



# ***PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE***

**Members present:**

Mr JM Krause MP—Chair  
Mr MJ Crandon MP  
Mrs MF McMahon MP  
Mr BL O'Rourke MP  
Mr DJ Brown MP  
Dr MA Robinson MP  
Mr JA Sullivan MP

**Staff present:**

Ms E Jameson—Committee Secretary  
Mr G Thomson—Assistant Committee Secretary

## **PUBLIC HEARING—REVIEW OF THE CRIME AND CORRUPTION COMMISSION'S ACTIVITIES**

### **TRANSCRIPT OF PROCEEDINGS**

**FRIDAY, 26 MARCH 2021**

**Brisbane**

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### **The committee met at 8.30 am.**

**CHAIR:** Good morning. I declare open the public hearing on the Parliamentary Crime and Corruption Committee's review of the Crime and Corruption Commission's activities. Welcome, everybody, to this hearing this morning. I am Jon Krause, member for Scenic Rim and chair of the committee. Joining me on the committee today are: Mr Jimmy Sullivan, member for Stafford and deputy chair; Mr Michael Crandon, member for Coomera; Mrs Melissa McMahon, member for Macalister; Mr Barry O'Rourke, member for Rockhampton; Dr Mark Robinson, member for Oodgeroo; and Mr Don Brown, the member for Capalaba, who is substitute for Mr Duncan Pegg, member for Stretton.

Section 292(f) of the Crime and Corruption Act 2001 provides that the committee must review the activities of the Crime and Corruption Commission and report to the parliament by 30 June 2021 about any action that should be taken in relation to the act or the functions, powers and operations of the Crime and Corruption Commission. In undertaking the review, the committee will examine the Crime and Corruption Commission's overall performance over the last five years and consider its jurisdiction, responsibilities, functions and powers.

The purpose of today is to hear evidence from stakeholders, some of whom made submissions as part of the committee's review. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. As parliamentary proceedings, under the standing orders any person may be excluded from the hearing at the discretion of the chair or by order of the committee. Please also note that, although the hearing is a public hearing, the confidentiality requirements of standing order 211A still apply. This is particularly relevant in relation to any individual complaints or correspondence with the committee about individual matters which has not been authorised for public disclosure.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media, and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobiles phones off or to silent mode, including members of the committee, please. The program for today has been published on the committee's webpage, and there are hard copies available from committee staff.

### **CARMODY, Ms Karen, Parliamentary Crime and Corruption Commissioner**

### **KUNDE, Mr Mitchell, Principal Legal Officer, Office of the Parliamentary Crime and Corruption Commissioner**

**CHAIR:** I now welcome our first witnesses for today. Good morning. I invite you to make an opening statement, after which no doubt committee members will have some questions for you.

**Ms Carmody:** I refer to my submissions of 10 August 2020 where I set out a number of recommendations or suggestions about sections of the act which might be amended to assist in its efficiency and effectiveness. I will not go through all of them in detail at the moment, but I will just mention a couple of them.

The first is No. 1, which is continuity of committee membership. Over the years I have been the parliamentary commissioner, there have been occasions where there have been significant changes in the members of the committee. I think after the last election in October 2020 to today there may have been four or five new members to the committee. It means that there is a loss of

corporate knowledge, to use that term, and long-term appreciation of what are certainly subtle appreciations of how the act works, how the parliamentary committee works and how my role works. I feel it might assist the committee itself if there was a restriction on the number of new members that come in on each occasion, that perhaps half should always remain and only half leave, but that is a matter for the committee. You may well find that you are able to transfer knowledge across without any difficulties. That was just one issue I had raised.

The second is the own-initiative investigation, which was touched on at the last meeting, and it is simply to clarify in the act probably something that was omitted by oversight. Under the act, I have a power to conduct an investigation on my own initiative, and that could be envisaged where, for whatever reason, I thought perhaps the CCC may not have investigated something to the extent that I thought it should be. You will see that section 314(4) of the act sets out the grounds that I have to consider before I can initiate my own investigation. At subsection (4)(a), the matter relates to conduct of a commission officer that involves or may involve corrupt conduct. The difficulty with that is: if you go back to section 15 of the act, which I know is tedious for those of you who are not lawyers, corrupt conduct under section 15(1) is defined as ‘conduct of a person ... which adversely affects or could adversely affect directly or indirectly the performance of functions or the exercise of powers of a unit of public administration’. The difficulty is that section 20 defines the CCC as not a unit of public administration. Technically, it means that I do not have the power to investigate an officer, in the context of my own-initiative investigation. I think it is simply an oversight, because the amendment that I recommend on page 2 of my submissions in the italics section 4, where you will see highlighted the same amendment that has already been made elsewhere in the act to change that inconsistency. It is simply to tighten up the act and make sure it reflects accurately what the purpose of that investigation is.

A number of the other matters have been raised in the open public sections of our meetings, particularly the last meeting. One was the issue of the extension of or variation of surveillance device warrants. At item 5 on my submissions I have discussed that, in the view of this office, rather than apply with an existing warrant and ask for an extension and have the judge write a notation on the warrant that it has been extended, a new warrant should be issued because, as I explained on the last occasion we discussed this, there are problems with legibility of a judge’s handwriting; understanding for example technical officers as to whether there are conditions written on that warrant; the original warrant may not have had a condition on; when they come back for an extension the judge may say, ‘I want this condition as well,’ and they write that on and that has to be interpreted not only by legal advisers but on occasion by technical advisers who have to go in and set up equipment for surveillance purposes or whatever. For reasons of clarity and certainty, I have recommended that a new warrant be issued on each occasion. Under the Telephone Interception Act, which is a Commonwealth act, they do have to apply for a new warrant; it cannot be an extension of an existing one.

The last one I take the committee’s attention to is item 7. This is just a suggestion, because since the Crime and Corruption Act was first enacted in 2001 we have moved onto an extensive use of mobile phones, and we are able to speak with, if you are a lawyer, clients in cars and all kinds of locations which we previously could not do because we were locked to a landline situation. Item 7 is a reference to section 330(3) of the Police Powers and Responsibilities Act, and this will be something you may want to address with the CCC. Under that provision, the judge or magistrate ‘may issue a warrant for the use of a surveillance device in the office of a practising lawyer only if the application for the warrant relates to the lawyer’s involvement in a relevant offence’.

To make the distinction, a surveillance device could not normally go into a lawyer’s office while they are meeting with a client because there will be subjects discussed of legal professional privilege. The only reason a device can go in is in circumstances where it is believed the lawyer is involved somehow in committing that offence, so if the lawyer is speaking in the office to the client the present legislation allows for a surveillance device. I am suggesting that, instead of saying ‘in the office of a practising lawyer’, you will see in my second paragraph I have removed those words and just said ‘in relation to a practising lawyer’. That is, it does not just have to be in an office—they can be in a car, they can be in a coffee shop, they can be wherever they are meeting their client—and if there is enough justification for it, the warrant could be issued. This is really a matter more for the CCC at an operational level, so it might be something you would like to discuss with them.

They are the main issues for the purposes of today, so unless I can offer any assistance on those issues or others—

**CHAIR:** Thank you, Ms Carmody. We will go to the committee for questions.

**Mr SULLIVAN:** Not being self-obsessed, but I take you to the point about our committee membership to start with. In terms of your recommendations, there are two elements of a proposition to put to you. One is the fundamental role of the parliament in the democratic process, this committee being a representation of the parliament and the parliament being the oversight of the CCC, which has extraordinary powers that are not given to other entities, and the authority resting with parliament.

**Ms Carmody:** Yes.

**Mr SULLIVAN:** Second is a practicality, which is that the people of Queensland get to choose who forms government, who forms each seat, members retire, members are promoted or demoted, and people move on. From a fundamental point of view, what role do you, as a commissioner, or the CCC have in recommending who sits here to keep them accountable? Secondly, how could you possibly put a requirement in where membership does not change? For the last four or five elections, from memory, I do not think you could even physically keep the same membership.

**Ms Carmody:** No, I am not referring to members who have retired or resigned. Clearly, it would not be a possibility for those members to remain on the committee. I am suggesting that when you have ongoing members there be a limit as to how many leave the committee at one time. For a start, I have no say over which committee members are there. That is not at all my purview; that is a matter for the parliament. I am suggesting in terms of lost knowledge, because when one remembers that MPs come from a diverse background and some of them have no dealings with the law or legal matters until they come to parliament, I should imagine this is a committee that—and I am not being disrespectful of other committee—has to acquire substantial legal knowledge and understand the functions and roles of the CCC and the Queensland Police Service. It is a fairly broad thing for someone to quickly grasp if you have come from a totally different background. All I am suggesting is that if you lose too many committee members at any one time you lose that knowledge. I accept totally what you are saying there. I say again that I have no say whatsoever in who is on the committee. I can see there would be reasons committee members would want to move on. It is just a suggestion that not too many go at one time and certainly not six perhaps out of seven.

**Mr SULLIVAN:** I say this as someone who comes from a legal background: the whole point of a parliament is to represent the community at large; the whole point of the committee system is to represent that in a microcosm. I do not think it is appropriate to suggest that only legally qualified people sit on any given committee. I do not think you need to be a teacher to sit on the education committee. I do not think you need to be a doctor to sit on the health committee.

**Ms Carmody:** I am sorry, you may have misunderstood. I am not saying that only lawyers sit on committee; I was saying the opposite. I was saying that often committee members do not have a legal background so when they come onto this committee they have to suddenly deal with the rather tedious thing of what I have just taken you through: ‘here is a section of the act’, ‘here is the definition of that section’, ‘here is a section that is not accurate’. We have had these discussions in past committee meetings. We ourselves have tried sitting here to see how something could be worded, trying to correct what might have been a deficiency, and we have all been saying, ‘Well, maybe we will use that word?’ and then someone would say, ‘What does that word mean?’ Then you start to understand the complexities of the law.

People in the public often think, ‘Why is the law so complicated?’ You may recall that on the last occasion we discussed the term ‘legitimate reason’. We were thinking about a provision of the act and whether we should look at legitimate reason. Then everyone stopped to say, ‘Well, what does “legitimate” mean? Do we have to define “legitimate”?’ Then someone raised the issue that if you put in a whole lot of things that are legitimate does that exclude something that does not fall within that provision?

**Mr SULLIVAN:** In relation to section 314 and the treatment of CCC officers, without asking for specific cases, have there been instances where investigations have been restricted or slowed because of that lack of definition? This is in relation to page 2 of your submission where you have proposed wording in italics.

**Ms Carmody:** No, there has not been, but it is always possible. That is what we are always trying to look at—to head it off before something happens that could have been stopped if the legislation reflected what was needed.

**Mrs McMAHON:** With section 314, we are potentially looking at making a recommendation following this inquiry to change some legislation. As you said, it has not happened, but can you give us a hypothetical situation in which the current omission of this might cause concern or issue that we can take forward to our colleagues to argue that this may need to be amended?

**Ms Carmody:** If a complaint were made about a politician and a CCC officer did an investigation and then said that they did not feel it was necessary to pursue that further, I might look at it and think, 'Well, is there some political agenda there? Is that CCC officer of that political persuasion and they do not want the politician to be exposed? Is that why they have chosen not to investigate?' That might be something that would cause me to say, 'Well, I would like to look at that again and make sure that the decision was objective.' I would turn to the act and I would see that I am restricted by the fact that the commission is not a unit of public administration. I would not then be able to conduct an investigation.

**Mr Kunde:** Presently, the actions that the parliamentary commissioner has jurisdiction over have to extend outside the CCC and touch a unit of public administration. Anything that happened purely internally, which would be corrupt conduct if they were a UPA, we could not look. In relation to the deputy chair's last question, if there were a matter between when this power came in in 2014 and now that we thought we did not have the power to investigate but we wished to, we would have approached the committee and asked it to refer it. It is not like we have missed something, but it is just to make sure that is covered.

**Ms Carmody:** I do not have carte blanche because section 314(4)(b) sets out that I have to be satisfied that the commission has not adequately dealt with the matter or that the commission may not adequately deal with the matter or that it is in the public interest. Even my ability is restricted in those particular areas. I think it is an important provision. There was the Callinan-Aroney review and it was a recommendation from that that introduced that power.

**Mr Kunde:** Perhaps a simpler example is if someone at the CCC came out and made bold political statements that showed partisanship but that had not gone outside to a UPA.

**Ms Carmody:** It is only internally.

**Mr Kunde:** It is something that we would need to be able to look at if we thought it was corrupt.

**CHAIR:** My question is a little more general than the ones asked so far. It goes to the nature of the appointment of your position, the CCC commissioners, the chair and the CEO as well. It is about the matter of obtaining bipartisan support of this committee for those appointments. You may or may not be aware that in 2015 an appointment was made under that provision wherein it was reported publicly that a crossbencher was substituted in for a government member and, under the law as it stands, that was considered to be a majority made up of government members and that crossbencher was considered to be bipartisan support under the act. Clearly, that is not bipartisan support as most people understand it. In relation to your position and reflecting on the role of commissioners in the commission more generally, is that something that should be addressed to make it clear in the act that people appointed to these positions should have the support of both the government and the opposition when it comes to making those decisions?

**Ms Carmody:** With respect to my position, it has to be bipartisan support specifically in the act.

**CHAIR:** You are subject to the same provision.

**Ms Carmody:** Yes.

**Mr Kunde:** It is about the definition of 'bipartisan support'. The solution to that would be to try to define in the act what 'bipartisan support' means.

**CHAIR:** It is defined.

**Mr Kunde:** Yes, but to make sure that it covers that scenario that you mentioned. It is tricky.

**Ms Carmody:** Is your question about the general concept of whether bipartisan support should be confined just to bipartisan support or whether a crossbencher can also be considered part of the bipartisanship?

**CHAIR:** Should it be the government and the opposition in concert, which is what most people understand bipartisan support to mean.

**Ms Carmody:** I would say it should be.

**Mr SULLIVAN:** For the record, Chair, you are not making any suggestions about the person who was appointed in that process and the quality of that being improper?

**CHAIR:** No, not at all. I am happy to say that I have no issue with the appointment, but I do have an issue with the provisions around how it occurred.

**Ms Carmody:** As a general observation, I would have thought the parliamentary commissioner and senior officers of the CCC would be examples of something that the public would want to see has the support of both parties—that this is some person who it is accepted by both sides should

have that position. I think it displays, first to the public, a uniform approach by parliament which I think is always well regarded. I think the public like to see occasions where all parties unite for some common goal. It is important that that is reflected through the legislation.

**Mr BROWN:** I also note the chair's comments in support of that appointment. I agree with your statement. Clauses such as this can be used in a way of politics that is underlying other issues as well.

**Ms Carmody:** Yes. I think that is why it is important that that is clarified, because you do not want to turn these kinds of appointments into a political game and discredit the role.

**Mr SULLIVAN:** Jeff Seeney wanted a job.

**CHAIR:** Those comments are out of order, Deputy Chair. If you do not have a question, member for Capalaba, the member for Coomera does.

**Mr CRANDON:** The CCC has recommended changes to its funding model. Did you read the CCC—

**Ms Carmody:** I read that. I presume they are suggesting that it should be direct appropriation from parliament.

**Mr CRANDON:** Do you have a view on that?

**Ms Carmody:** I have a view on it. I am always hesitant to answer things about the CCC, because there are so many factors of which I am not aware. I have been aware of jurisdictions where entities, anti-corruption agencies, that have been reliant on government funding have been restricted—punished, in some way. They have not got the amount of funds they needed whenever they were wanting to investigate something that might involve the current government. I remember reading on one occasion of an uprising amongst the local populace who got together some funds to assist the anti-corruption agency because the government of the day would not fund something. I think it was a structural thing. They were in very poor accommodation, they needed a building and they would not get funded. The basic point is that any of these entities should be at arm's length from any kind of political interference as to their funding.

**Mr CRANDON:** Following on from there, as part of its submission again, the CCC recommended that time limits on tenure of its chief executive, senior executive officer and senior officers be removed. What are your thoughts on that?

**Ms Carmody:** I am a little more hesitant about those. Again, I make it clear that I am not a member of the CCC. They may have very good reasons for that but, as a general rule, any position anywhere which leaves people in place for too long without checks and balances can build up a culture that attaches itself to the views of whoever the head officers are. If that culture is not healthy, that means the whole organisation is crippled for a long time. They might be partisan to a particular view, they may not be willing to move towards technology or there may be all kinds of areas where I think it is more healthy to reinvigorate an organisation by timely changes. The issue is: what is the time? Clearly, two years would be too short a time. I do not know whether 10 years is too long. In particular, anti-corruption agencies play such an important role—and there are other similar agencies—and I think that is why there are restrictions on the time during which people can serve a term.

**Mr CRANDON:** Do you believe there is a sufficiently clear distinction between the CCC's assessment and investigation of a complaint matter? We have had this conversation in the past. In the 56th Parliament we had the conversation with the CCC. What are your views on that?

**Ms Carmody:** I am feeling a bit uncomfortable because I just do not know enough about how they perform in those areas internally.

**Mr Kunde:** The material they sent us was voluminous. It does seem convoluted. The distinction seems sometimes difficult to grasp. I suppose the ultimate outcome is the report. There may be ways to obtain what you need from the CCC without having to delve into the distinction between an investigation and an assessment.

**Ms Carmody:** It creates a slightly false dichotomy. It is a tricky area and it is something that I think would probably need a fair bit of consideration.

**CHAIR:** Thank you. I appreciate your time here this morning. It has been very useful.

**FLORIAN, Ms Kathleen, Independent Assessor, Office of the Independent Assessor**

**CHAIR:** Welcome. I invite you to make an opening statement, after which committee members may have some questions for you.

