the threshold of what must be reported by a department to the CCC. A reasonable suspicion requires the existence of facts sufficient to induce suspicion in a reasonable person. The term 'reasonable suspicion' is a term that is used in a number of other pieces of legislation and has undergone considerable judicial explanation in terms of what amounts to reasonable suspicion. It has been said that a reasonable suspicion is a state of conjecture or surmise where proof is lacking or 'I suspect but I cannot prove' the allegation. A reasonable suspicion is more than a mere idle wondering or speculation. It is necessary that the public official have reasonable grounds to suspect the corrupt conduct prior to reporting it to the CCC. The information giving rise to this suspicion need not be facts or information that may be admissible in a subsequent court proceeding or other proceeding held by an official; it is sufficient for them in circumstances to rely on other information such as hearsay or something that they have been told by another party. In permissible law—so to take information at its highest—the public official does not have to make a finding on the balance of probabilities at the time of reporting it to the CCC about whether they think corrupt conduct is capable of being proved.

The next change in the legislation is in relation to section 48A. Public officials are now required to develop a policy on how complaints that relate to them will be dealt with. The Crime and Corruption Act introduced a new section, which is section 48A. This amendment follows a recommendation by the CMC as part of its public report regarding the University of Queensland. The purpose of the section is to provide a process for maintaining transparency, accountability and integrity in dealing with complaints against public officials. Section 48A now requires the public official in consultation with the CCC to prepare a policy on how the official will deal with a complaint of corrupt conduct when the complaint is about the public official themselves. The CCC is developing some guidelines of relevant considerations that might be applicable for an agency developing such a policy. The policy could include, for example, delegating the responsibility of reporting and dealing with the corrupt conduct to another person or another body.

One of the other areas in which the threshold has been raised in terms of how matters will come to the CCC is the statutory declaration requirement now for reporting complaints to the CCC. When a person wants to make a complaint to the CCC, that must now be in the form of a statutory

declaration unless there are exceptional circumstances or unless it is a public interest disclosure. The term 'complaint' is not defined in the act, but the CCC identifies complaints as communications concerning corrupt conduct where the person is personally aggrieved by the conduct and effectively is expecting a reply from the CCC about the report they have made to us. The CCC may also be informed about corruption by notifications from public officials—that is, the obligation under the legislation I just spoke about, section 38—information or a matter. None of these require a statutory declaration to be accompanied with the information to the CCC. Whilst there is no definition of what amounts to exceptional circumstances in the Crime and Corruption Act, this is a term that has been discussed again by courts in other contexts. Each case will of course have to be judged on its own merits and exceptional circumstances exemptions will not be given out routinely. They would have to be obviously at a fairly high level to justify if you look at what the intent of the requirement in the act is to get an exemption from that requirement under the act. There are some examples cited in the act of what may fall within exceptional circumstances, and they include a person's fear of retaliation, an impairment or disability that makes it more difficult for a person to provide a statutory declaration, if the person is illiterate or if they are a child.

I will move on now to talk about what are commonly referred to as section 40 directions. These are directions that are issued by the CCC to units of public administration in terms of how that unit of public administration is to deal with official corruption and when they must or if they must report those matters involving corruption to the CCC. The directions have been around for some time. The use of them was significantly expanded by the CMC between 2006 and 2010 to cover the Queensland Police Service, all government departments and the Brisbane City Council. The new section 40 directions will include a category of corruption that does not need to be reported to the CCC at all. The CCC will monitor how agencies are dealing with these types of matters by conducting audits. Effectively, there will be three levels or three tiers of corruption under the section 40 directions. The first level will be the most serious of matters that must be immediately reported to CCC and the agencies are not to deal with them until they receive advice back from the CCC about the matter. The second level is the less serious ones and the agencies may start to deal with those immediately and a report goes to us on a monthly schedule, but importantly it enables the agency to start to deal with the matter straightaway. The third level and the lowest level is corrupt conduct which does not need to be notified to the CCC at all, but the agencies are obviously required to keep a record of it and the CCC will exercise its monitoring function by conducting audits on those matters from time to time. The section 40 directions are written in consultation with the relevant agency and, where the direction relates to a CEO of a department or a Public Service office within the meaning of the Public Service Act, in consultation with the Public Service Commissioner. This process is well underway. The chairman has met with a number of CEOs of various departments to date and we have been liaising with the Public Service Commissioner about this section 40 direction at this time.