**Ms Florian:** I welcome the opportunity to address the committee today in relation to its five yearly review of the activities of the Crime and Corruption Commission. The Office of the Independent Assessor, the OIA, was established on the recommendation of the Queensland councillor complaints review and commenced in December 2018 to strengthen integrity and public trust in local government by independently and effectively managing councillor conduct complaints.

There are four levels of potential councillor conduct. From the lowest to the highest, they are: unsuitable meeting conduct, which is defined in section 150 of the Local Government Act and is dealt with in real-time by the chair of the relevant local government meeting in which that conduct occurs; inappropriate conduct, which is defined in section 150K of the Local Government Act, which is a breach of a council policy, procedure, resolution or behavioural standard in the councillor code of conduct; misconduct, which is defined in precise terms in section 150L of the Local Government Act and covers a broad spectrum of conduct, ranging from breaches of the council's acceptable request guidelines through to dishonest and impartial performance of a councillor's functions, failures to declare conflicts of interest, failures to update registers of interest, influencing council decision-making in circumstances where a councillor has a conflict of interest and releasing confidential information, to name a few examples; and, finally, corrupt conduct, which as you know is defined in the Crime and Corruption Act.

The OIA receives and assesses complaints about inappropriate conduct and misconduct. Where appropriate, we refer inappropriate conduct complaints to the local government to deal with. These matters are investigated by the local government and a decision is made on whether inappropriate conduct is made out and any disciplinary order by resolution of the local government. Where appropriate, the OIA investigates allegations of misconduct and some corrupt conduct if the latter is referred by the CCC. The OIA refers misconduct to the Councillor Conduct Tribunal to be dealt with on a disciplinary basis, and the OIA bears the onus of proof in these proceedings.

The tribunal's jurisdiction is generally protective, not punitive. Possible disciplinary orders range from training, counselling, public admission of misconduct to reprimands, fines and, at the most serious end, a recommendation made to the relevant minister for a councillor's short-term suspension or termination. The OIA can prosecute criminal conduct offences against the Local Government Act in the Magistrates Court. The OIA also engages in activities designed to prevent conduct breaches by informing and educating councillors around key misconduct risks and their legal obligations.

The OIA has frequent engagement with the CCC in the performance of our respective statutory functions related to local government councillors. The OIA and the CCC have entered into an arrangement pursuant to section 40 of the Crime and Corruption Act. It provides clarity around the types of corrupt conduct matters that the OIA immediately refers to the CCC and the matters which, while falling within the definition of corrupt conduct, the OIA can commence an investigation on. These lower level corruption matters are reported to the CCC at the end of each month, and the CCC can resume responsibility for a case at its discretion. This arrangement improves complaint handling efficiencies for both agencies and allows for matters to be dealt with as expeditiously as possible. It also strikes a sensible balance between a level of devolvement of complaint and investigation handling whilst ensuring the CCC retains active oversight.

Since the OIA's inception in December 2018, the OIA has immediately referred 131 matters to the CCC following an assessment that raised a reasonable suspicion of corrupt conduct. Five of these matters were referred to the CCC in circumstances where the OIA was undertaking an investigation and as a result of that investigation a reasonable suspicion of corrupt conduct was raised. Where the OIA has identified more serious allegations of corrupt conduct that have been beyond the resources of the OIA to progress, the CCC has accepted and progressed these matters. In the 2019-20 financial year, the OIA reported a further 39 complaint matters to the CCC under section 40 arrangements, while 25 such matters have been reported so far this year.

**CHAIR:** Ms Florian, in the interest of allowing time for members to ask some questions, may I ask if you have nearly concluded your opening statement?

**Ms Florian:** Nearly, yes.

**CHAIR:** If you could wrap it up in the next minute or so, that would be satisfactory.

**Ms Florian:** Since the OIA's inception in December 2018, the CCC has referred 258 matters to the OIA to deal with. The OIA also works collaboratively with the CCC in relation to a number of prevention matters. The OIA has benefited from a strong and collegiate relationship with the CCC where we have been able to work effectively together to make the best use of our respective resources and to undertake our respective responsibilities in the public interest.

**CHAIR:** I will go to the deputy chair and government members first for some questions.

**Mr SULLIVAN:** I believe you said that 131 matters have been referred to the CCC. Was there a particular type of matter that was referred, or is it more just the resources or the powers that you require from the CCC?

**Ms Florian:** The 131 matters came within the definition of corrupt conduct and did not come within the section 40 arrangement. They tend to be matters which raise more serious conflict of interest or influence matters, reprisal or matters which raise an idea of perhaps misuse of office.

**Mr SULLIVAN:** I noticed you said about the role of your office and towards the end of your submission that you support the CCC's production of resources that are more proactive and trying to teach and engage with council to prevent it, rather than be retrospective.

**Ms Florian:** Absolutely.

**Mr SULLIVAN:** Noting your office came out of that review, which looked particularly at local government but also its interaction with developers and development donations, does your office or the CCC have any engagement with the private sector or any avenue for the private sector to engage with, considering by definition the interaction is at the core of corruption issues?

**Ms Florian:** I am not sure I understand the question, but if you are asking whether the OIA has dealings with the private sector in terms of misconduct risks, then the answer to that is yes.

**Mr SULLIVAN:** That is precisely what I was getting at. The two sides of the arrangement is what I was getting at.

**Ms Florian:** For example, we have had conversations with the Property Council of Australia and the UDIA in relation to getting the balance right between councillors being able to engage with developers in the proper execution of their functions under the act, whilst avoiding misconduct risks, so that that is really clear to councillors and they can put in place arrangements which allow them to do their functions but are conscious of conflicts of interest, the influence provision and their need to keep appropriate records.

**Mr SULLIVAN:** That goes for anything from managing conflicts in decision-making forums in council to the more I think you called them influences—

**Ms Florian:** The conflict of interest is obviously a really important issue in local government because of the convergence of the number of decisions that are made in local government, together with the fact that local government councillors are drawn from their communities, and rightly so. Conflict of interest issues assume a particular importance and so does capacity building around that.

**Mrs McMAHON:** In relation to your section 40 arrangement with the CCC, in instances where your office refers matters to the CCC and vice versa, could you explain potentially what level of oversight you then maintain between that exchange of investigations? For example, where you have referred one to the CCC, how much monitoring do you have of that investigation or the outcome and vice versa?

**Ms Florian:** If we refer a matter to the CCC, then there is no sort of statutory monitoring or oversight. It goes the other way. In the course of regular meetings, there is an ongoing exchange to ensure that, if it is necessary for a matter or part of a matter to come back, that can happen seamlessly. In relation to matters that are referred from the CCC to the OIA, consistent with the Crime and Corruption Act there are various levels of oversight that can be placed on such matters, depending on the seriousness of the matter and the ability of the agency to be able to conduct those investigations.

**Mrs McMAHON:** And you are happy with that level of exchange, awareness and knowledge between those two provisions?

**Ms Florian:** Yes, it is working well.

**Mr BROWN:** On the same topic, does this committee lose its oversight once a matter goes from the CCC back to the OIA, or does this committee still have that oversight and is reported to in regard to those matters?

**Ms Florian:** My view is that this committee would have oversight of all matters that are undertaken by the CCC either directly or under its supervision.

**Mr BROWN:** Do you know if that is happening now?

**Ms Florian:** My understanding is that that does happen routinely.

**Mr O’ROURKE:** Other submitters have raised concerns around the length of time the CCC takes to assess matters and respond to things. Do you have similar concerns? Have you experienced such delays?

**Ms Florian:** I suppose delays are a product of the number of complaints coming in and the number of resources looking at them. From time to time, there will be delays in any complaint agency, and from time to time we have experienced some delays in matters being referred back.

**Mr CRANDON:** Following on from the member for Macalister’s question in relation to the section 40 arrangements that you have, is there an agreed threshold in relation to who does what and who looks at what?

**Ms Florian:** That is exactly right, and that is the purpose of the section 40—to articulate that threshold. It will identify for the purposes of the Local Government Act what types of matters defined under that act can be dealt with straightaway or an investigation can be commenced by the OIA and what such matters must immediately be referred to the CCC.

**Mr CRANDON:** In relation to the discussion that you have, is there any argy-bargy? Is there any disagreement on which way things should go, or is it all prim and proper and, ‘Yes, let’s do it this way. Let’s do it that way’? How does that go? I know your background is with the CCC and you were very experienced in that regard, so you would know the workings within the CCC. I am just wondering in your new role—although it is not so new now; you have been there a while—is there any sort of friction, if that is the right word?

**Ms Florian:** No, there is not. I suppose the benefit of me having also been in that role is that I understand the importance of maintaining consistency of section 40 arrangements across all agencies. There are obviously discussions about what is appropriate and what is not appropriate and there is no friction on that point.

**Mr CRANDON:** In relation to the comments you have made regarding the format of the matters assessed reports produced by the CCC, you are suggesting they could be clearer. What improvements would you suggest in that regard?

**Ms Florian:** As I understand it, the matters assessed reports are produced by the case management system that the CCC has and that the CCC is moving towards another case management system that was going to improve that. Essentially, the matters assessed report is a dump of certain information that is within that system and is automatically produced. The clarity of those reports is something that I think could be improved, and I understand one of the key objectives of a new system would be to do that.

**Mr CRANDON:** Have you informed the CCC of your views in that regard, to have them consider those views?

**Ms Florian:** Yes, I have. This is an issue that I have raised with the CCC.

**Mr CRANDON:** With some detail as to where you might like to see things going?

**Ms Florian:** I think it was generally understood by the CCC that the matters assessed reports could be improved.

**CHAIR:** Ms Florian, I do not have any questions for you this morning. It has been very comprehensive and the other members have asked good, probing questions. Thank you for your submission and for your time. We look forward to hearing from you again in the future.

As the Queensland Police Service is joining us next, I take this opportunity to ask: are there any standing declarations of conflicts of interest that members seek to put on the record?

**Mr SULLIVAN:** Chair, I would like to put my standing conflicts of interest from my previous role on the record for today’s meeting. I assure the committee that I do not think it imposes any serious issue in the deliberations today.

**CHAIR:** Thank you, member for Stafford. Thank you, members.

**INNES, Assistant Commissioner Katherine, Crime and Intelligence Command, Queensland Police Service**

**NELSON, Acting Assistant Commissioner Virginia, Ethical Standards Command, Queensland Police Service**

**SCANLON, Assistant Commissioner Cheryl, Youth Justice Taskforce, Queensland Police Service**

**SMITH, Deputy Commissioner Doug, Strategy and Corporate Services, Queensland Police Service**

**CHAIR:** I welcome representatives from the Queensland Police Service and thank you for joining us. In our program we have until 9.50 for this section of the public hearing. I invite you to make an opening statement on behalf of the Queensland Police Service and I am sure committee members will have questions following that.

**Deputy Commissioner Smith:** Good morning and thank you for the opportunity to appear before this committee alongside my colleagues from the Queensland Police Service. The Queensland Police Service is a key partner agency to the Crime and Corruption Commission. As committee members may be aware, a memorandum of understanding exists between the QPS and the CCC for the secondment of police officers to the CCC. This accords with section 255 of the Crime and Corruption Commission Act. Currently there are 85 police officers seconded to the CCC. QPS members are seconded into the CCC divisions as investigators, physical surveillance operatives, technical surveillance operatives, forensic computing practitioners, intelligence officers, human source practitioners and witness protection officers. I take this opportunity to thank the QPS members who currently work in the crime, corruption, witness protection and operational support areas of the CCC.

Commenting firstly on the CCC crime functions, both the QPS and the CCC play a crucial role in the prevention, disruption, response and investigation of criminal behaviour and keeping the Queensland community safe. The QPS supports the function of the CCC to combat and reduce the incidents of major crime. As a member of the Crime Reference Committee, the Commissioner of Police has an active role in the discussion of referrals to the CCC for major crime investigations. This ensures that QPS and CCC resources target the highest risk criminal networks and individuals whose criminal conduct is a risk to the safety and wellbeing of the Queensland community.

The QPS has a collaborative and cooperative working relationship with the CCC. Both agencies can initiate and lead investigations utilising the CCC’s capabilities and regularly undertake significant joint investigations. The CCC operates under a general or specific referral and has been extremely astute in its unique identification of strategic areas of focus. This capability enhances the coordinated fight against major and organised crime. An example of this shift is the deliberate intention to defeat specific systems, business models and expertise that exists to build and support organised crime syndicates.

During the review period, the QPS has undertaken significant joint multidisciplinary task forces with the CCC to investigate serious cold-call investment fraud, criminal paedophilia throughout Queensland and internationally, high-threat drug trafficking networks and the disruption of outlaw motorcycle gangs. The QPS also notes an internal review of the CCC priorities has streamlined and reduced the duplication of investigative efforts and allows the CCC to focus on areas of unique support. This is highly valued by the Queensland Police Service and assists in increasing capability and the solvability of serious crime.

Over the review period—that is, from 2016-17 to 2019-20—the QPS referred to the CCC 118 major crime investigations, eight intelligence operations and 357 proceeds of crime matters. In addition, the CCC supports the functions of the QPS in the investigation and resolution of cases through the use of the CCC’s coercive hearing powers. The use of coercive hearings can be invaluable at early phases of the investigative process when time is critical or at the latter stages of an investigation when existing police lines of inquiry have stalled, such as with cold case murder investigations. Of note is the assistance the CCC can provide QPS investigations into those investigations such as violent crimes committed against vulnerable victims, such as children aged under 16, elderly people aged over 70 and those in a position of particular vulnerability because of a physical disability or mental impairment. Since 2013, under a general referral the CCC can fast track

assistance to the QPS in cases of suspected homicide, manslaughter and grievous bodily harm. The ability for the QPS to seamlessly engage with the CCC and seek the assistance of the CCC’s coercive hearing powers enables offenders to be identified and charged and investigations to be finalised.

Turning to the CCC’s functions to continuously improve the integrity of and reduce the incidents of corruption in the public sector, the CCC provides an oversight roll over the QPS regarding allegations of misconduct or corruption of QPS members. While the CCC has primary responsibility for dealing with corrupt conduct, the Crime and Corruption Act provides that the Police Commissioner has primary responsibility for dealing with complaints about police misconduct. This is subject to the monitoring role of the CCC whereby the CCC can monitor the progress and outcome of investigations, issue guidelines, review and audit the handling of complaints, and require the QPS to report to the CCC about an investigation.

The CCC can also assume responsibility for and complete investigations into police misconduct. Of note during the review period the QPS worked closely with the CCC to make substantial changes to the police discipline model through the passage of the Police Service Administration (Discipline Reform) and Other Legislation Amendment Act 2019. The review of the police discipline model working group was chaired by the CCC chairperson, Mr Alan MacSporran QC. The revised model provided by the police discipline reform act received bipartisan support as well as the support of the Queensland Police Commissioned Officers' Union of Employees and the Police Union of Employees.

The police discipline reform act addresses recommendations 15, 17 and 18 of the Parliamentary Crime and Corruption Commission report. Recommendation 15 was addressed by a new review entitlement allowing the CCC to review a QPS decision not to institute misconduct proceedings. This provision provides the CCC with the ability to review a sanction imposed, review a decision that allegations are not substantiated or review a QPS decision not to institute any disciplinary proceedings. Recommendations 17 and 18 relate to the use of suspended sanctions. The act implements those recommendations as dismissal and disciplinary probation cannot be suspended. The suspension of any sanction will remain on an officer’s discipline history regardless of whether or not they complied with the terms of the suspension. Under the new police discipline model, the role of the CCC as the oversight body was not changed and in some respects it has been enhanced as it brings the CCC into the decision-making process at an earlier stage.

The QPS has implemented a number of policy reforms aimed at improving how complaints against police are managed. Significantly, this includes a new QPS discipline system that commenced on 1 July 2018. Two key features of this discipline system are the Joint Assessment and Moderation Committee, which focuses on the assessment of more serious and systemic matters, and the abbreviated disciplinary proceedings process, which enables the quicker resolution of matters where sufficient evidence exists at the outset circumventing the need for a full and lengthy investigation. The Joint Assessment and Moderation Committee includes representatives from the CCC and the Queensland Police Service Ethical Standards Command and reviews how serious complaints are triaged and monitored, and aims to improve the timeliness and consistency and approach when the QPS investigates complaints against its own officers. This process gives both the CCC and the QPS an assurance that complaints are being appropriately assessed and clearly establishes the responsibilities of each agency. The investigation consultation process is the second tier of the Joint Assessment and Moderation Committee process. Since its commencement in September 2017, the investigation consultation process enables the QPS and the CCC to collaborate on contemporary investigative methodologies in matters that are the subject of the CCC’s statutory monitoring function.

In July 2018, the abbreviated disciplinary proceedings process commenced. It seeks to finalise disciplinary proceedings in a more simplified and timely manner where there is little doubt that the conduct occurred and the subject officer readily admits the conduct. Under the abbreviated disciplinary proceedings process, the QPS Ethical Standards Command will first consult with the CCC about the proposed disciplinary sanction or management action proposed to be offered to a subject officer. If this indicative sanction is accepted by the subject officer and the CCC, there are no review rights for any party unless new evidence comes to light. In the review period 2016-17 through to 2019-20, the QPS referred 2,485 misconduct complaints to the CCC and, of those, 305 complaint matters actually had QPS oversight.

The QPS also provides independent oversight of the QPS response to an investigation of police related deaths or other significant police incidents. If there is a concern that the death or incident may have involved corrupt conduct or police misconduct, the CCC and the State Coroner can determine if the CCC should assume control of the investigation. In the period 2016-17 to 2019-20, there have been 55 police related deaths and 155 significant events reported to the CCC during the review

period. The CCC has also taken an active role in assisting the QPS response to allegations of excessive use of force by police officers. Of note, in the review period the number of allegations made to the CCC related to the excessive use of force by police officers has reduced considerably.

Most recently, the QPS and the CCC have undertaken joint investigations into allegations concerning the misuse of confidential information. The collaborative nature of these investigations has enabled not only the investigation of allegations but also service-wide prevention strategies to support the continuous improvement of QPS policies and procedures.

Chair, thank you for the opportunity to make comments during the review. My colleagues and I welcome any questions that your committee may have.

**CHAIR:** Thank you, Deputy Commissioner. We will go to the government members first.

**Mr SULLIVAN:** Thank you, Chair, and thank you all for appearing today. I have a couple of quick questions. I direct them to you, Deputy Commissioner, but I am happy for your colleagues to answer. Noting that today's hearing is about the future of the CCC and its important role and noting, of course, the crucial role that seconded police officers play in the CCC's work, what is the status of those seconded positions within the force? Are they sought-after positions? Are they recognised favourably when it comes to future career paths? Is it still the case that that sort of work is respected within the Police Service?

**Deputy Commissioner Smith:** It will be a little bit hard to speak for the motivations of individual police officers, as you can imagine. Assistant Commissioner Scanlon has worked at the commission prior to coming to the roles that she has had inside the Police Service. I might get Assistant Commissioner Scanlon to address that question.

**Assistant Commissioner Scanlon:** I was a former chief superintendent and fulfilled the role as a senior police officer at the commission for just over two years. It is a critical role that police play in the commission. In answer to your question about recruitment, obviously we expect officers at very high standards to come in and work in that environment, as we do within our own Ethical Standards Command. It is not for everybody. It is an incredibly difficult role at times because of the nature of the work that is being done and also the nature of being quite isolated from the organisation.

As you would expect, it is difficult and complex work, but that is something that investigators, in my view, and the officers who work there actually benefit from. They bring a particular skill set back to our own organisation. Internal investigation is part and parcel for any policing organisation. It is beneficial for officers who have worked there. They bring a skill set back. It also engages them in other methodology as in multidisciplinary teams. It is a different environment, but it is an environment that is advantageous for police who have worked there to bring back to our organisation.

The recruitment is always challenging, as it should be. That is the way that I view it. You usually are after the best of the best of what you have to work with in that environment.

**Mr SULLIVAN:** That is good to hear. My next question might be best directed to Assistant Commissioner Innes, but again I am happy for anyone to answer. My question is in relation to use of coercive powers with the CCC and the interface between the Police Service and the hearings and the powers that the CCC have, noting of course that it can be very useful for intelligence purposes and for crime fighting. Do you think you have the balance right though because of the challenges that creates in terms of not being able to prosecute on certain information versus the information that creates leads to further investigations and prosecutions? That is a very challenging balance for both the service and the CCC. Do you think that is working effectively now?

**Assistant Commissioner Innes:** I do. We take it very seriously in the way we look at those powers before we use them. I think that is the major issue around it—understanding what the consequences are early so that you can structure the system around that. We do a lot of planning, and there is a lot of planning done by the CCC about the expectation of outcomes as to where we are going with it. They are very apt at sitting down and talking to us about why we are doing what we are doing. Having that level of overlay from an external agency to bring that independence over it works really well for us. I would say that it is working quite well for us and we do get very good results out of it.

**Deputy Commissioner Smith:** The use of coercive powers that did not exist a couple of decades ago was probably a real gap in the tools that we have available to us to deal particularly with that high-level organised crime and those difficult things that you try to break through. Your question goes to the issue of balance. You are balancing the ability to prosecute for a criminal offence or to detect and disrupt offences. As Assistant Commissioner Innes said, when you are trying to achieve that particular balance, the purpose has to be very clear to the users of the powers that are available. It is not always the prosecution that may be the desirable outcome.

**Mr SULLIVAN:** In your opening statement, Deputy Commissioner, you mentioned in the reporting period there is a significant reduction in complaints around excessive use of force. Can you talk to any reasons behind that? Has there been a particular training program? Has there been any particular change in attitude or leadership in that regard? Is there any sort of analysis of why that positive outcome has occurred? Congratulations to the force for that. It is fantastic.

**Deputy Commissioner Smith:** There have been a lot of operational changes in the period under review. Again, if you go back a couple of decades ago, training regimes over that particular time have changed dramatically. The skills of police officers with respect to issues like negotiation have been enhanced. I think that things such as the use of body worn cameras and other devices like that have really changed the approach to those who would complain. There is a really apt saying that any arrest where there is a force issue is probably a pretty ugly thing.

The use of the technology has enabled us to quickly resolve whether or not the force has been inappropriate or excessive. I think that is a major contribution. I might ask Assistant Commissioner Nelson if she wants to add anything to that because it is a significant shift. Looking at the behaviour of police as the reason for that shift may not be the only indicator. It may well be that those who may be motivated to complain are well aware that the evidence that we have available to respond to the complaint is quite significant.

**Assistant Commissioner Nelson:** The only information that I could offer is that, yes, the body worn camera has been significant in reducing complaints in that the early assessment phase is able to identify that the use of force was appropriate. The second part about that in terms of the assessments undertaken at Ethical Standards Command is that, where there are issues around the use of force and the training, that can be referred back a lot more quickly as a result of it. Overall, complaints have been reducing during the reporting period and commensurate with that is the use of force complaints.

**Mr SULLIVAN:** Is there a greater understanding of mental health issues or those sorts of things that are underlying that? Has there been particular training in that?

**Assistant Commissioner Nelson:** I cannot give you the specifics around what training there has been around mental health. I can tell you that across the organisation there is greater awareness of mental health. There are partnerships that we have with Health in relation to mental health and co-responder models that are also working in terms of that.

**Deputy Commissioner Smith:** We have mental health professionals in our communication centres now that provide guidance. We have much better intelligence, if you like, about the people who are likely to be suffering from mental health issues.

**Mr CRANDON:** In relation to coercive hearings, the star chamber hearings, the CCC recommended in its submission—

... that section 197 of the CC Act be amended to make answers given in coercive hearings admissible against the witness in future disciplinary proceedings.

It also recommended—

... that privilege against self-incrimination in QCAT proceedings, protected under sections 98 and 214 be abrogated in respect of corrupt conduct proceedings brought under section 50 of the CC Act.

Do you have any views that you wish to share in that regard?

**Deputy Commissioner Smith:** That would be a significant policy matter. The ability to detect and disrupt inappropriate behaviour, whether it be criminal behaviour or corrupt conduct within the Police Service, is a significant issue. It is a very significant policy matter where the ability to coerce an answer, to force an answer, from someone and use that against them is a really significant policy shift. I would have to leave that for those who make those policy choices.

**Mr CRANDON:** We wanted to flesh out what your views would be on that. I imagine you would have some views in that regard?

**Assistant Commissioner Innes:** I probably support the deputy's position. It is a significant change in the way the legal system would operate within Queensland. It would need a lot of serious consideration in relation to the ramifications for that as well.

**Mr CRANDON:** Following on from that, the CCC has in its submission recommended—

... that the disciplinary provisions set out in Division 9 of the Act are amended to ensure that disciplinary action taken by the CCC in respect of seconded officers can operate with the same effect as if the officer were employed directly by the CCC (including sanctions such as demotion and termination) ...

In other words, they do not like the idea that it comes back to you guys for you to take them through the process. We would like your views on that recommendation from the CCC. We are asking questions here that are directly relating to the recommendations that the CCC has put to the committee in relation to the review.

**Deputy Commissioner Smith:** Again, that would be a really significant policy shift because the employees are the employees of the Police Service. I was involved in the implementation of the Fitzgerald report back in 1990. One of the significant comments that was in the Fitzgerald report is that the purpose of discipline is the managing of the employee. It is not a punitive thing. That is a position that has been supported by the High Court and many other precedents. If the purpose of discipline is not to punish and if the purpose of discipline is to protect the integrity of the organisation—which is quite a different intent—I think it behoves us to consider why the employer of the individuals who has that responsibility for the individuals would not retain that right. Again, I defer to my earlier answer that that is a significant policy decision for others to make.

**Mr CRANDON:** In my experience, if the CCC do send something back to you, the officer quickly comes back under your control as well—in other words, the secondment ends and they bring someone else in.

**Deputy Commissioner Smith:** That is right.

**Mr CRANDON:** That, I suppose, at one level is a punishment or a decision that they have made that has impacted the officer's career.

**Deputy Commissioner Smith:** It goes to the purpose of discipline. It is very different to a criminal proceeding which is there to protect the community and punish. The first step, of course, is that the employee who is an employee of the Police Service comes back to the Police Service, and then we have that responsibility to protect the integrity of the Police Service through the discipline process. Again, it is a policy decision.

**Mr CRANDON:** The Queensland Police Union of Employees' submission to the review states—

... the CCC should be restructured to remove both the witness protection and crime functions from the CCC. Instead those functions should be properly placed within the State Crime Command of the OPS.

Do you have any views on that?

**Deputy Commissioner Smith:** I have had a fair bit of experience with the establishment of teams, however structured, in a number of different organisations. Understanding the purpose of a multidisciplinary team and the benefits of a multidisciplinary team, however described—whether it is a witness protection, financial analysts or legal capability—is really important. If you were to remove the QPS contribution to those multidisciplinary teams, you lose the benefit of the team working as a whole. The policy position—and I think it is a pretty clear one from the commissioner—has always been that the benefit of multidisciplinary teams outweighs any of the disbenefits, and we are very supportive of that arrangement.

**Mr CRANDON:** They are talking about the witness protection and crime functions coming back to you. You are supportive of the way things are at the moment.

**Deputy Commissioner Smith:** Very much so.

**Mr CRANDON:** You did not provide us with a submission but you did read quite a significant submission in the preamble. I do not recall a great deal of recommendations from you in relation to the overall review. Do you have any views? Is there a list of things that you would like to see changed or improved?

**Deputy Commissioner Smith:** I would have to say that we are pretty comfortable with the status quo.

**Mr BROWN:** This question follows on from the member for Coomera's question, particularly in regard to the QPS's dealings with the CCC in regard to organised crime, particularly bikie crime, over the last few years. Are there any changes or is it the same response as before—that it is working well and you are comfortable with the status quo?

**Deputy Commissioner Smith:** The CJC was established back in 1990. There have been a lot of learnings in that intervening period. If you have a look at the general intent, you have a capability there with respect to organised crime and very serious crime. The capability has been the product of 31 years of development. I would have to say that from a policy position we are pretty comfortable

with the arrangements there. The multidisciplinary teams, the coercive powers, the intelligence capability and the witness protection capability are the product of 31 years of growth and learning. We have no submissions with respect to recommending any particular change.

**Mr SULLIVAN:** Deputy Commissioner, you touched on the new disciplinary process arrangements that are in place and you flagged that it was bipartisan in that the Police Service, the Police Union and the Commissioned Officers’ Union all had a seat at the table, I think, which is how they got to where they got.

**Deputy Commissioner Smith:** Yes.

**Mr SULLIVAN:** Is it your experience that that has been working effectively? In particular I think the purpose of it was to have a quick turnaround for those that could be dealt with at the lower level and then have more focus on those that would take longer and were more severe. Has that been your experience in terms of its operation for two or three years, did you say?

**Deputy Commissioner Smith:** Again, I would reflect on 31 years of development.

**Mr SULLIVAN:** Sorry, but fair enough.

**Deputy Commissioner Smith:** Yes, and the more recent changes. Every process that you will put in place will take time. When you are dealing with individuals—with human beings—and when you are dealing with quite significant allegations, I think it is probably fair to say that the satisfaction that anyone has with these processes will depend on their experience in the process. I will choose my words very deliberately. The process has to be focused on the outcome which is best for all involved, so the process—and I go back to the member for Coomera—is about an outcome and the outcome will be twofold: one is that you have to protect the integrity of the organisation, in our case the Queensland Police Service, but the process also has to be fair to the individual who is in that process. I made the comment that it is not a punitive process when it comes to discipline; it is about protecting the integrity of the organisation. However, if you were to have the conversation with the individual that is in that process, they would have a pretty clear view about it.

Is it a perfect process? I do not think, depending on your perspective, any process like this will ever be seen to be perfect. But is it a good process? I think we will be constantly learning and tweaking. With that bit of scene setting, I would ask Assistant Commissioner Nelson to comment because she is the practitioner who has the responsibility for it.

**Assistant Commissioner Nelson:** Thank you, Deputy. Yes, I would say that it has improved. We started the trial in 2018 as the legislation did not come in until October 2019. We are looking at doing a review that will commence later this year in relation to how that has gone. We are seeing that the investigations and the process are more timely for our members and for complainants who have submitted the complaints.

**Mr SULLIVAN:** Thanks.

**CHAIR:** Thank you for making yourselves available for this inquiry this morning. As there are no further questions, we will thank you and let you go. I want to convey my thanks on behalf of the committee but also the community that I represent for all of the work of the QPS across the entire state. Thanks for being here this morning.

**MUNRO, Superintendent Stephen, Executive Member, Queensland Police Commissioned Officers' Union of Employees**

**CHAIR:** Our next witness this morning for this five-year review is Superintendent Munro from the Queensland Police Commissioned Officers' Union. Welcome. Thank you for coming. I declare that I sat next to Superintendent Stephen Munro at a farewell lunch for a district inspector in Ipswich a few weeks ago, but that will not affect my conduct here this morning. It is good to see you again. I invite you to make an opening statement, after which committee members will have some questions for you.

**Supt Munro:** Thank you, Chair. On behalf of the executive of the Queensland Police Commissioned Officers' Union of Employees, we thank the Parliamentary Crime and Corruption Committee for allowing us to provide some input into the public hearings regarding the review of the activities of the Crime and Corruption Commission. By way of background, the Commissioned Officers' Union has been a registered industrial union since 1925. It consists of a president, vice-president, secretary, treasurer and seven executive members and represents senior officers of the Queensland Police Service from the rank of inspector to chief superintendent. The Commissioned Officers' Union currently represents approximately 320 financial members.

The objectives of the Commissioned Officers' Union are: to protect and promote the professional, industrial and general interests, welfare and benefits of its members; to provide assistance and representation for members in industrial matters; to improve financial members' remuneration and conditions of service; to pursue fair and reasonable processes and outcomes for members involved in disciplinary matters, hearings and grievances; to provide legal and welfare assistance to members in accordance with the provisions of the union rules; to provide a scheme of assistance for members, including provisions for the payment of a mortality benefit; and to raise funds in carrying out the objectives of the union and assisting members to cooperate, where appropriate, with similar industrial organisations for the benefit of the members. The Commissioned Officers' Union is not affiliated with any political organisation or party.

It is unusual times that find the Commissioned Officers' Union of the view that we have requested the opportunity to be heard at these public hearings, as we generally conduct our business without fanfare or in the public arena. The current circumstances have seen a view taken by the union that there is a level of discomfort with some of the activities and functions currently being undertaken by the Crime and Corruption Commission. There are a number of matters currently on foot concerning members of our union and, without wishing to prejudice the importance and due process of these matters, we will provide a general broad outline of some of our concerns. The circumstances of specific matters will not be outlined in detail in today's submission but will be well documented and brought forward at the conclusion of the current processes, be that before the District Court, QCAT, QIRC or this committee.

Our most significant concern relates to the CCC's misuse of coercive hearing powers for minor criminal allegations against members of the union and their lack of transparency as to how their committee have made such a determination, taking into consideration all of the public interest factors. There is a growing level of disquiet that the use of their coercive powers are being utilised outside of the scope of the original approval of the legislature. Some feedback from our membership has described the use of the powers akin to a fishing expedition to elicit the scalp of a senior police officer. We will not expand more broadly as a common theme is emerging before this committee regarding the use of these powers in other submissions which will be heard today.

Another major concern is that there appears to be a lack of procedural fairness that is currently being exercised by the CCC with respect to the way they attempt to influence the decision-making within the QPS Ethical Standards Command in relation to criminal and/or discipline matters—for example, letters under the hand of the CCC chair being sent to ESC recommending certain outcomes that the CCC wants to see before the matter is even investigated. It is concerning that such a practice appears to be becoming a regular occurrence.

Other areas for consideration of the committee are the continual appealing of police discipline outcomes to QCAT without sound legal reasons, thus significantly extending the stress and anxiety being felt by members of the union and their families and the cost of legal representation for members of the union; a perceived blurring of the lines of independence between the CCC chair and the QPS by the CCC chair sitting on the assistant commissioner and deputy commissioner selection panels recently; and the apparent lack of skill sets within the civilian corruption investigations within the CCC. When the union members are contacted by these investigators, it is becoming more readily apparent

that these investigators are not aware of the rules of evidence with respect to the investigation of criminal matters and/or the legal requirements when conducting criminal interviews with union members. The Commissioned Officers' Union understands the importance of having an anti-corruption watchdog, but we raise our concerns regarding the creep in scope, role and function since the last review. Thank you.

**CHAIR:** Thank you, Superintendent Munro. In relation to your concerns about their use of the coercive hearing powers, would you say that the rules and the legislation around that need to be changed and tightened or rather, in your view, be applied as they are presently enacted in the legislation?

**Supt Munro:** In our view they need to be reviewed and this committee overseeing them because we think there has been significant creep in how that is being applied to particularly our members in relation to sometimes minor matters where we take the view that sometimes it is like a fishing expedition. The powers were introduced for the purpose of major and organised crime and oversight of the role and function of the Police Service. Our view is they are being utilised well outside that original intent of the legislation.

**CHAIR:** You mentioned also that on at least one occasion, perhaps more, there had been a suggestion of discipline outcomes by the chair of the commission, the CCC, prior to an investigation taking place.