The act also introduced some transitional arrangements as we move from the definition of official misconduct to corrupt conduct. The act required all agencies that were dealing with official misconduct as at 1 July to reassess those matters and ensure that they fell within the new definition of what is now corrupt conduct. The agencies were required to undertake the assessment and, if in undertaking that assessment they deemed that the matter they were investing no longer fell within the definition of corrupt conduct, then they were to cease dealing with it as corrupt conduct under our act. It does not mean that the agency will stop dealing with it at all; they could still obviously take managerial action or action under some either provision or act. It just was not within our jurisdiction anymore and it would not be monitored by the CCC. Prior to 1 July, the CMC had written to all agencies that were dealing with current matters and provided them with a list of all of those outstanding matters on which we were awaiting advice or which were subject to ongoing review. We expect to be informed by those agencies about which matters will continue to be assessed or treated as corrupt conduct under the new act within one to two months from 1 July depending on the type of matter that it was. They are the key changes in terms of corruption that I was going to talk about. I will now hand you over to Ms McFarlane. Thank you.

Ms McFarlane: I will now take the committee through other changes in the legislation affecting other areas of the commission and also its upper governance structure and also the parliamentary oversight. Before moving on to those, I firstly want to draw the attention of the committee to two new sections involving the commission's corruption function at new section 35A and section 35B. 35A of the legislation contains a new section, as I said, that provides for the CEO to issue a direction about how our commission officers decide whether a complaint involves or may involve serious or systemic corrupt conduct. This provides for some consistency of application in our assessment process. No directions have been issued at this particular point in time. However,

there are new policies and procedures in place and we have a new case categorisation process which assists staff in guidance in relation to what is serious and systemic corrupt conduct. Section 35B in fact states—

The chief executive officer must publish, on a publicly accessible website of the commission, information about the commission's systems and procedures for dealing with complaints about corruption.

The information must include the standard time frames for assessing and investigating a complaint, the standard procedures for investigating and assessing a complaint, how the commission will monitor the progress of a complaint of corruption, and what action the commission will take if the standard time frames are not met. We have put up that information currently on our website and we welcome any feedback from committee members in relation to that.

One other major policy objective of the act was the removal of the commission's corruption prevention function. The commission may, however, continue to provide advice and recommendation to a unit of public administration about dealing with complaints about corruption, but it cannot continue to engage in the preventative or educative programs or activities that it previously engaged in. It can assess the appropriateness of systems and procedures for dealing with complaints about corruption and it can continue to provide advice and recommendation about the way that a unit of public administration deals with the corrupt conduct and ensure that it is in an appropriate way.

Another policy objective of the act was to amend the commission's research function to be a more focused function and relevant to the Crime and Corruption Commission's functions. It now must engage in research to support the proper performance of its functions if it is required to undertake research in relation to another act or if any matter is referred to the commission by the minister. The commission must give the minister, for the minister's approval, a three-year research plan. Within that three-year plan it must identify its priorities, have regard to the commission's strategic plan and consult with UPAs prior to finalising the research plan. At the moment we have not provided that plan to the minister. We are still developing it within the commission.

Some of the most significant changes to the legislation concern the commission's upper governance structure. The role of the commission has been clarified and it is now responsible for providing strategic leadership and direction to the performance of the commission's functions. It will consist now of a full-time chairman, a full-time chief executive officer, a part-time deputy chairman and two part-time ordinary commissioners. The number of commissioners do not change but their roles change. The chairman is responsible for the proper performance of the commission's functions and, apart from a number of stated provisions that are delegated to the chief executive officer, all functions and powers of the commission are statutorily delegated to the chairman under section 269. The act also provides for the creation of a new position of chief executive officer. The chief executive officer is responsible for the administration of the commission and more specifically is responsible for the employment, management and discipline of commission staff, the management of the commission's documents, including Fitzgerald commission of inquiry documents, developing the budget for the commission, and setting benchmarks for assessing and investigating complaints for corruption and ensuring those benchmarks are met by staff.

The other major changes to the upper governance structure affect the consultation process in relation to the appointment for commissioners, including the chairman, and the appointment of the chairman. Due to recent announcements by the Premier about possible changes to the appointment process in relation to the chairman, I will not go into detail about the act except to say that the current provisions remove the requirement of bipartisan support of the CCC and its members prior to the appointment of a chairman. That may be an issue that may change in more recent times. Consultation with the PCCC remains a feature of the act although the previous consultation process involving the Bar Association has been removed as well.