**Supt Munro:** That is correct.

**CHAIR:** That obviously would raise procedural fairness awareness issues for yourselves and for the subject officers. Is there a statutory framework for that to occur or is it—

**Supt Munro:** It has emerged as a policy type position that has happened since the reviews of the disciplinary process. The concern is that we think it is flawed that the CCC should not be doing that. It should not be exercising that influence over the decision-making back inside the QPS. It is a matter that has been raised by the members a number of times and we are seeing a continual increase in the number of times that is occurring.

**CHAIR:** Okay.

**Mr SULLIVAN:** Following on from that, there has been a bit of a theme of your evidence or your submission today. How does that fit into the new disciplinary structure that has been in place for approximately two years? Is the structure of the disciplinary process itself working in your view, noting that your union and the Police Union were at the table at the time and, I thought, signed off on it?

**Supt Munro:** Yes.

**Mr SULLIVAN:** Is that process working? What do you say is the excessive use of coercive powers or that interface? Are they separate issues or are the two combining?

**Supt Munro:** I think they are two separate issues, so the issue around the coercive powers is a challenge for us as a union for our members and it is something that we hope this committee will take on board and look at rather closely—that is, the use of those powers. The general improvement in the disciplinary process is a concern for everybody. The new system is an improvement because of the time delays and the impact it would have on people being subject to it, whether it is a CCC investigation or an internal disciplinary thing, in that they sometimes go for two or three years. I think you will see that from a number of submissions, not just from us—and, as I said, it is unusual for us to make a submission today. We normally would not do that. The other union is a lot more vocal in this space, but we thought it was important enough to come forward to put a position that we have some reservations about the creep in scope and the functionality and then the chance to inform this committee to take a good opportunity to review the role and function of the CCC.

**Mr SULLIVAN:** I think you mentioned that you thought there was a bit of creep or a blurring of the lines because the CCC chair sat on the panel for the appointment of the Police Commissioner?

**Supt Munro:** No, it was the recent appointment of the assistant commissioners and the deputy commissioners.

**Mr SULLIVAN:** Not to put you on the spot, does the CCC have a legislative requirement to approve those senior positions? My understanding is that the commissioner position needs approval—

**Supt Munro:**—for the commissioner.

**Mr SULLIVAN:** It was a practice, not the requirement of the legislation?

**Supt Munro:** Yes. It is a blurring of the lines which I think is a matter of great integrity. Once again, we raise the issue because we do not think sitting on those panels is an appropriate use of his resources. The role of the CCC is to overview the QPS, not be involved in the appointment of influential leaders into the future.

**Mrs McMAHON:** I want to go to your comment during your opening statement about concerns about the qualification of civilian investigators within the CCC. I understand it was the submission of the QPS, who were here prior to you, that there are currently 85 sworn officers who are currently seconded to the CCC. Could you elaborate on this pool of resources from which they are obtaining these civilian investigators? My understanding had been that a lot of them are ex-QPS officers or ex-interstate officers. Are you saying that there are generally unqualified civilian staff conducting investigations?

**Supt Munro:** I do not have a great deal of knowledge of that issue that I have been asked to raise on behalf of the union. I agree that there are 85 police officers down there and there is a range of civilian investigators as well. There seems to be some blurring of the procedural issues around the rules of evidence when civilian investigators are conducting inquiries or investigations of our members. Whether it is just experience or not, I do not know. It is a matter that we have raised. Unfortunately, I do not have a great deal of detail or any examples for the committee today.

**Mrs McMAHON:** I can imagine it would be somewhat disconcerting for a senior officer within the QPS who might have decades of investigative experience to find they have to instruct the person investigating them on what is admissible and what is not.

**Supt Munro:** It is an interesting challenge. As I said, I do not know the workings of the CCC and how that operates. It was a matter raised by our members and I was asked to bring that forward today.

**CHAIR:** Superintendent, if you are willing, you are able to take those questions on notice.

**Supt Munro:** The problem for us is that there are a number of matters currently in flight. There are some matters before the District Court, there are some matters before QCAT and there is one or two matters before this committee, too, I understand. I do not want to jeopardise the outcome because when those matters are finalised in due course they will be brought forward, whether through the District Court or QCAT or back to this committee. I probably do not need to take a question on notice to bring something further back other than to say that we are here to represent our members. We are not a big union; we do not have a lot of members. We represent the senior officers of our organisation and we have some concerns. This was an opportunity to present to this committee to raise those concerns.

**Mrs McMAHON:** My next question is in terms of your role as a union where your members are subject to investigation. You would also have members who are currently seconded to the CCC and some of those may then find themselves under investigation internally. Do you have any comment in relation to the welfare and wellbeing of your officers in terms of how they perform their duties whilst they are seconded to the CCC? Do you have any general comments from a union perspective about how they are managed and supervised while they are seconded to the CCC?

**Supt Munro:** I think they are managed quite well. Two of our executive members work at the CCC. The welfare of our staff and the welfare of the Police Service has always been a high priority for the organisation. I think there have been significant changes in the last number of years about rotation of staff through the CCC. Historically, some people may have spent 10, 15 or 20 years there, and there is a policy where people do not stay—it is a bit like in our other areas of the organisation. We have certainly matured in that respect. The welfare of any person when they are under investigation—it is rather stressful. As you will see from other submissions before the committee, these things take an inordinate amount of time and the stress it causes to their family, their loved ones and their larger circle is quite concerning. Justice served quickly is something we would all like to see as a priority.

**Mr CRANDON:** In relation to what you were saying about a number of matters that are on foot—and you would not like to jeopardise those—we are not suggesting that would be the case. I have a couple of questions. First of all, anything that is provided to the committee can be held in confidence of the committee. Put that to one side. I would not imagine—and maybe I am wrong—that this has just started to happen, that there might be cases that have been completed that you could use to give the committee an example or an understanding of where you are coming from in a factual sense.

**Supt Munro:** I would have to take that back to the executive. As I said, I am the voice today on behalf of our union. It is our first time at a public hearing.

**CHAIR:** We thank you for coming. If you do consult with the executive and would like to make any further statements, please let us know.

**Dr ROBINSON:** Thank you for appearing before the committee. You talked about the 'creeping scope' in terms of more minor matters. Without giving necessarily specific cases or examples, can you give us the general areas of your concern where you feel there has been that creeping?

**Supt Munro:** There is a recent matter, which I will not go into because it is still current, where a whole range of commissioned officers were summonsed to the CCC to give evidence through the use of the coercive powers around a matter which, in our view, was an extension of what would be outside the intent of the legislation. The matter has not been finalised yet, so I have to be careful what I say. It created a level of angst for us where the use of those powers in the star chamber seemed to extend outside the intended powers given to the CCC. It is difficult to say. We are just raising some concerns about the use of those powers in hearings where a lot of our members have been appearing before the Crime and Corruption Commission apparently within the scope or the intent of the legislation approved by the government of the day.

**Mr CRANDON:** Just talking about the history of the star chamber, is it your understanding that it was mainly used in past years for that organised crime area and that it has only been relatively recently that we have seen it starting to impinge on the areas that you are talking about now?

**Supt Munro:** Yes, that is our view.

**Mr CRANDON:** What sort of a time frame are you speaking about?

**Supt Munro:** In the last couple of years there has been an increasing use of those powers.

**Mrs McMAHON:** I wish to go back to the line of questioning I was on in relation to the welfare of your members that are seconded to the CCC. In instances where members are under investigation and may be stood down from the CCC, they are not identified by name but they are often identified by rank. Obviously, in the commissioned officers sphere limited numbers are seconded to the CCC and it is well known within the QPS organisation who is currently seconded there at any given time. Does your union have any comment in relation to those public statements made for good reason when people are stood down? I am speaking of the ones that may clearly identify the subject member based on their rank and their secondment.

**Supt Munro:** I think it is a real challenge whether it is our organisation or any organisation when the Crime and Corruption Commission name people or name the role of people because no doubt it creates a level of discomfort for the individual but also a level of public interest in what is going on. That has a potential to impact on the reputation of either the individual and/or the organisation they represent. I do not know how to get that balance right, what that looks like. Openness and transparency is an important part of our judicial process. How it is done creates challenges. We are not the people doing the naming. It is the role of the Crime and Corruption Commission to make that decision.

I do not have a firm view. This committee may have a better view than I do because you would see it more than I would. We are concerned if members are named because it does not take too much to work out who is in the spotlight. What we do not see is the end result when the matters are not of the seriousness which is alleged in the first instance.

**CHAIR:** Unsubstantiated.

**Supt Munro:** Unsubstantiated or not proven or exonerated at times.

**CHAIR:** Thank you, Superintendent Munro, for your submissions and thank you for coming. We are due to report by the end of June so if the executive committee does wish to make any further comment can you please get it to us as soon as you can.

**MacSPORRAN, Mr Alan QC, Chairperson, Crime and Corruption Commission**

**O'FARRELL, Ms Jen, Chief Executive Officer, Crime and Corruption Commission**

**CHAIR:** I now welcome the representatives of the Crime and Corruption Commission. Good morning to both of you. Thank you for joining us here this morning. I invite you to make an opening statement after which committee members will no doubt have some questions for you.

**Mr MacSporran:** Good morning to you and to committee members. In the five years since the previous review, the CCC has focused heavily on structural and technological changes directed towards improving the CCC's capabilities and governance and ensuring that Queenslanders have an organisation that can meet the challenges of an evolving social and technological landscape. Despite the changes, we continue to focus on the most serious cases of corruption and major crime. In the corruption space we focused on high-level public sector corruption including a significant focus on local government throughout the state. In our crime work we are focused on professional facilitators and, particularly and unfortunately, the legal profession in targeting their role in assisting organised crime networks to realise and benefit from their organised criminal activity.

We have also focused on those areas of criminal investigation where the CCC's unique powers and capabilities can add the most value to investigations. The CCC's scope of work remains unique within Australia. In addition to our core functions in relation to crime and corruption, we also have responsibility for the state's witness protection service and for the investigation and recovery of proceeds of crime.

The last 12 months have seen significant disruption to our lives throughout the state, the country and around the world. The pandemic has presented challenges and brought about sudden and radical changes in our everyday lives. The investments that we have made in technology meant that we were well placed to respond to these changes and to continue our important work with relatively little disruption. The recommendations which we have made in our written submission to this review, along with the ongoing organisational changes we are implementing on a day-to-day basis, will serve the Queensland community well in ensuring that they have a crime and corruption body which can meet the challenges of the next five years and into the future.

There may be reasonable debate as to how an agency such as ours best achieves its objectives and how it prioritises its work. The simple fact is that agencies such as ours will continue to be necessary as long as there continues to be corruption and organised crime in the state. We do our best work by learning from our failures and building on our successes.

In the crime and corruption spaces, we always need to ask whether we are getting the balance right between investigation, disruption and prevention; whether we are focused on the highest threats or the areas where we can have the most impact; and are we using our powers appropriately and to the best effect? These are important questions both for us to consider internally and for this committee to consider in this review and into the future.

In that regard we acknowledge the crucial oversight role played by this committee. The PCCC, assisted by the Parliamentary Commissioner, closely scrutinises what we do and how we do it, and considers complaints about the CCC and allegations of improper conduct against its officers. The PCCC is not the only oversight body involved in the CCC's work. The Public Interest Monitor oversees the exercise of the CCC's covert powers and Commonwealth agencies, such as the Commonwealth Ombudsman and the Department of Home Affairs, provide scrutiny of the CCC's telecommunications interception powers. The Queensland Law Society has submitted that the committee should consider creating an additional monitor, similar to the Commonwealth Inspector-General of Intelligence and Security. In our view it is difficult to see how this would provide any meaningful further or necessary oversight.

We have set out in our written submissions the status of the recommendations from the previous five-year review. Those recommendations that have been adopted and implemented are generally functioning well. We have seen significant reform of the police disciplinary system. Substantial changes have been implemented since the last review, representing a significant body of work between the CCC, the QPS and police union representatives. We are still working through some teething problems but we consider this reform represents a substantial achievement. The other significant change arising from the previous review is the amendment of the definition of 'corrupt conduct', which has provided clarity for our investigations and removed a notoriously difficult bar to prosecuting corrupt conduct—namely, the proof of the element of intent.

There are also a number of recommendations that were not implemented, some supported and not adopted, and some of which were progressed but have not yet been implemented. They include a single confiscation agency providing public interest disclosure type protections to CCC officers who disclose improper conduct and the clarification of certain powers. The most significant recommendations that are yet to be implemented are recommendations 6 and 7. Those relate to the review of chapters 3 and 4 of the Crime and Corruption Act and the reconciliation provisions in the Police Powers and Responsibilities Act and our act. To be frank, this is a huge task and we have been working with the Department of Justice and Attorney-General over the past several years to achieve this. It is a complex process because we need to ensure that the changes are fit for purpose while also ensuring that fundamental rights and privileges are considered in that process.

As for the previous reviews, the recommendations from this review fall into two main categories: structural and technical. The former relates to the overarching governance of the CCC, the latter in relation to the technical requirement that allows us to best achieve our objectives. The structural recommendations include a review of the CCC's funding model, changes to the provisions that limit the tenure of senior officers and the CEO, and changes to the mode of appointment of commissioners, the chairperson and the CEO.

The funding model recommendation seeks to ensure that the CCC has genuine structural independence from government and is not subject to funding decisions by an entity over which the CCC is meant to exercise oversight. This is consistent with changes to the funding model of interstate integrity agencies that have either been progressed or adopted. In New South Wales you may already know that the Auditor-General has produced a report acknowledging the need to have parliament provide independent funding for the ICAC. That was also adopted by the parliamentary committee in New South Wales, which made the same recommendation. Both of those recommendations are supported by advice obtained by the ICAC from eminent Queen's Counsel Bret Walker, who pointed out that there was a fundamental conflict in having funding internally through a department of either the Premier or Attorney-General. In Victoria IBAC is in the process, through the Auditor-General, of compiling a report dealing with essentially the same issue.

The recommendation regarding the tenure of senior officers is basically to ensure consistency with other public sector agencies and also to ensure that we can retain and rely on the wealth of corporate knowledge that we have within the CCC ranks. It also ensures that officers can progress and move within the senior ranks of the CCC rather than perceiving it as a career dead end, as it were.

The technical changes include amendments to the jurisdictional requirements for the use of the CCC's intelligence powers, reviewing the definition of 'money laundering', restricting the publication of corruption complaints made to the CCC and other amendments to the powers available for investigations. To those technical amendments we would also add the existing review of chapters 3 and 4, which we hope would continue and be successfully completed in the not-too-distant future.

Those are my opening remarks. I am happy to take any questions.

**CHAIR:** Thank you, Chair. Deputy Chair and government members, would you like to proceed?

**Mr SULLIVAN:** I might start where you finished off, Chair, in terms of the suggestion of the extension of tenure for senior roles. You described it as seeking consistency with other Public Service agencies. Is not the point of the legislation at the moment that your organisation and your roles are not like other public servants given the powers that you hold and the powers that you exercise?

**Mr MacSporran:** That is certainly true. The other point of distinction with our agency, as we all know, is the extraordinary level, necessarily, of oversight of our functions, capabilities and so forth. Whilst the intention or part of the intention in imposing the limit on the tenure was to prevent or mitigate a corruption risk with people being in the job too long, not being sufficiently refreshed and being tempted to behave corruptly, we think that is such a small risk, if it happened at all, of going undetected that the benefits to be gained by the retention of corporate knowledge and expertise that people in those positions gain far outweighs that minimalist risk. I cannot conceive, frankly, of someone who would behave in a way that could be described as corruptly—to fulfil the purpose behind the 10-year limit—going undetected. There are so many internal and external systems in place that would inevitably uncover that sort of behaviour.

**Mr SULLIVAN:** I must say that my line of questioning is not in relation to any individual.

**Mr MacSporran:** Of course.

**Mr SULLIVAN:** I know that is accepted. Is it not necessarily just in terms of preventing something that merges into corruption; is it more that your role and your senior officers’ roles are a bit of a balancing act in terms of checks and balances internally, checks and balances of your internal questioning of extraordinary powers such that, over time, that internal check can get ground down, like in any job, and you wave things through to the keeper. That type of mentality can creep into any organisation.

**Mr MacSporran:** I do not suggest that is not possible. That might happen to a degree in one form or another. As I say, the number of internal and external checks and balances would almost certainly uncover any attitude or lapse in that respect. I cannot frankly conceive of it happening unnoticed. For that reason I think the risk is so minimal and so readily mitigated that it is almost non-existent as opposed to the huge losses we suffer. It is a career-threatening position people in the senior roles in our organisation face by having to make the choice—as some have, as you know—to leave before their 10 years is up because at their 10-year mark they might be of an age where other employment might be precluded.

**Mr SULLIVAN:** Or a vacancy at that level does not line up in time.

**Mr MacSporran:** Absolutely, it does not line up in time and they find themselves unemployed. They have a level of expertise that is to be applauded whilst with our agency and are very high performers but useless in the job market. It is a problem frankly and it has become an acute problem for us in recent years because of the people in that category whom we are losing.

**Mr SULLIVAN:** To change issues, I refer to your recommendation 18 in relation to admissibility in perjury proceedings. Does that run the risk of running foul of recent High Court decisions in terms of the use of evidence that is gathered under coercive powers? It is your August 2020 five-year review submission, recommendation 18, in terms of the amendment to section 197.

**Mr MacSporran:** It is really a clarification. We think that the section is reasonably clear as it stands, but there was a decision made at the District Court level, from memory, which took issue with the meaning of that provision. We think that with a small tweak to the language in that provision it can be made a little clearer to put it beyond any doubt that the so-called perjured evidence is admissible in a perjury case as opposed to only being admissible in terms of the particularised perjury utterances.

**Mr SULLIVAN:** The CCC’s view is that that is the preferred understanding of the law as it stands and you want clarification of that, as opposed to broadening where you say that information?

**Mr MacSporran:** Yes. There is no suggestion we want to have the evidence admissible generally. That protection is fundamental to the practical workability of those coercive hearings powers. The trade-off in forcing people to answer, to get to the truth and solve crimes and corrupt behaviour issues, is that what they say cannot be used against them except if they perjure themselves. The ruling below, in what I am talking about, limited the admissibility of the perjured evidence under 197 to the very narrow terms of the perjured answer and not the context of the entire testimony. It arguably could have prevented a successful prosecution. We think it is unrealistic to try to limit the admissibility to that narrow scope. We think that if 197 was amended to make the admissibility in a perjury case clearer, that it has to be the entire testimony in context unless there are other arguments of relevance, which are ordinarily dealt with in admissibility arguments, it is a very good amendment to seek. But we are not seeking to extend it beyond perjury, no.

**Mrs McMAHON:** I want to go through a couple of the recommendations. The first is recommendation 5 and the limited tenure of senior officers. I know as a committee we have looked at the issue of seconded members, in particular, spending too long a time at the CCC. In the modern workforce 10 years in one organisation is a considerable period. Could you explain why for a senior officer more than 10 years would be required but for other officers and position holders within the CCC more than 10 years would be considered too long?

**Mr MacSporran:** By and large, as I mentioned before, it is really a question of corporate knowledge and expertise. Indeed, with the police rotations we even make an exception to the policy of three- to five-year rotations ideally with very specialist expertise such as the technical and physical surveillance officers, because that is a huge loss to us when they rotate out at the wrong time. It might be necessary or desirable under the policy, but it will leave us with a critical capability gap. We do allow longer tenures for those sorts of periods. It is no different to senior officers who might have 10 years. Our business, frankly, is quite a complex business. It has various businesses under the one roof, each of them in their own way complex. The interrelationship between them adds a further level of complexity. At a management senior officer level, to lose that 10 years cumulative experience and expertise is a significant problem for us. As I say, the only argument against it is the corruption risk, the jaded worker problem and so forth, but we think that can be addressed quite easily.

**Mrs McMAHON:** In your experience, is the pool of talent out there in the workplace not there? When that 10-year period comes up, is there a dearth of talent in terms of recruitment? As I said, 10 years is a significant period within an organisation. In a 10-year period the CCC goes through name changes and multiple other changes. In a 10-year period someone can come in, learn the ropes, understand how it works, have a vision, implement it and actually see how it works. That is still an extended period. Is there an issue that there is no-one else who can come in after that time?

**Mr MacSporran:** I think it is fair to say it is a unique, niche jurisdiction that we are exercising. People coming in have a tendency—I think there is merit in this in part, but it should not be the only reason or they should not have it as being their only motivation—to make a career of it because it is so specialist you cannot readily easily transition out. For the same reason, you cannot readily bring people in at a senior level because they have a unique set of skills, both from a management point of view and to understand the business and to operate the business sufficiently at that level. I am not saying it cannot be done and there are not individuals, but it is not easy. It just puts an extra pressure on our systems that we would like to avoid if possible, and this was critically important for other reasons.

**Mrs McMAHON:** I want to turn to recommendation 7.

**CHAIR:** We might just take some questions this way and then we will come back. Just following on from that in relation to tenure, were those provisions inserted in about 2014, the limitation on tenure, or are they more longstanding than that?

**Ms O'Farrell:** I think they were around that time. They were not a recommendation of Mr Fitzgerald in his report, so I think they were a late addition to an amending act.

**Mr MacSporran:** If I could just add to that scenario. The policy to rotate the police I think is well placed but it is a different concept. We get criticised—I think quite unfairly, frankly—that you should not have police investigating police, but it is a sensible mitigation risk to have police rotate through and for a lot of other reasons it is the best thing to do. This is not to denigrate police, but it is an appearance thing as well to make sure that no-one sees police being there for 20 years—there is a risk in that capture for a start—and not doing their job properly and perhaps turning a blind eye, but that is a different reason to the senior officer reason.

**CHAIR:** I understand where you are coming from in relation to the specific set of skills and knowledge that comes with a longer tenure. Tempered against that, I was part of the PCMC in 2013 which had an extensive inquiry into the operations of the then CMC. One of the findings—I think the member for Coomera might have been around at that time too—that came out of that actually went to the culture of the then CMC. It was before your time, Chairperson, and yours as well, CEO. I am sure that things have improved since. I believe from memory that was one of the reasons these term limits came about: to try and ensure there were not poor cultures developing due to longstanding views about things, which happens in any organisation.

My question for you is—and this will hopefully be the last one on this point—is it not something that could be managed through the regular refreshment and integration of new parties into the CCC to ensure there is no loss of knowledge or expertise?

**Mr MacSporran:** I do not suggest it cannot be done, but it would certainly be more difficult to do it that way. On your point about culture and refreshing the culture and keeping the culture on the right track, these people at this level we are talking about are all on contracts that are regularly reviewed, their performance managed. The length of the tenure granted per contract is factored into the performance and whether they are managing their patch correctly, so all of those issues deal with the sorts of concerns you and the previous committee had back in 2013 and 2014. We would like to think that, whatever the situation was back then, the culture now is very healthy. If it is not in any division, through a senior officer's performance or lack of performance, that is subject to management by the CEO in particular but by her and I together.

**CHAIR:** I would also like to ask about the submissions concerning a separate funding model. The Parliament of Queensland and this committee are funded under a separate act of parliament to general government operations. Would you suggest that a separate act is the type of funding model you would look at? Who would have input into the funding model?

**Mr MacSporran:** The idea we had was that we would produce a business case, which we do anyway, for what funds were necessary with evidence as to why it was necessary in various parts. That would go to someone independent, whether it be a committee of parliament or a completely independent person with business skills. They would then assess our business case and make recommendations which would then go to parliament, whether it be via this committee or just directly to parliament, and then parliament would decide in whatever form.

**CHAIR:** Do you think it would actually make any difference? The reality is that in most parliaments there is a majority government, so in a practical sense is it going to make any difference?

**Mr MacSporran:** I think it is really a case of it would be more transparent. I would assume, subject to operational disclosures in the material that might need to be redacted in part, our business case would be published, as would the independent person's recommendation be published, and then the parliament debate would reveal in public what the determination was and why. I think that is just healthier. We would not object to being knocked back if the reasons were transparent and everyone could see either that our business case was deficient or an overreach or such was not accepted for other legitimate reasons. That would all become public.

I do not suggest for a moment there has been any evidence to suggest that any Attorney-General, or before that the Premier, or a subset of the Premier's department, has behaved in any way to give us concerns about that, but it is more the perception. When you think about the Attorney in particular having the ability to lodge a no try bill or stop a prosecution we might have commenced, having that power is immediately a conflict with the funding for our agency. You see it in New South Wales. The Premier controls the funding for ICAC New South Wales, yet the Premier was recently a witness at a hearing and examined by the ICAC hearing process, so it is just not a good look. I think it needs to be independent of that, any particular part. We have our independence and the parliament decides, albeit with a majority in the government.

**CHAIR:** Speaking of openness and transparency, you mentioned earlier the role of the committee as an important oversight body. In terms of the CCC's statutory framework for assessing complaints under the act, would you be able to outline for the committee the status of the commission's assessment of a complaint relating to Minister Bailey's involvement in the recruitment of the Gladstone ports CEO?

**Mr SULLIVAN:** Point of order, Chair. The terms of reference of this hearing specifically say that individual cases are not a matter for the inquiry.

**CHAIR:** What is your point of order?

**Dr ROBINSON:** Which standing order?

**Mrs McMAHON:** What is the reference?

**Mr SULLIVAN:** The terms of reference of this hearing state, 'The committee's inquiry will not consider complaints about the CCC if its officers have handled individual complaints about corrupt conduct.'

**CHAIR:** I take your point of order, but I think it is a relevant question and fits within the terms of reference for the other inquiry, which are not only for the five-year review but the other inquiry as well, which is about the statutory framework for assessing complaints and any other relevant matters in relation to that, which was incorporated into this inquiry, about the functions and assessment of complaints. I am sure that the chairperson is able to answer as he sees fit, but I do think it is a relevant question.

**Mr SULLIVAN:** About the future framework of the CCC?

**CHAIR:** I have asked in terms of the CCC's statutory framework if he could update the committee about the progress of that assessment.

**Mr SULLIVAN:** Updating on an individual case, not about the future framework of the CCC, which is the purpose of this inquiry today.

**CHAIR:** Deputy Chair, there are two inquiries on foot here. I think it is relevant to both. Chairperson, I would ask you to respond as you would.

**Mr MacSporran:** I did not come prepared to deal with any individual complaint matter, as I would have for our usual public and private catch-ups where we provide the material on individual matters in advance and then answer questions about it. In terms of framework, the framework is as set out in our operations manual, a copy of which we provided you last December, from memory. That details every step in the process that we engage in. A complaint comes in, it goes to integrity services, it is assessed internally and categorised. Certain high-profile, more important or serious matters are sent to a committee which is staffed by myself, the CEO, the head of corruption operations and staff from integrity services. It is called the early assessment briefing group. Those complaints come at the earliest possible time with a summary and recommendation for how it should be dealt with. That is workshopped, as it were, with that small subgroup, including myself. We endorse or change the recommendation. Then it goes back to integrity services and it is dealt with in the way

that we have proposed. All of that in turn is reported to the ELT management group on a weekly basis, and we all get input into whether we endorsed the decision of that earlier assessment briefing group or whether we have any concerns or commentary around that, and all of that is then included in the minutes of that meeting.

**CHAIR:** From your knowledge, are you able to enlighten the committee at all about the progress of that individual matter?

**Mr MacSporran:** I cannot, to be frank. In fact, my personal memory is I thought that had been dealt with, but I am clearly possibly wrong about that if you are still querying the outcome. I can take that on notice and come back to you with some further detail if that would be convenient, but I just cannot off the top of my head at the moment tell you much more about that complaint matter.

**CHAIR:** Do you agree to take that on notice?

**Mr MacSporran:** Yes.

**CHAIR:** Thank you, Chairperson. We will go back to government members. We have 10-minute blocks and it has now been 10 minutes.

**Mrs McMAHON:** Returning back to the submission you made before the committee, I was looking at recommendation 17, which is the amendment of internal disciplinary powers, in which you recommend that seconded officers can operate to the same effect as if the officer was employed directly by the CCC, and that would include sanctions such as demotion or termination. That is an extraordinary kind of power to have over an employee that you neither recruit nor train. Can you explain why you feel that the current arrangements you have with the QPS, particularly through organisations and bodies such as JMAC, cannot adequately deal with disciplinary matters of seconded officers and why the CCC would want the ability to terminate a QPS officer?

**Mr MacSporran:** I think it is just another layer that causes delay and encumbers our operational efficiency. We do have the power, as you know, to terminate the secondment in appropriate cases, which has happened and happens from time to time for good reason. Where that is not the preferred solution we would like to have the ability to simply get on with it and deal with it. Bear in mind that process itself is often required to be reported here to you, and that adds another layer of complication to the ultimate processing of those matters. It is really just a question of efficiency. We would employ the same principles. Bear in mind that we oversee a lot of the internal disciplinary processes environment and have input through JMAC and other processes. It is just a matter of efficiency, frankly. If the police do not want it to happen and you do not think it is sufficiently justified, we can live with that. It is all about getting on with it and managing our workforce in a way that we can maximise our efficiency.

**Mrs McMAHON:** Recommendation 8 relates to the secretariat functions that the CCC performs. If that recommendation through, where do you believe that role should then sit if not with the CCC?

**Mr MacSporran:** Since we made our submission I have spoken to Ms Julie Cork, one of the reviewers, and I asked her to seek the committee's permission to make a late, but relevant, short submission about this point. I accept her concern about where it might go. Wherever it goes, it should not go back to the Police Service because it would just be, firstly, a very bad appearance because of the perception of lack of objectivity and independence. Whether there was in fact or not, it is just a perception issue. It could go to the Attorney, for instance, under her control. It would sit, I think, comfortably there, and then funding for it could be arranged through that method.

The problem we have and why we proposed it be moved is simply that it is housed with us. I think initially the idea was that it should be with us because we oversee police operations and functions generally, so it would be a very good look to have an independent body like ours with those functions having that as a secretarial function in our office. The reality is—the anomaly is—that we have no control over it. We have been pressed legitimately by Ms Cork and Mr Mullins for extra resources, but to provide extra resources other than the ones we provide currently—which is fairly minimal, I must say, necessarily—we would have to make a business case through the CBRC process and we would be asking for funding for something that we do not control and cannot really articulate. I explained that to Ms Cork the other day and she understood that. She is not anti that. Her only point, as I understood it—and I support her in this—is that wherever it goes, if it does come away from us it should not go to police.

**Mrs McMAHON:** My last question is in relation to recommendation 15, implementing legislation restricting the publication of complaints of corruption made to the CCC. That garnered quite a bit of attention last year when there was an attempt to do that. I was wondering if you could further articulate

the CCC's position about that. Obviously media as a stakeholder had very specific views, but if you could articulate to the committee why you think such legislation is necessary and who benefits from such legislation.

**Mr MacSporran:** I will start with the question of who benefits firstly. It is an absolute massive win for the Queensland community because what it would mean is that we would have the ability to properly understand the allegation, properly assess it and, if necessary, investigate it to uncover and deal with serious misconduct, if not corrupt conduct, before it became public. The problem with an allegation becoming public—that is, that it comes to us and it becomes public that it has come to us—is that if there is corruption and if your real concern is having it dealt with, the last thing you should be doing is making it public before we can deal with it. If there is corrupt conduct happening, or has happened, the perpetrators will be warned that they are under observation, or will be, and have the opportunity to destroy evidence, concoct evidence, get their heads together and stories aligned and, in effect, undermine in a very significant way our ability to deal with it. Why should we be impeded? If there is corrupt behaviour it should be investigated, it should be charged and put before the courts to deal with in the ordinary way.

There is a lot of confusion about what we were proposing and how it might conflict with so-called journalist shield laws. We have an obligation statutorily to protect whistleblowers. That is part of our role. We honour that role routinely, daily. We would be the last persons in the world to be suggesting that whistleblowers should not be protected, and rightly so. We also support absolutely journalist shield laws. If a journalist has a source who is a genuine whistleblower who needs protection we support that in principle, but bear in mind, as the case currently before the Court of Appeal, *F v CCC*, says in the judgment of first instance, which is published, even journalist shield laws that currently exist in most other jurisdictions, and the judge there quotes the New South Wales example, those shield laws protecting journalists' sources are subject to the overriding public interest. We say that is entirely the way it should be. It is involved in the shield laws in all other jurisdictions. If they came in, and we would support them coming in here, journalists should have that protection, but that protection does not protect them from not disclosing sources where it is in the public interest to disclose them, and there are various cases where that is the case. We would say *F* is one, but that is another issue yet to be determined.

Do not be confused about us trying to muzzle journalists. That is not the purpose. We are simply trying to protect our ability to investigate corrupt behaviour properly and benefit the Queensland community and the investigative journalists who uncover it to deal with people who are corrupt. They should be dealt with. Any publication of the allegation coming to us gets in the way and often, I can tell you, we have experience of this through our covert investigative techniques. We know for a fact that as soon as something becomes public steps are taken. If we have intercepted lines on the phones, people stop talking—and that is one of our prime investigative tools; people get rid of documents; records disappear; people are threatened, intimidated for coming forward or proposing to come forward and speak to us. It is a shocking own goal by journalists anyone going public with allegations coming to us. Because all the powers that we have, invasive though they are, they are extremely effective investigative tools. Anything that is done to undermine their effectiveness is a worry for us and should be a worry for you, frankly, and the Queensland community more broadly.

I stress again I support genuine investigative journalism. I am the first to applaud the journalists who uncovered the corruption that led to the Fitzgerald inquiry. Fitzgerald acknowledged them in his report, as he should. Shield laws are a necessary part of that fabric I support absolutely, but that is a very different thing than publication of simply an allegation that we might need to investigate.

**CHAIR:** Member for Capalaba, I know you have your hand up. We have just gone into the other block but we will back to you at 11 o'clock.

**Mr CRANDON:** Thank you for coming. It is going to be a little while before we get together with you again. We have not actually set a date, have we?

**Mr MacSporran:** No, we have not yet.

**Mr CRANDON:** We will try to do something about that today. If you recall, I was on the previous PCCC and we questioned you about the use of media releases instead of publishing reports, particularly in regard to the Premier and former premier in 2018 and 2019. That was a few examples of where we had some concerns. I would like some feedback from you on that, and, in particular, perhaps if you could take the opportunity now, the material that we tabled in the parliament after our last meeting in relation to several identified members who have previously denied in parliament doing any government business in private email accounts between mangocube, if you remember, and other ministers.

**Mr SULLIVAN:** Chair, this cannot seriously be in relation to this inquiry and the terms of reference that this committee has set out in black and white. The member quite literally said he is following on from a different meeting about a particular individual case. They were his own words.

**CHAIR:** This committee has a general oversight role and the chairperson himself mentioned that at the beginning of this hearing. The member has not actually asked a question yet so I would ask the member to ask the question.

**Mr CRANDON:** Has the State Archivist identified in the mangocube investigation whether the emails between each member and Mark Bailey were ministerial or public records or were they not such records?

**Mr MacSporran:** I did not catch the start of that question. Would you mind repeating it for me, please.

**Mr CRANDON:** Has the State Archivist identified in the mangocube investigation whether the emails between each member as we tabled and Mark Bailey were ministerial or public records or were they not such records?

**Mr SULLIVAN:** Chair, could you please point out to the committee or the member how this is relevant to the future review of the CCC.