In terms of improper conduct, section 329 of the act remains. Improper conduct relates to the conduct of commission officers. It currently provides for conduct to mean disgraceful or improper conduct in an official capacity or disgraceful improper conduct in a private capacity that reflects adversely on the commission or conduct that would, if a person was in a unit of public administration, be corrupt conduct. The new act expands that definition to include unauthorised disclosure of confidential information, failure to ensure a commission register is kept up to date, and noncompliance with the policy or a procedural guideline set out by the commission. Section 329 also expands the reporting obligation for the commission in relation to improper conduct to include reporting to the parliamentary commissioner as well as the parliamentary committee. The commission is currently drafting new protocols for the referrals of complaints of improper conduct, and I think just yesterday we actually sent a draft over to the committee for discussion at our next meeting.

In relation to the parliamentary commissioner, there are changes so that the parliamentary commissioner now has the ability to undertake own-motion investigations if the matter relates, again, to the conduct of a commission officer. The parliamentary commissioner can also undertake an own-motion investigation if the commissioner is satisfied on reasonable grounds that the commission has not dealt with the matter adequately or may not deal with a matter adequately or it is in the public interest for the parliamentary commissioner to investigate it.

There are also changes to the hearing powers of the parliamentary commissioner. It has been amended to remove the requirement for the PCCC to authorise the parliamentary commissioner to conduct a hearing. The parliamentary commissioner can also table a report resulting from his investigation or he can provide the report with recommendation to the CEO for the taking of disciplinary action, which is another major change in the act. The act also introduces for the first time disciplinary provisions within the act that relate to commission staff. It includes providing grounds for the taking of disciplinary action and also the type of action to be taken. Previously, those provisions were contained in either an award or the contracts of service for employees.

Finally, the PCCC's review of the operations of the commission will occur every five years instead of the previous three years. That commences from 2016. The act also introduces a new review of the commission providing for the committee to periodically review the structure of the commission, including the relationship between the types of commissioners and the roles, functions and powers of the commission, the chairman and the CEO. They are the main changes that have occurred in relation to the upper governance structure, the improper conduct and the prevention and research. I think that is really the end of the changes throughout the act.

Mr WELLINGTON: Can I put a question to Acting Executive General Manager Dianne McFarlane? In your presentation you mentioned the new research work focus of the commission, and my question is about that. I note the advice we received from Dr Levy at the recent estimates hearing that there were staff from the commission monitoring the ICAC hearings down south. I also note that the Crime and Misconduct Commission prepared a report in 2012 on the topic of regulating political donations and gifts in Queensland. I ask: do you intend to continue any research work on this issue of political donations and gifts to political parties or candidates?

Ms McFarlane: We have not at this stage settled the research plan, as I have said. However, if it related to—and it could relate to—the corruption function, there is not any reason why we could not engage in that type of research.

Mr WELLINGTON: Could I ask you to seriously consider putting that into your proposed research program, because I believe the evidence that we have seen out of those ICAC hearings is very concerning. I am also concerned because, under the new amendments to the Queensland Electoral Act, because of the lifting of the threshold of donations that have to be reported from $1,000 to over $12,800, there could be significant donations being made for improper purposes. I believe we really need to have the best information possible. I was also keen to pursue the issue about monitoring, but I will leave that until later on in the address, when that matter comes up.

CHAIR: We will open up the opportunity for questions.

Mrs MILLER: Thank you very much. That was a very detailed explanation. However, being members of parliament, we were sitting in the parliament when it was debated, but thank you in any case. I am interested in the statistical area of the CCC. I note that the Newman government figures state that over 1,000 participants in criminal organisations have been arrested but yesterday the Premier's office confirmed that there were only two prisoners who are on segregation orders and are wearing pink jumpsuits. I would just like to table this for the benefit of members of the committee. I am just wondering if there is any chance of the commission explaining why the government says that 1,000 have been arrested, but there are only two who are in jail on segregation orders and wearing pink jumpsuits, because that is new information.

Mr RICKUSS: What is the relevance of that to what we are actually discussing?

Mrs MILLER: It is about the keeping of statistics by the commission.

CHAIR: Would it not be the QPS who would keep those numbers?

Mr RICKUSS: It would be Corrective Services, wouldn't it?

Dr Levy: Essentially, it would be the Queensland Police Service, but of course some of those people would have been brought to the CCC for coercive hearings. What happens, of course, after those hearings is that the evidence goes back to QPS and legal proceedings in the courts would then follow. We would have some statistics of the number of people who have been before the

hearings. Whether, of course, they are the same people who are in segregation or in pink jumpsuits, I am not quite sure that we would have statistics on that; we may. If you are happy for us to take that on notice we can give you an answer as adequately as possible.