**CHAIR:** Member for Stafford, I take it you are raising a point of order?

**Mr SULLIVAN:** Correct.

**CHAIR:** I am minded to permit the question. We have a general oversight role in this committee.

**Mr SULLIVAN:** So it is not relevant to today's inquiry?

**CHAIR:** I think it also goes to the terms of reference of the inquiry that was incorporated into this inquiry, the five-year review.

**Mr SULLIVAN:** Sorry, where, Chair?

**CHAIR:** It is a similar ruling in relation to the question that I asked in that the committee is able to consider any other relevant matters. This is an issue that there has been correspondence with the chair of the CCC in relation to.

**Mr SULLIVAN:** I need to read out the explicit terms of reference which says the committee's inquiry will not consider complaints about how the CCC or its officers have handled individual complaints about corrupt conduct.

**Dr ROBINSON:** You are arguing his ruling.

**CHAIR:** Member for Stafford, I have made the ruling, which is it is relevant. In fact, I will just point out to you that this is not a matter about an individual complaint, about the handling of it by the CCC, we are merely asking for information.

**Mr SULLIVAN:** About an individual complaint.

**CHAIR:** I would ask the CCC chairperson to answer the question in the way that he sees fit.

**Mr MacSporran:** As I understand the query, you are asking whether the State Archivist—the then State Archivist—made those determinations and I assume you are referring to the report that he did for our investigation or our assessment of those matters. The short answer is I cannot specifically recall, other than general comments he made along the lines that they might be in that category, some of them. So it was, from my memory, a fairly broad assessment of matters that might need to be further looked at, if you like. It did not excite our interest for reasons I have said on many previous occasions because the content of any of the emails would not have reached and did not reach the threshold to engage our jurisdiction.

**Mr CRANDON:** Coming now to the Queensland Police Commissioned Officers' Union—and they were here just prior to your arrival—the first note I wrote down was discomfort with the CCC.

**Mr MacSporran:** That is good.

**Mr CRANDON:** And misuse of coercive powers. They were somewhat uncomfortable with the way things have gone in recent times compared to previous times. I think the final indication was in the last couple of years things have gone a particular way. One of the points that was being made was there was a lack of procedural fairness re QPS Ethical Standards Command. The allegation was that the CCC, when they refer it to the Ethical Standards Command, outline what they would like to see in relation to an outcome of a particular matter without any evidence having been gathered et cetera.

**Mr MacSporran:** I take issue with that. That is a bald statement which ignores entirely the important context around it. The whole purpose behind the Joint Assessment Moderation Committee meetings, most of which I attend and certainly the ones we are talking about here I attend deliberately, as does the assistant commissioner in charge of the Ethical Standards Command, is to escalate at the earliest possible time, for a matter that either has been reported to us and referred back or we have taken on of our own volition and given to them to investigate, to compare notes as it were about our expectations at the earliest time. We might say, 'We think this is very serious. We think you should, as you would ordinarily do anyway, investigate this as a criminal offence firstly so be careful not to interview them in a disciplinary sense which is not admissible in the criminal case and might taint the evidence. What do you think as the investigator and ESC about that proposal?' and they might say, 'Well, we don't agree because we think it is not that serious for these five reasons,' and then we talk about it.

The understanding is, and this might even be documented in the terms of reference for that meeting or those meetings, that at the end of the day it is designed to assist the ESC understand very early in the piece what we think to give them some help to expeditiously and consistently and fairly investigate every matter they get. It is always on the understanding that if they do not agree with what our expectation is they simply say that and if we cannot resolve it by beneficial mutual discussion and collaboration we simply agree to disagree and they will know that if they go ahead and produce a result that we do not agree with we might take it to QCAT, which is undesirable because it takes further time and it might result in a different outcome that is embarrassing to everyone and undermines the initiative that we have put in place to reform the entire disciplinary system. So if it is being interpreted that way I am shocked, frankly, to hear that. That would be a minority view. I can guarantee you that. It would not be the view—

**Mr CRANDON:** It is the union's view, just to make a point.

**CHAIR:** The Commissioned Officers' Union.

**Mr CRANDON:** As in the Queensland Police Commissioned Officers' Union's view. I have paraphrased, to be fair, but I do believe I have got the essence of the response.

**Mr MacSporran:** I know where the view is coming from. In fact, there is a matter that is currently in QCAT that relates to action we were dissatisfied with in the way the matter had been investigated internally for a commissioned officer. We took over the investigation and took it to QCAT. That is, I suspect, largely the source of the dissatisfaction expressed by the union in this respect, but I can tell you that would be a very small minority view and it shocks me that there is even that minority view because the whole idea of the JAMC second stage meetings is to get these things moving in the right direction. If it has to go to QCAT, one side or the other, that is not a win, it is a failure, in effect, but it certainly allows for a difference of views, and that is healthy. We value our independence, as does the Police Service. We each respect each other's independence.

**Mr CRANDON:** Coming back then to the broader issue that they raised about the misuse of coercive powers, they used words along the lines of 'creep in scope' about where you are going. Earlier on it was about the major crimes area, but there is a creep in scope. Would you care to comment on that broader point?

**Mr MacSporran:** I do not accept the assertion, frankly, that there is a change in procedures, a change in emphasis, a creep or a widening in our jurisdiction as a matter of practice. I say, and have always said, that our coercive hearings powers are our most important and productive investigative tool. We do a lot of work on referrals from the QPS. All the cold case work we do is referred from the QPS. There was the Tiahleigh Palmer case and the O'Dempsey-McCulkin case—all those magnificent results were a direct result of the work we did with coercive hearings. With each coercive hearing we conduct, the police are required at the end of the process to evaluate the effectiveness of the coercive hearings. I have never seen one that says they were not successful.

**Mr CRANDON:** They were not talking about those; they were talking about the area where you are using those coercive powers in relation to commissioned officers and/or minor matters.

**Mr MacSporran:** If a matter comes to us where we think it involves corrupt behaviour, whether it is a commissioned officer or a first-year constable, and it is serious enough for us to justify, as we have to, in writing the basis for using coercive hearings, we do. I can see nothing wrong with that, frankly. Why should the police, and certainly the commissioned officers, be immune to the use of coercive hearings if the matter is serious enough to justify it?

**CHAIR:** We will pass to the government. I want to assure members that I have kept track of time and we will have an equitable distribution of time.

**Mr BROWN:** We have been talking about corporate knowledge and skills and oversight. Over the last five years, following your recommendation about developer donations, what sort of training and oversight has the CCC given to the ECQ around developer donations and investigating those matters?

**Mr MacSporrán:** I would not say we were directly giving them training or advice about that topic. The law is fairly reasonably settled in that area. The new head of the ECQ, Mr Vidgen, is very well qualified and very able in that space. We are very confident in his ability to manage that side of things. In fact, he is doing a serious investigation currently which has become, as you know, very public in recent times. That is a good example of how he is managing those issues. I spoke to him just this week to ascertain the personnel he was using in that process. He has access to retired police officers and other civilian investigators. I think he is well equipped. I asked the question simply out of curiosity because I know how difficult those matters can be to investigate. He has access to and is using the appropriate expertise. I was pleased to hear that.

**Mr BROWN:** That is my next question. There were reports this week about the sophisticated alleged money laundering and washing through in regard to the \$13,000 donation from dinners. Are you satisfied with the skill level, noting that this is relatively new to the ECQ? Do you have full confidence? Do you have the power to intervene and help investigate those sophisticated money-laundering donations?

**Mr MacSporrán:** Firstly, I am comfortable, for the reasons I have said before in my last answer, that the ECQ has the appropriate expertise and knowledge to appropriately manage those things. I am also confident for this reason: we have a very good relationship with the ECQ. They have routinely referred things to us. This current investigation might be an example. It has not been yet, but it could be, where during the course of their investigation they might uncover evidence that would escalate the seriousness of a matter and they would immediately refer that to us to either take over or to give them advice and/or resources to manage the investigation. I am very happy for it to be with him on the understanding that, if it becomes more serious or they uncover more serious behaviour or evidence, it would come to our knowledge and we can then use our resources.

**Mr BROWN:** Does the ECQ have to refer that to you if they feel they need to? Do you have the power to step in?

**Mr MacSporrán:** We could do, yes.

**Mr SULLIVAN:** Is it more of a case-by-case scenario as opposed to the MOU, if I could use that word, that you have with the Office of the Independent Assessor? Your framework going forward does not have that with the ECQ.

**Mr MacSporrán:** It is a section 40 arrangement. From memory—I might be wrong—my personal knowledge is that I do not know that we have an MOU with the ECQ. We may have. We certainly have an understanding. They understand their section 40 obligations. It is also a personal relationship issue. They are more than comfortable to come to us for advice and/or to refer something to us for our consideration.

**Mr SULLIVAN:** You are comfortable that they are giving that serious—

**Mr MacSporrán:** Absolutely. It might come to us and we say, ‘We agree. It is potentially in our jurisdiction, but we are comfortable, if you are, that you can continue your investigation subject to our oversight and monitoring.’

**Mr BROWN:** Commissioner, are you referring to all the matters that have been referred by the LNP as one matter or are they several matters?

**Mr MacSporrán:** I do not know. I would be comfortable to say that whatever matters have been referred are in that category in terms of how the arrangements would be managed.

**Mr BROWN:** That is the discussion you are having with the ECQ as a whole?

**Mr MacSporrán:** Yes. Some matters the ECQ have referred to us and we have referred back subject to monitoring. It is the usual procedure.

**Mr CRANDON:** I am paraphrasing again. The Independent Assessor said she is looking forward to improvements with the new system. This came about in questions in relation to the matters assessed report. How is that coming along? It is the formatting of the matters assessed report that she is concerned with. She is looking forward to the new system. How is that coming along?

**Ms O'Farrell:** When we established the requirements for the system that is currently in implementation, the feedback was that the form of the matters assessed report, which currently exists in a landscape form—not the substance; all of the information is relevant and reasonable in the form—is not conducive. One of the enhancements to the system will be to produce that form by way of a portrait letter form, which is responsive to the feedback received from stakeholders.

**Mr CRANDON:** Coming back to the Queensland Police Commissioned Officers' Union, one other item that they brought up was that they are concerned about non-sworn personnel within the CCC not being aware of the rules of evidence and having a lack of knowledge in that regard when they are interacting with the QPS. Would you care to comment on that?

**Mr MacSporran:** I am not aware, frankly, of what might be being referred to there.

**Ms O'Farrell:** Many of our civilian investigators are ex-police officers, so they are very much aware of the rules of evidence. There would be very few civilian investigators. I can only think of one who would not have police experience in some jurisdiction in Australia or overseas.

**Mr MacSporran:** We would be happy to take on board any concern with some detail that I could look at. It would be a legitimate concern if there is some sort of knowledge breakdown. I would be surprised, frankly, but I am happy to look at it. If the officers' union would like to come to me personally and let me know or write to me.

**Mr CRANDON:** It is on the public record. You will be able to read exactly what they were talking about.

**Mr MacSporran:** Yes.

**CHAIR:** In relation to the other inquiry that I have spoken about, you made a submission that you were unable to provide information to an entity to whom it has referred a complaint—that is, the CCC—if the information was provided to you on the basis that it would only be used for assessment and not disclosed further. This was in particular in relation to the former deputy premier's complaint. That was the subject of that inquiry. Did you at that point in time seek the former deputy premier's consent to share that information with the Speaker? That is the first part of the question. The second part is: do you think there should be any structural changes to that process?

**Mr MacSporran:** My memory was that it was not the deputy premier's consent we might have needed. They were cabinet documents, I think. They were provided to us, as is the usual case, on the basis that they were for our use only. If we were going to provide them to anyone else, we would seek the permission of cabinet before we did so. We had an exchange with the Ethics Committee about that matter. From memory, that has concluded or it has lapsed.

**CHAIR:** Are there any structural changes you would recommend?

**Mr MacSporran:** I do not think so. I think that works fairly well. It is common practice and courtesy that if we get something on a conditional basis we should not abuse that condition without going back to the original provider of the information. Of course there are various institutions—parliament being one—that could insist on the documents being provided anyway without consent. We just wanted to make sure that, as a courtesy, we were given the opportunity for the consent to be given before we handed it over.

**CHAIR:** Thank you, Mr MacSporran and Ms O'Farrell, for your time here today. I noted your agreement to take the first matter on notice. Is seven days an appropriate time frame?

**Mr MacSporran:** That will be fine.

**CHAIR:** Are you able to come back to us in the same time frame on the second matter as well?

**Mr MacSporran:** I can do that as well.

**CHAIR:** That concludes our session. Thank you for your attendance. We will now be taking a short break until 11.30 am, at which time we will be speaking with the South Burnett Regional Council.

**Proceedings suspended from 11.12 am to 11.29 am.**

**PITT, Mr Mark, Chief Executive Officer, South Burnett Regional Council**

**CHAIR:** Good morning. I invite you to make an opening statement, after which committee members may have some questions for you.

**Mr Pitt:** First and foremost, thank you very much for the opportunity to speak. I very much appreciate the circulation of the draft document last year. Our council is very appreciative of the opportunity and also acknowledges the important role that the CCC and all the other agencies play. It is a vital part of our system these days. Our submission was very short and to the point—hopefully—and I am pretty much happy to take questions. Our interest is the focus on prevention rather than cure. For a smaller or regional local council, a little bit spent at the front end of a system saves a lot of trouble at the back end of a system. We have found that over the years and I have found that through my career.

A couple of other side points have come up. With the number of different agencies now moving into this space, sometimes through staffing—particularly changeover of elected members and changeover of senior management—people get confused about who they are supposed to be talking to about what issue. Again, it is about that education and training role rather than compliance.

We made mention of the difficulty sometimes of resourcing for council. Sometimes there is not a lot, both human and financial, in some of these sections. We understand and appreciate that it is often difficult for investigators to offer advice and assistance, but I have always been of the opinion—and our council is of the opinion—that if we recognise there is an issue where we think we have got it wrong then that assistance and advice is absolutely a godsend. I acknowledge that the CCC in the past—and in my dealings with its predecessor, the CMC, and probably going all the way back to the CJC—has always been very good, particularly when we have said, 'We think we've got it wrong; what do you reckon?' Half the time we had not or it had been an administration error rather than something else. If someone self-reports, it is my opinion and belief that that should be treated way more fairly than someone trying to hide something, if that makes sense. I am probably not explaining that well—

**CHAIR:** I understand, thank you.

**Mr Pitt:** Regrettably, sometimes from what we see through media and others, no system will stop anyone from doing the wrong thing. To use an analogy, how many times over the years have we still seen the odd person not wearing a seatbelt? We very much believe that a focus on training and prevention is way better than having to investigate and convict.

One final point is in relation to—and you have probably heard it elsewhere; it is the scourge of the modern day—social media in terms of councillors' and senior staff's ability to defend themselves publicly. It seems to be that we have a range of parties on occasions that agency-shop. Particularly where there is a complaint, we will read about it on social media before we get formal advice that it has happened. I am not saying that that is right or even that the information is correct, but it does do a lot of damage to public confidence.

**CHAIR:** Thanks for your submission. In respect of your submission as it relates to time frames, you basically say that sometimes the CCC takes quite a while to respond but then asks you to turn things around within a very fast time frame. Can you give an example of this? When you go back and say, 'This is huge drain on resources,' do you find that the CCC is responsive and reasonable?

**Mr Pitt:** Thankfully, we have not had a CCC matter for a while, which is good. We are very appreciative of that fact. It is not just CCC; it is a range of agencies. The need for information to progress their time lines is often as short as a week. We get, 'We want this and we have to do this.' It is not an exact CCC example but I can give an example of a recent investigation through another process. An agency said, 'Can you send us the video, with live streaming now, of the council meeting and everything else?' so we sent it all down. We had maybe two or three days to respond. When we sent it back to them, we got the response, 'We're very busy and we don't have time to watch all this. Can you please tell us where the exact time stamp is?' By definition we are not as busy as them. Sometimes that is the attitude that comes across. With limited resources, it does grate. I have to pull a staff member off another job to respond to the inquiries. Generally we get about a week.

We will often get no guidance on when we can expect a result. These investigations can take considerable time. Quite often they are complex and there are always two sides to every story, so procedural fairness and natural justice absolutely must be attributed. Without talking about a specific case, it is generally about a week and then we just wait until somebody tells us what is going on. From previous experience, often if there is no corruption or no issue it is not uncommon for us not to get a final statement to say that it has been dealt with. It just seems to disappear.

**CHAIR:** That does not seem real satisfactory.

**Mr Pitt:** It does cause problems. There is a lot of public commentary from the complainants about it, so it is nice to put these issues to bed. It would be really nice to be able to put out a statement saying, 'This was investigated. These were the outcomes.'

**Mr CRANDON:** Can you put things into perspective for me? I am sorry, I do not know the size of the council. What is your annual budget, staffing—that kind of thing?

**Mr Pitt:** We have 300 staff internal/external; about a \$60 million to \$64 million annual operational budget—capital moves around as it does; and 30,000 people, 12,000 in Kingaroy itself. We have 3,000 kilometres of road and cover about 20,000 square kilometres. In the office of the CEO there is myself, an executive assistant, an executive assistant to the mayor, a coordinator and a media officer—and that is about it. In corporate governance, we have the corporate governance manager and another staff member who does RTI, Ombudsman, CCC and everything else that comes along with it. That is about the resourcing.

**Mr CRANDON:** When things are put back to you to do the investigation—does that happen?

**Mr Pitt:** Absolutely.

**Mr CRANDON:** Can you provide an estimated cost? Is there a guide, a range, that it might cost you to investigate something off your own bat?

**Mr Pitt:** In human resources we will pull a person offline to do it, depending on the complexity. We have had some that have been very complex; others have been simple. If we have to pull in an external investigator, it is anything from 10 to 20 grand, easily. We take our own legal advice to ensure the council's interests. There would be 10 there, easily. For the complex ones that drag out over a period of years, as some can, you can multiply that tenfold.

**Mr CRANDON:** There is not an insurance for that in that you cannot insure for that. What could the CCC provide to reduce some of that burden on you? What would be the better way of doing it?

**Mr Pitt:** If we are taken out of the decision-making process and someone else is making the decisions, we are happy to support and offer information and let the investigation be done by those who know what they are doing. It seems a funny old system where if we send something off we have no decision point in it and then it comes back to us and we are told, 'You engage an investigator and you do it and you pay for it and let us know what the outcome is.' We might as well not send it off; we might as well just engage. If someone steals a council tractor we have to not only notify the police but also let the department and everyone know, but we deal with that through our insurers. We are capable and confident of dealing with that through our own process. If we are going to get these things back to investigate, we might as well have control. We are paying the bill.

**Mr BROWN:** Thank you for coming in this morning. Obviously it takes time and resources away from the council, so we really appreciate that. It seems to me that you are relating this back up to the CCC but this is more related to the OIA and complaints; is that a fair assessment?

**Mr Pitt:** There are commonalities, yes. As I said, we have been very fortunate in recent years not to have a CCC matter, but the processes are similar.

**Mr BROWN:** Your recommendations with regard to front-ending, training and education are the same with the OIA?

**Mr Pitt:** If you are asking, any training would be excellent. For those who recall the old *Grass Roots* videos—and I still have my copy of the public scrapbook that I think the CMC put out in the early 2000s—that sort of material was excellent. Staff could relate to it, people could understand it and you could lug it around with you. In terms of the Corruption in Focus series these days—there are so many emails that come in, some of that stuff just gets lost. By the time you pull it up and have a look—that probably sounds more of a whine and it is not meant to, but you just get run over. The video about the parks and gardens—and it was based on a real-life example where the gentleman lost his job—was excellent. That was on VHS. I ran that through multiple councils multiple times and it formed part of our induction. We do not have that sort of material that is very relatable to the average staff member now.

**CHAIR:** You are almost saying that less is more in some respects?

**Mr Pitt:** In some respects. I certainly understand that there is a need for Corruption in Focus, the fraud. It is sad that we have to build systems for these sorts of things, but we do. I mention the childcare centre episode in the *Grass Roots* television series. Those sorts of videos and that sort of training was brilliant. We could also then learn it ourselves and become independent. We could take that material and utilise it.

**Mr SULLIVAN:** You mentioned in your opening address the difficulties of social media putting things on the agenda before a formal complaint has been made. Do you have any idea as to how, structurally, council, CCC or other bodies could deal with that?

**Mr Pitt:** The main thing that we see at the moment through a lot of this is the ability to make a statement publicly that would not then trigger a further complaint for breach of privacy or something similar. Often, there is only one voice in these matters. We have an extremely strong working relationship with OIA, but a lot of the more serious corruption issues are not coming to the fore. A lot of the complaints coming through now—I hesitate to use the word 'petty'—are very small and can be easily dealt with but, because they are going to external agencies and going through the systems, they must be tying up resources, not just for us but also for a whole range of agencies. There is only one voice in the public on that because, really, we believe that we are not able to speak confidently about the individual cases. Certainly, the ability to issue some form of statement, in partnership with the investigating agency or even under our steam, saying, 'Okay, this matter is being dealt with; it has been referred'—particularly if the complainant has put it up on social media in the first instance—would negate some degree of privacy concerns.

**Mr CRANDON:** In regard to the updating of videos, I know that we are talking specifically about your council now but they do not age. Could a case such as that continue to be used? Are there resources around where you might be able to draw that?

**Mr Pitt:** Those of us who are old enough will remember John Cleese's *Meetings, Bloody Meetings!* back in the Rank Arena days on 16-millimetre film. I am showing my age! That is still some of the best training you can deliver. You can pick it up on YouTube. There is good training material out there. In relation to the one about the gentleman falsifying records in terms of parks and doing his own backyard, if that could be put on to a modern medium that we could easily access we could certainly utilise it. The message does not age.

**Mr CRANDON:** The technology is there for us to take it off the video. If I remember correctly, the CCC did a road trip a couple of years ago, after they had gone through the process. From the 2016 elections there were some issues they uncovered with the councils they looked at. Were you familiar with it? Did that come your way?

**Mr Pitt:** This is probably not going to answer your question, but—it is terrible—I cannot recall it if it did.

**Mr CRANDON:** That is fine.

**Mr Pitt:** The report they put out about the discretionary funding was an excellent report. I read that in detail. That one was about the five councils that were surveyed. I do not recall your road trip, I am sorry.

**Mr CRANDON:** That is fine. The OIA is the office that is receiving all of these complaints and would have a good understanding of where the weaknesses are, where the constant issues keep arising. Do you think it might be something that the OIA could perhaps start to pull together—some training resources for councils?

**Mr Pitt:** It is possible. I would like to hope and think that all the agencies cooperate and could work complementarily with each other. Whether or not it is the OIA—it really does not matter to us what the source is—if we could get our hands on some good quality material, that would be excellent.

**CHAIR:** Mr Pitt, thank you very much.

**Mr Pitt:** Thank you. I really appreciate the opportunity.

**CHAIR:** We very much appreciate your time coming to Parliament House, in particular because you bring a very different perspective to many of the other submitters, so thank you.

**FAVELL, Mr Paul, Private capacity**

**CHAIR:** Welcome. I invite you to make an opening statement, after which committee members will have some questions for you.

**Mr Favell:** Certainly. As you know, I have made two submissions. In essence, I support the majority of the CCC’s recommendations. I have a query about 5, and I have an addition to 6 which I will come to in a moment. In the first of my submissions, I also, as a one-liner, suggested that consideration be given to using blockchain technology as a preventive measure in the CCC’s functions. I have mentioned that a number of times to the chairman—we have talked about it—but probably a lot more needs to happen before that can occur. For example, if that was in place the Tahitian prince episode would not have occurred, in my humble opinion. If I was to explain all of that at the moment, it would go into days, not the 15 minutes I have, and I appreciate it is probably not within the ambit of your inquiries today.

The second thing I wanted to mention at the outset was *F v CCC*. You will see in my addendum I spent some time dealing with that and I, perhaps cheekily, said that I thought the judgement was correct. I still am of that view, but I do not need to express that. That has now been argued before the Court of Appeal. It has not been handed down yet, but I understand that it may be the subject of going, as we lawyers say, to another place.

**CHAIR:** Is this in relation to *F v Crime and Corruption Commission*?

**Mr Favell:** Yes, it is. There is not much more I can add to that. In my addendum to my submissions I set out a little of the background of free speech in Australia. I even resorted to quoting the *Courier-Mail* at some stage and perhaps becoming a little sarcastic, for which I apologise.

The last matter I wanted to mention is recommendation 6 in the CCC’s recommendations. I support that, and I have asked that the recommendation also be considered so that it takes into account, in the reasoning to be given, any political affiliations so that appears in the reasoning. I have a personal reason for saying that—we do not need to go into it—but that is also something that I think the community would benefit from, because it would all be out in the open. The community, as you would appreciate, form their own views about things and see it for what it is—perhaps, perhaps not—but that is the submission I make in respect of that recommendation. I do not think I can add anything else that might be helpful, apart from what I have said, assuming that it is helpful.

**CHAIR:** It is, Mr Favell, thank you.

**Mr SULLIVAN:** In relation to that discussion, then, around recommendation 6, to whom do you think the reasoning needs to be provided: to the individual or made public by the committee? Is that what you are suggesting?

**Mr Favell:** I do suggest that for two reasons: it is a public exercise, so the public can follow the appointment of, after all, what are important appointments in the community and can have confidence in the appointment and can see that there is accountability and that there is a reasoning that can be followed. I am not suggesting that it can be appellable or anything like that. I think you just get on and move on.

**Mr SULLIVAN:** I am thinking from the point of view of the proposed appointee. In most other areas of the Public Service with regard to results of people’s applications for promotion or a position, for those who are not successful that information is not made public—that XYZ was considered inappropriate because of whatever issue. Does it not propose harm to people, having their reputation tarnished, as opposed to—

**Mr Favell:** There is that, but I am not suggesting that it would form or be desirable to form an action of some sort—a tort, for example—but I do think it would bring to this position some credibility in the appointment. From my own experience, almost everyone I came across had a view about it. The most memorable was, as I saw in the paper, that apparently I am not a world beater, but there you go. I do not know where that came from.

**Mr SULLIVAN:** I missed what you said, sorry. You are not—

**Mr Favell:** A world beater.

**CHAIR:** Who said that?

**Mr Favell:** It was in the *Courier-Mail*—a reliable source.

**Mrs McMAHON:** In your submission you specifically query recommendation 5, which is in relation to tenure. Can you elaborate to the committee your concerns and the reasoning behind those concerns?

**Mr Favell:** I should say that I was in the back of the room when Mr MacSporran was answering that question. Having been around the traps, if I can put it that way—I served two terms as parliamentary commissioner and I now serve as a sessional commissioner on the CCC—I endorse what he said. It is a career move that is hard to move on from once you are spat out, if you like. There is a lot of corporate knowledge that is gained which is very hard to pick up elsewhere. Once you have it, you just keep on adding to it. Let’s face it: we have judges, the majority of whom at least sit until their 10 years are up and then sit on, but they are not spat out. This is just as important, if not more important, a job as those.

**Mrs McMAHON:** Do you support their recommendation 5?

**Mr Favell:** I do, yes. This was in August when I wrote my submissions. I reflected on them again last night, and that is where I came to the view that perhaps I was being a bit sarcastic from time to time. I do support it.

**Mr CRANDON:** With regard to F v the CCC and the Court of Appeal, you were here, I believe, when the chair made comments. I did not take notes of specifically what he said, but he was trying to make the point that they are not against journalism, per se, and that they are not about trying to stop journalists from having some privacy as to where their sources are et cetera, but it is when it impacts the role of the CCC in an investigation. Would you care to make some comments on that?

**Mr Favell:** I think he was talking about so-called shield laws, and they have a protection built into them. I do not think that examining those laws, as they appear in other states and a territory, would lead a sensible person to think they should not be supported, but they should have the public benefit reservation.

This may be the little bit of sarcasm that is in my addendum: the journalist would say, ‘You, the CCC, get on fighting crime and let the professionals, the journalists, do the real work.’ Well, with respect, that is putting the cart before the horse. The CCC, as you would know, in the legislation still has the obligation, when such a person is appearing and is required to answer a question, to make the determination whether or not it is in the public interest. I should put that in context. I sit in the CCC doing the cold cases that were spoken about earlier today and drug related cases, particularly ice—that sort of thing. The major ones, the political corruption allegations, are done by the chairman; he decides what he wants to delegate. I am sorry, I do not know if I answered your question. I sometimes want to wander.

**Mr CRANDON:** I am not sure that you did completely. How would you resolve this issue of conflict? What would you do?

**Mr Favell:** I would look at the consequences, the possible consequences, the importance of information, where it is likely to lead and what can be put into place to safeguard the informant. The CCC does that all the time and it is one of the requirements. Those elements are required to be considered, to answer that question.

**Mr CRANDON:** Under PID laws—I think it is the Public Interest Disclosure Act 2010—there are protections for people making public interest disclosures to a proper authority. In your view, does it strengthen or weaken their rights under PID if at the same time—and this is often what happens—they make the PID notification to the CCC, in this particular case because they are a proper authority, they also go to a journalist and say, ‘This is what I am giving to the CCC’?

**Mr Favell:** There is a section in the act, as you know, that in some circumstances prevents disclosure of what happened at the examination, when coercive powers are used or likely to be used. If that were allowed to occur, yes, it would weaken it but if they just simply made a complaint and they went off to a journalist then, as I think Mr MacSporran said earlier, the disclosure to the public at that stage could not lead to evidence being altered or dispensed of altogether.

**Mr CRANDON:** Yes, I recall him talking about that. Following on with the PID, if there was an inadvertent disclosure to an organisation the whistleblower is making a complaint about, generally the CCC would engage with that other authority and there would be an officer put out as the responsible officer. In some cases, that responsible officer is not aware of the name of the person who is making the complaint because that is really up to the person making the complaint. It is their choice as to whether or not they want their name used and disclosed. If they have chosen not to have their name disclosed to the responsible officer or whoever is doing the investigation and then it is inadvertently disclosed, what is your view on how that type of error should be dealt with?

**Mr Favell:** With respect, I think it should be dealt with in the same way. You try to respect as much as possible their wishes. I am not saying you override them at any time, but you take steps so that their safety, their reputation or whatever it is they are concerned with—even in some cases

where, for example, their life is being put in jeopardy, and I am thinking of specific cases which I will not mention at the moment—is protected. You put in place as much as you can, if not absolutely, protections that safeguard them. That is what I do anyway, and I understand the others do as well.

**Mr CRANDON:** As far as that is concerned, do you think a specific process could be put in place where it is spelt out very clearly to those who have been inadvertently notified of the individual’s name what the ramifications are of any adverse impact on the individual?

**Mr Favell:** May I give you an example. Whenever I commence a hearing, and I am sure all the commissioners do this as well, we make sure that the people who are there—who are usually investigating police officers, sometimes there is representation and the witness—are aware of all of the ramifications and what they can and cannot do. Of course there are safeguards within the CCC’s own systems, as you would be well aware, of what you can get into and what you cannot get into. For example, when I was the parliamentary commissioner I could get into some rooms that even members of the CCC could not get into, and that was to protect the information that was in there. The chairman was talking about some covert operations and that sort of thing, and you can imagine why all of that is protected and there are extreme steps taken.

**CHAIR:** I do not know if you were here in the first session with the parliamentary commissioner.

**Mr Favell:** I was sitting outside and the door was open. I could not hear clearly but I thought I heard her talking about the length of appointment to the CCC, and I thought she was saying that, because of the duration of their stay there in an organisation, some people may become stale or they might just become a reflection of whatever is higher up and if that fails then so does everything. I might be putting words into her mouth.

**CHAIR:** I was not going to ask you about that, but I might come back to that. You mentioned the bipartisan appointment process and a recommendation about giving reasons if it is withheld. Do you have a view on the actual provision itself? We spoke about this with the parliamentary commissioner. Although it says bipartisan support, it does not technically need bipartisan support, as colloquially understood.

**Mr Favell:** I am sorry for butting in.

**CHAIR:** That is okay.

**Mr Favell:** You will recall that bipartisan support was qualified under the act, and you will probably recall the conflict between Mr Seeney and others about the position he wanted to occupy on your committee and the position others did not want him to occupy and how that played out. I think a member of KAP came into it and sat for that determination. I am terribly sorry; I just lost your question.

**CHAIR:** I read about that in the paper too back in 2015. Do you think that should be reformed so that bipartisan support means in effect bipartisan support—government and opposition?

**Mr Favell:** I am tempted to say yes, but I would like to reflect on that more and take that on notice. It is a temptation to blurt out something but then it comes back to haunt you. That is what I have found, usually.

**CHAIR:** We face that problem every time we are in the chamber. All of our comments are captured on the record, though. If you wish to reflect on it and send us anything, I am sure we will consider it.

**Mr Favell:** Would you mind asking your secretariat to send me a note, because I have not been taking notes?

**Mr SULLIVAN:** On that point, if I could add to the question or ask from a slightly different angle, when you consider that could you say whether you think the consideration of a nominee by the PCCC should be considered solely on that person’s merits?

**Mr Favell:** That is what I would be angling at. I will tell you frankly that in 2018 I looked at the definitions very carefully and I thought there might be an arguable position, but I just made a decision to grin and bear it and get on with life.

**CHAIR:** Thank you.

**Mr CRANDON:** When would we expect to hear back from you?

**Mr Favell:** When would you like?

**CHAIR:** We need to report by the end of June and we will be looking at this in May, I would imagine, so in that time frame. I am not going to place a limit on it.

**Mr Favell:** I think you gave the CCC two weeks, didn't you?

**CHAIR:** Seven days.

**Mr Favell:** That is fine.

**CHAIR:** Thank you very much for your time and for sharing your experience and your views on various matters with the committee. It is much appreciated.

**Mr Favell:** I have a lot of views on everything.

**LEAVERS, Mr Ian APM, President, Queensland Police Union (via teleconference)**

**CHAIR:** I welcome Mr Leavers, who is participating via teleconference. I invite you to make an opening statement, after which committee members may have some questions for you.

**Mr Leavers:** I would like to thank the committee for the opportunity to address you here today in respect of the review of the Crime and Corruption Commission. The QPU represents just under 12,000 police across the state of Queensland, including watch house officers and police liaison officers throughout Queensland. Unsurprisingly, the operations of the Crime and Corruption Commission are of vital importance to our membership. The Queensland Police Service, and in fact governance in general, has come a long way since the dark days leading up to the Fitzgerald inquiry, which commenced nearly 35 years ago and the report was handed down nearly 32 years ago. There can be no doubt the service consists of a fine body of people who are dedicated to performing their duties in a fair and reasonable manner and to protecting the lives and property of the people of Queensland.

The Queensland Police Union has provided a written submission to the committee for its consideration. I do not propose to re-canvass matters raised in that submission, other than to say that the QPU believes the CCC should be reformed as an anti-corruption body promoting integrity, ethics and accountability across government departments with a clear charter to investigate and report on any systemic or high-level corruption within the public sector and to provide investigative support to departments as required. It should also be responsible for educating public servants, including police, in ethical decision-making and behaviours.