Mrs MILLER: Yes.

Dr Levy: It is probably going to have to be totally comprehensive because our role is separate from that of the QPS. I think I saw some recent statistics that showed the numbers of arrests were much higher than that. The number of people in segregation could be for a number of reasons. Anyway, we will try to provide some better—

Mrs MILLER: I am happy for you to take that on notice.

Mr RICKUSS: Paxton, do you feel that there is more clarity in these guidelines? You have gone through some of those guidelines. Do you feel there is more clarity in the purpose of the corruption and those sorts of things that you are actually chasing down in this new CCC?

Mr Booth: In relation to the guidelines, are you referring to the changes to the act?

Mr RICKUSS: Yes.

Mr Booth: This certainly makes it clear in the act now that the commission is to focus its resources on the most serious and systemic allegations of corrupt conduct. We at the commission have always taken the view that we only investigate the most serious matters, effectively the top one per cent of matters, that come to us. Certainly this has been a process in which we have gone back and reconsidered our policies and our case categorisation to make sure that we are focusing our resources on the most serious and systemic.

Another way that we are doing that is by re-examining or developing new policies about how we monitor agencies dealing with allegations of corrupt conduct. So rather than trying to spread ourselves thinly looking at a whole range of what were previously considered to be the low-level matters, we are changing the way we do that by increasing the number of orders that we do. Instead of going in and using a high volume of resources on these low-level matters trying to monitor what agencies are doing as they are going through, at the end of the period or randomly during the course of the year we will go into an agency and spend a day or perhaps a few days there making sure they are dealing with things appropriately. We are also reducing the number of reviews that we do in terms of how investigations are being conducted and only focusing, again, on those most serious allegations or allegations that are perhaps systemic across the departments.

Mr RICKUSS: Just to follow up, recently there was an investigation into some misconduct at the University of Queensland. Besides the chancellor and the deputy vice-chancellor, the only other person who seemed to lose his job over it was actually the auditor who uncovered the corruption. Would that be the sort of thing that would now be easier to review in terms of some of the processes?

Mr Booth: In relation to the matter you are talking about, I am not sure that that would really change under the new legislation. One of the things we look at in terms of how we categorise things and whether we should do it is the seniority of the person against whom the allegations are made. If the allegations are made against, effectively, the CEO of the organisation, then that obviously raises the seriousness of the matter. It does not necessarily mean that we will automatically investigate it, but it is certainly a matter that we will focus our attention on or have a closer look at.

Mr PUCCI: Dr Levy, you mentioned in your address that you were going to endeavour to bring us some more stats at our next meeting. I was curious, though, with the change from official misconduct to corruption, if you could tell us how many public interest disclosures are on foot with the commission, which relate to alleged official misconduct right now?

Dr Levy: Mr Booth has those figures, if you do not mind.

Mr Booth: Since 1 July this year we have received or considered 88 new complaints about corruption. That compares to the same time last year of 287. It amounts to approximately a 69 per cent decrease in complaints that have been considered by us to date. Obviously some caution needs to be extended to extrapolating those early figures to what will occur throughout the rest of the year. In terms of answering your question about the other details, I think we have two PIDs at the moment. I do not have the stats on how many PIDs we had at the same time last year.

Mr PUCCI: And PIDs are?

Mr Booth: A public interest disclosure.

Mr PUCCI: I ask just because it is a public hearing.

Mr Booth: To date, effectively there are seven complaints that we have received, four within the definition of what is a complaint. Of those seven, four people have provided statutory declarations. Two did not require a statutory declaration because they were a public interest disclosure and one was provided with an exemption of exceptional circumstances because of a disability. Just to clarify, that obviously does not also include the notifications that we get direct from the departments under section 38.

Mrs MILLER: In relation to the changes to the CCC, I am wondering who has the responsibility to meet with Brigadier Mellor and how often those meetings take place.

Dr Levy: Brigadier Mellor, of course, has a responsibility in the Department of the Premier and Cabinet. I think it is restricted to just criminal motorcycle gangs. I see him probably once a month, as does the Deputy Police Commissioner. I think he is also involved in other committees that I am aware of, but the CCC is not a member of those. That is the only contact we have—purely about statistics and progress or the activities in terms of what has gone on in the previous month. He tends to monitor that—both the CCC's work as well as QPS activities. He has another strategic duty; there is a strategic committee that he chairs which looks at other factors as well.

Mr WELLINGTON: Can I put one further question? My question is to Dr Levy or whoever else on the panel would like to answer. Again, it is following on from the evidence that has been on the public record as a result of the ICAC investigations about the importance of a lot of that incriminating surveillance evidence, which really was dynamite. Without that evidence, some of the key people who gave evidence would not have been put under so much pressure. We have heard about the standards that have to be met for investigations in relation to complaints about corrupt behaviour. We have heard comments about the commission being able to do its own-initiative investigations of monitoring.

My question is: what assurances can we have that the commission will use the resources that are provided by this government to undertake own-initiative investigations and the necessary surveillance of people of interest if there appears the need? What I worry about is that the requirements of evidence that has to be produced to the commission if you believe there is corrupt behaviour are going to be very onerous and difficult. Yet the evidence from the ICAC investigations is saying that, `hang on, we do not know whether the minister was simply incompetent or really corrupt'. It produced a whole range of evidence, as well as the phone tapping and everything else. Really, people have now been called to account. It is an open-ended question to whoever would like to answer that about the resources and the willingness of the commission to make those inquiries without requiring such a high standard of evidence that otherwise may be necessary.

Dr Levy: I might perhaps start and my colleagues might have other specific things to add. On the issue of the ICAC hearings and the sorts of statistics and information that have come out of that, oftentimes those matters that will come out will not be predictable but once there is some suspicion then, while we do not have a body of staff who monitors those specifically, certainly the staff of the corruption division is there to be activated to deal with those. Under the new legislation, the strategic role of the commission is to make sure that we do the most important things first, and if something is of higher priority then priority has to be given to more serious matters, which we have done recently.

In the past, with the definition that required that something could amount to corrupt behaviour, of course the test was so low that resources were spent doing all sorts of things which probably prevented an adequate coverage of many more serious matters. So we had a lot of things going on concurrently. The emphasis now, based on the test and also based on the role of the commission, is that we would have to look at the most serious matters and make sure there is a return but also that we focus on the most important matters of corruption and the most important organised crime before less important matters. In that context, recently the Crime and Corruption Commission has done some ab initio checks of government departments which have produced some interesting information. Also, it was a novel process. So that having been started, one would expect that would be a pattern for the future.

The other matter I might mention is this: the full commission at its last meeting was also considering the role of research. We have become conscious and sensitive to the fact that there are many databases out there, by the Commonwealth and other agencies, which perhaps we do not have sufficient access to, or perhaps we should have access to other statistical collections which would make our job more effective. The commission has set out a preliminary roadmap of functions which include not only keeping databases that the CCC finds relevant but also making sure we link with other research centres and other national databases so we can do both policy analysis and

operational research to deal with the sorts of matters that you have alluded to. I might just leave that as a sort of context, if you like, and if Mr Booth or Ms McFarlane has anything specific they would like to add, I might perhaps ask them to speak now.

Ms McFarlane: I would just like to say that during the development of the bill we were really careful, when we were looking at section 36 and the introduction of statutory declaration, that we did not inadvertently prevent ourselves being able to receive information or matter from other areas that did not require a stat dec—in particular, information from intelligence reports from other law enforcement or information gained through our own activities such as our crime hearings, telephone intercepts or the like. That was because we could not see that these very serious matters necessarily will come through a complaints process. We will have to engage in other activity to be able to deal with those complaints in some way, and the sorts of things Mr Wellington is talking about are likely to be at that very serious end of corrupt conduct if in fact people are engaging in it.

CHAIR: Going back to this threshold issue, obviously agencies previously were handballing on, as it were, minor issues of misconduct. In terms of the difference between that and corruption, how do you see the interface between the CCC and these agencies—because they have got used to passing on if someone has been using their taxi voucher in the wrong way; it usually just goes up to you—to make sure they understand that they have to deal with that within their department and that they are now empowered to deal with this rather than to hand it on to you?

Dr Levy: Ms McFarlane and I have been out to see most of the chief executives of the largest departments up to now, and with those smaller agencies or units of public administration we will be inviting them either individually or collectively to talk about these matters. But I think, shortly put, the answer perhaps is this: we think it is well understood out there that the lower level, minor matters will not be referred to us. While we have made that very clear to them, I think they have welcomed it also. They always had power under the Public Service Act to deal with discipline and those sorts of matters—and have had for years. But there has been this overriding legislation—the Crime and Misconduct Act as it then was—which then added some confusion. So I think they understand it.

There is probably ample evidence just in these statistics so far, and the numbers have been dropping off for the last year I think in anticipation. We cannot say for certain but I think one could reasonably assume that that is because everybody knew that the law was going to change and they had been gearing up for that. Certainly since 1 July the numbers, as I indicated before, are small samples only at this stage, but if it starts that way on 1 July I think perhaps the penny has dropped and they will not flood the CCC with things other than the most serious matters. I think they are happy to pick up the ball and run.

Mr RICKUSS: Section 35A states—

The chief executive officer may issue a direction about how commission officers are to decide whether a complaint involves, or may involve, a more serious case of corrupt conduct …

That really is putting responsibility back on to the CEO in relation to what Peter was talking about before, isn't it? That is my interpretation of it.

Ms McFarlane: I think that is exactly right. What it is saying is that it is a two-way street and if the commission, by its officers, is continuing to take low-level allegations of complaints then the CEO should step in and give a direction about what in fact serious and systemic conduct should be to get that consistency. So it really is about our officers engaging and understanding the intent of the new legislation as well as officers in the public sector understanding what reasonable means for them. That was the intention of section 35A.

Mr RICKUSS: I see here about the research function. Will that research plan be a public document or will that be kept between the CCC and the minister? I have noticed in theory you should have had it done already. Is that going to be put up on the website?

Dr Levy: Yes. The fact that it has not been completed is because of those matters we have had, and the commission itself wants to make sure that we are properly focused. You will recall there was some mention in the Callinan-Aroney report about what research we do. So we are trying to make sure it is the most important information that is researched. Apart from databases, we are looking at policy analysis, significant legal issues and research tasks that the government might want, because we have to consult with agencies as well before we formulate the draft. The draft program has to be approved by the minister, as you heard earlier. But when it is approved I am quite certain it will be on the website where it is going to be available.

Mr RICKUSS: So it will be a public document?

Ms McFarlane: It is an interesting question. I do not know that we have actually turned our mind exactly to that. The answer should be yes, generally. But there may be some research on there which is sufficient for law enforcement and the like. So I guess we would have to consider what was in fact the type of research and what could be made publically available.

Mrs MILLER: Dr Levy, we heard yesterday from the Premier that there are going to be amendments to this act, particularly in relation to the position that you currently hold as acting chairperson. Dr Levy, were there any conversations with you before this announcement was made by the Premier or is there any understanding of when these amendments might come before the House?

Mr RICKUSS: That is probably hypothetical at this stage, Jo.

Mrs MILLER: Do you know?

Dr Levy: The answer categorically is no.

Mrs MILLER: Thank you so much.

Miss BARTON: Dr Levy, you said in your opening remarks that there had been a very smooth transition. I was wondering if perhaps Dianne was able to provide some detail about some of the positives that you have seen come through out of the transition and particularly working with some of those other government agencies that you, I guess, aid. You also mentioned the information sessions that you held. I was wondering if you could provide some more detail.

Ms McFarlane: Yes, thank you for the question. There have been some positives out of it, I think, from our staff and from public sector staff as well in that official misconduct did have a certain elasticity at the lower end. So there was starting to become a fair amount of reporting and overreporting and people being a bit reliant on that. I think people are thankful to get on and be able to deal with things. There is a clarity now in relation to what is a higher level of corrupt conduct. They have not been completely vacated. I think the Public Service Commission in fact has stepped up a little bit to say, `We know we need to fill that gap there, so we will provide some assistance.'

There has been over the years, I suppose, in some agencies—not all—a bit of overcooking, we call it—overinvestigating things possibly because of the Crime and Misconduct Commission referral process. So there is a bit of a positive of people going back to basics and saying, `Well, what should we have done in relation to that particular allegation?' So I think there are some positives coming out of that—and for our own staff, too. There is a certain quality of work in relation to doing the serious end and not really being caught up in some of that lower end. I think Callinan-Aroney referred to sexual harassment as industrial matters, and that was certainly creeping into a little bit of the elasticity of official misconduct towards the end.

CHAIR: Thank you very much. I would like to thank Dr Levy, Mr Booth and Ms McFarlane for their attendance today. Thank you for your briefing. It was very helpful. Hopefully, as I said, the open hearings is the new way to go, so it is very exciting. The transcript will be provided to you when it is available. I would like to thank you for coming. I thank Hansard. The public meeting is now officially closed.

Committee adjourned at 11.29 am