It is the QPU's position that its current roles in investigating high-level crime, intelligence and witness protection should return to the Queensland Police Service. At the moment those roles are undertaken by police officers on secondment to the CCC, so in reality they are performed by police officers anyway. There is often a doubling up of investigative efforts between the CCC and the QPS. There are additional administrative costs in having officers seconded to another agency where they could be undertaking the same work more efficiently within the QPS. I have expanded upon this position in the written submissions.

It is somewhat hypocritical that the Fitzgerald inquiry identified that the most at risk of corruption were those in specialist areas with extended powers. We now have a situation where the very body charged with keeping Queensland corruption free also is responsible for investigating high-level criminal activities, such as OMCG, terrorism and paedophilia, with exceptional and compulsive powers. This seems to be a dangerous path to follow. It would make more sense to limit the CCC to an anti-corruption role, with crime and intelligence investigations reverting to the QPS where they belong and where the CCC can independently review any complaints arising out of the discharge of those important and specialist roles.

I would now like to address the committee on a number of specific matters raised by the CCC in its submission. In terms of resourcing for QCAT, I agree with the CCC's submission with regard to the delays in having some disciplinary matters resolved in QCAT. It would appear that the tribunal's workload across all of its areas of responsibility has grown significantly and I urge the committee to recommend an increase in resourcing for the tribunal to allow speedier decisions.

With regard to the ability to demote and dismiss secondees, I oppose the CCC's request for power to demote or dismiss personnel seconded at the commission. In the case of police officers, the current practice is for the CCC to rescind the secondment, meaning the police officer is returned immediately to the QPS. Any misconduct or concern is then reported to the QPS, which can take discipline action. The CCC has full powers to review any QPS decision and the term of discipline taken, including any decision not to take discipline action. To empower the CCC to take its own direct action against secondees is a blatant grab for power. All that will happen is officers will be demoted by the CCC and returned to the QPS and, in any event, their secondments will be cancelled. It would be foolish to think the CCC would not rescind the secondment of an officer whose conduct they consider sufficiently serious as to warrant a demotion or dismissal. Giving the CCC such powers in respect of seconded personnel really means their actual employer would lose the power to discipline and manage its own staff. The officers concerned would also lose the review rights currently existing for discipline action under the Police Service Administration Act.

With regard to the review commissioner, I agree with the CCC's recommendation to remove its responsibility for the secretariat to the review commissioner. Following the Palaszczuk government's introduction of significant reforms to the police discipline system in 2019, which was

supported by all sides of politics, the role of the review commissioner in terms of discipline has been removed. The review commissioner now only deals with standdown decisions, which I understand are rarely reviewed, or questions on promotion and transfer. Under the Police Service Administration Act, any recommendation of the review commissioner is not binding on the Commissioner of Police in any event. Instead, it is the QPU's position that the entire role of the review commissioner should be removed and the review rights on promotions, transfers and other matters should go to the Industrial Commission, where they properly belong. There now seems to be little need for the review commissioner role when an existing experienced and properly resourced commission is available to undertake those types of hearings.

The CCC has wideranging powers akin to those of a royal commission. Those powers extend to conducting what are colloquially known as Star Chambers, where people are subject to courtroom-like questioning in secret hearings. Thus, people's basic human rights to claim privilege against self-incrimination are overridden. However, certain other privileges such as public interest privilege and parliamentary privilege can remain. At the moment, claims of the remaining privileges are subject to rulings by the Supreme Court. The recommendation seeks to empower the CCC to make its own rulings on such important rights. It is the QPU's position that, to maintain public confidence in organisations like the CCC, external overview and the ability of the court to decide important matters touching on basic human rights is essential. The CCC has not really provided any evidence of any hardship arising out of existing processes relating to determining claims of privilege. It does not seem to be a matter which is consuming significant resources. Rather, this seems to be an attempt to expand the CCC's power base because it may be convenient to the CCC to do so. Convenience to an investigating agency is hardly a reason to flout fundamental human rights.

In conclusion, I often laugh when I consider what some of my predecessors would think when I say that the QPU enjoys a close relationship with the CCC. That was evident in the recent review of the discipline system where the chair and I, amongst others, were able to work cooperatively and obtain an outcome which brought the police discipline system into line with modern management practices. I fully support the existence of a powerful anti-corruption body and believe Queensland is a better place for it. The Police Union will continue its trend of working with the CCC to ensure the police force is one Queenslanders can not only rely on but also be proud of. I am happy to take any questions from the committee should you wish.

**CHAIR:** Thanks, Mr Leavers.

**Mr SULLIVAN:** Mr Leavers, thanks for your contribution today. You made the point—we had the superintendent in here from the Commissioned Officers' Union as well—that you were all around the table for that discipline process reform. You said 2019; it was probably a couple of years in the making. Can you give us some reflection on how that has worked practically? Do you think it is living up to what you had aimed it to be?

**Mr Leavers:** It has certainly worked well and was a great improvement on what we had. Although it was 2019, it is still relatively new and we are still working through the process and looking to identify any issues which are not working. On a positive note, it requires the agreement of all to be involved in that process, so I see it as a positive thing. The changes were welcomed, and we are starting to see that some matters are being dealt with in a more expedient manner compared to the past, where there were unnecessary delays which were detrimental not only to the police officer but also to their families and their work organisations. Police discipline matters used to go on for five years and now not one has gone on longer than 12 months, apart from predeceasing investigations which predated the new discipline system.

**Mrs McMAHON:** Mr Leavers, in reading the CCC's recommendations, I note their recommendation 7 to amend internal disciplinary powers which would see the CCC, with respect to seconded officers, being able to exercise powers such as the ability to demote or terminate police officers that are seconded. I was wondering if you could provide some comment in relation to that recommendation.

**Mr Leavers:** As you would know from your former role and obviously your current role, that is completely unnecessary. These staff are seconded to the CCC from the Queensland Police Service and I will ultimately say that the Commissioner of Police is charged with the responsibility in relation to discipline and taking action as she sees fit. For the CCC to want to intervene on this role and to have two sets of rules—it will become another master. I truly believe that, as we know, they are sent back to the Police Service, the secondment is cancelled and it is dealt with by the Commissioner of Police. Police officers are under her control and she should ultimately have control over that. We cannot have another organisation playing another role.

**Mrs McMAHON:** For those officers that do return to the service when a secondment is suspended, do you have any comment in relation to how that is managed, particularly when public announcements are made about the termination of secondments? I asked the same question of the president of the Commissioned Officers' Union. In relation to when the secondment of an officer at the CCC is suspended and the person is transferred back to the QPS, often there is a public statement that is made in relation to the cessation of the secondment. While the person is not named, often the rank and the area they work in are specified. Does the Police Union have any thoughts on how those matters are publicly handled when the rank itself may publicly out the officer?

**Mr Leavers:** Absolutely. I have a concern in relation to some of the public comments which are made like that. When the rank is mentioned, within the organisation—although it consists of 12,000 sworn police—it is no secret who it is and it is widely known. It is extremely detrimental to the police officer and especially those close to them, including their families, when that occurs. Ironically, when police are cleared we do not see such a statement come out publicly indicating that their actions have been vindicated, which is a concern. To get back to the point, if the CCC were to look at demotion and dismissal of a police officer, they would have no industrial rights as they are seconded to the CCC and I believe that everyone should have rights to a review process.

**Mr CRANDON:** Mr Leavers, thanks for making your time available. There are a couple of areas that I want to explore. Were you listening earlier to the Queensland police Commissioned Officers' Union at all?

**Mr Leavers:** No, I was not.

**Mr CRANDON:** No, that is okay. I will give you a bit of an overview of that when I get to it. In relation to secondment to the CCC and the recent decision by the Police Commissioner to postpone the Service Delivery Redesign Project that was being rolled out to Moreton and then going to be rolled out further, I think as a result of your intervention—when I say 'yours', I mean the Queensland Police Union's intervention—that has been put on hold for the time being. Would you care to comment on what your concerns were there and how they may align with some of your concerns around secondments to the CCC?

**Mr Leavers:** With the secondments to the CCC that is different, because often police are not only sent there in relation to anti-corruption but they are sent there to investigate other serious and organised crime. I stand by what I have said. We have come a long way since the eighties and I think that would be best left with the police department to do that. With the rollout of the SDRP, we have all agreed that we need to look at how we respond to the demands and calls for service within the community, and there was a rollout of the SDRP within the Moreton region. With discussions in relation to that, I think we need to get things right. If we can change it and improve our service delivery and give a better service to the community then that is positive, but we need to iron out all of the issues and look at what is working and what is not working to ensure we do not drop the ball. We have the commitment now, and this is the commissioner's plan, the SDRP. We need to get this right.

What I will say is that Moreton is one area of Queensland and it is not one size fits all. In my experience, what happens in Ipswich, Logan, Caboolture, Cairns and Mount Isa is completely different because Queensland is a very diverse state. We have to look at things locally and see what will and will not work. If some things work and we can deliver a better service, we are certainly for that. If it is not going to work and it will impact upon service delivery and our people who are looking after the community, we have to address that. It is very important that we do that for the community.

**Mr CRANDON:** Thank you for that, and I can only agree with you. Being the member for Coomera, the fastest growing region in Queensland, the needs we have there are very different from the needs of other areas. With the Queensland police Commissioned Officers' Union, the delegate indicated that they had some discomfort with the CCC's misuse of coercive powers in relation to commissioned officers. A lack of procedural fairness was another note that I took regarding the QPS Ethical Standards Command. In that area the union indicated that they were concerned about the CCC outlining what they wanted to see as an outcome of a particular investigation from the Ethical Standards Command even before the whole thing had been reviewed by the Ethical Standards Command. Would you care to comment on that?

**Mr Leavers:** What I will say is that, in my understanding as a police officer—and I have over 30 years experience—when you conduct an investigation the investigation is to get to the truth. It is not to get to an outcome that you would like to get to. It is about establishing what has occurred and the facts and getting to the truth. I would have a very real concern when people may believe that they need to get to a certain outcome. That would be very dangerous and that is not what we do.

As a follow-up to the further question, I think the implementation of the SDRP in Moreton was poorly done. It could have been done in a different way and that poor implementation has resulted in the situation we are facing currently. I did hear Alan MacSporran say earlier that if the matter went to QCAT it is a failure as well. QCAT—and we have taken many matters to QCAT because the desired outcome of the CCC was not what they wanted—is an independent body and I think we should always abide by the independent body. I think QCAT is a good thing and it has provided a great deal of balance and it is an independent hearing. I think it is really important.

**Mr CRANDON:** You mentioned having 30 years experience as a police officer. Once again, the Queensland Police Commissioned Officers' Union talked about their concern in very recent times—they indicated the last couple of years—about the creep in scope in the CCC's use of the Star Chamber. Would you care to comment on that? It used to be about major crime, outlaw motorcycle gangs and those sorts of things, but now it seems to have become used more and more on behalf of the QPS Ethical Standards Command et cetera. Do you have any comments?

**Mr Leavers:** Absolutely. The coercive hearings should just be for major crime and not for disciplinary matters. I think it is an abuse of process, it is not what it was designed for and I think we should reconsider that. I believe a lot of the organised crime functions should return to the police department. We have moved on since the eighties. I certainly would concur with them in that it should be used for its original purpose, not for disciplinary matters. A coercive hearing is the most invasive thing ever and it should only be used as a last resort.

**CHAIR:** Thank you, Mr Leavers. I apologise. I know you could probably say a lot more. However, we do need to get into the next witness session. Thank you very much for your time—we appreciate it—and for your fulsome advocacy on behalf of your members.

**Mr SULLIVAN:** And for the submission, too.

**CHAIR:** We all thank them very much for their service. Our community certainly could not do without police. Thank you very much for your time.

**Mr Leavers:** Thank you very much and thank you for the opportunity. You are right: I could talk for a long time, but I am always happy to assist. Thank you everybody.

**GNECH, Mr Calvin, Chair, Occupational Discipline Law Committee, Queensland Law Society**

**MACKENZIE, Mr Ken, Deputy Chair, Criminal Law Committee, Queensland Law Society**

**SHEARER, Ms Elizabeth, President, Queensland Law Society**

**CHAIR:** Welcome. I invite you to make an opening statement, after which committee members will have some questions.

**Ms Shearer:** Thank you for inviting the Queensland Law Society to appear at the public hearing today. In opening, I would like to respectfully recognise and acknowledge the traditional owners and custodians of the land on which this meeting is taking place and pay deep respects to elders past, present and emerging.

The Crime and Corruption Commission carries out an important role of tackling major crime and corruption in Queensland's public sector. The commission has significant legislative powers with which to perform this function. The Law Society has always been of the view that such powers must derive from fair and reasonable laws and practices and they must not unreasonably infringe upon the cornerstone principles of our justice system. We acknowledge the work of this committee in monitoring and reviewing the CCC and this, too, is a very important function.

Since our written submission we have had the opportunity to read the submissions of other parties and, in particular, the submission of the CCC. We would appreciate the opportunity to provide a written response to some of their recommendations and also in relation to a recommendation made by the office of the Parliamentary Crime and Corruption Commissioner if that is considered appropriate by the committee.

**CHAIR:** Do you have it with you?

**Ms Shearer:** No, we do not.

**CHAIR:** When you do compile that, if you send it to the committee—submissions have closed. However, we will consider it at that point in time, whether as part of the inquiry or not.

**Ms Shearer:** I will just take you to a couple of the major points which we had hoped to—

**Mr CRANDON:** If I may, we have some responses to questions on notice coming back in seven days. Would you be able to provide that submission to us within seven days?

**Ms Shearer:** Yes, I think so. In general terms, we support the recommendations that seek to enhance the integrity, transparency and independence of the commission and in particular recommendation 3 of the CCC's recommendations—recommendation 3, 4, 6, 8, 9 and 19. Some of the other recommendations we see infringing on fundamental legal rights without justification and we do not support those. Of particular importance are recommendations 11 and 12 of the CCC's recommendations, which we do not support.

There are other recommendations that we consider raise important issues, but significant further consultation would be needed before any changes could be made in those areas. I refer to recommendations 10, 15 and 18 of the CCC's recommendations and also the recommendation of the office of the Parliamentary Crime and Corruption Commissioner which relates to section 330(3) of the Police Powers and Responsibilities Act. They are things we think are issues, but we think they need significant further consultation before any changes are made. I will now ask Calvin Gnech and Ken Mackenzie to make some brief opening statements and then we are happy to take questions.

**Mr Gnech:** One of the major concerns that the Queensland Law Society frequently raises with regard to the Crime and Corruption Commission is that the investigative powers are unfair in that they require persons to give evidence even if that person would choose not to do so and on the basis that it might incriminate them—fundamental rights that are central to the Westminster system. In this review the CCC are again creeping or chipping away at those fundamental rights, asking parliament for further abrogation of the right to remain silent, the right to claim privilege against self-incrimination, particularly with regard to recommendation 12. The CCC recommends that section 176 of the Crime and Corruption Act be amended to provide hearings to be undertaken for the purpose of establishing those claims themselves, whether those claims have a reasonable excuse or whether they are valid. This is concerning. It should not be for the CCC themselves, who are the investigative body, to also determine whether a privilege claim should be accepted or not.

The CCC are also seeking amendments to section 197 of the act to make answers given in the course of hearings admissible against witnesses in future disciplinary proceedings and privileged against self-incrimination in QCAT proceedings. Again, the society strongly objects to further creeping or chipping away at those fundamental rights.

Another issue that we consider is not effective is the complaints system or the mechanism in which complaints against or made in regard to the Crime and Corruption Commission are not accessible to individuals. The structure within the CCC and the various oversight bodies, while appropriate to deal with macro and systemic issues, do not adequately assist individuals with grievances against the commission. At this time I will hand over to my colleague Mr Mackenzie.

**Mr Mackenzie:** One of our concerns about the way in which the commission takes evidence from witnesses in coercive hearings is that the witness is, firstly, often giving evidence which incriminates another person and they may have good reason to fear retaliation or the consequences of that evidence if the evidence is revealed to that other person. For example, if the witness has been called before the commission to give evidence about what they know about a murder, then they will obviously be concerned that what they say may end up in the hands of the accused murderer.

There are two aspects to the way the commission handles this situation which, in our submission, are inadequate. The first is that, in the course of the hearing, the presiding officer seeks to reassure the witness that the proceedings are not open to the public, that they are being conducted in secret and that, apart from the people who are present at that hearing, no-one else can pass on to any other person what has occurred whilst they are there. Sometimes information is given to a witness along the lines of 'information provided by you to the commission may be acted upon'. The commission may, for example, formally disseminate the information to the Office of the Director of Public Prosecutions, but that is about as far as the warning to the witness goes.

What they are not told—and, in fact, they are given the impression it will not happen—is that if a person is charged with the offence and the prosecution decide to call that witness as part of their case, whether the witness wants to be called or not, the evidence that they give to the commission is disclosed to the accused's legal representatives and, therefore, to the accused. In our submission, as a matter of fairness and, indeed, honesty and integrity, witnesses ought to be informed of that risk at the time that they are giving the evidence. That is not the only relevant time, because the risk crystallises when the transcript of their evidence is actually disclosed to the accused and the accused's representatives. That is presently done, and it is done without notice to the witness that, at the point in time when the person is most at risk of some retaliation or some consequence due to the fact they have informed the authorities about things, they are being placed at that risk, and that is a matter of some concern.

**CHAIR:** Mr Mackenzie, I think what you are saying, if I understand you correctly, is that you are not requesting that there be changes around the regime of disclosure of that evidence but requesting improvements in the practice of warning witnesses, in essence?

**Mr Mackenzie:** That is exactly so. There has been, in fact, a bench book developed for presiding officers in the commission. I had a look at that this morning and there is nothing in the bench book which addresses this issue and there ought to be.

**Mr SULLIVAN:** Thank you for your contribution, particularly President Shearer. Congratulations. I think this is probably your first hearing as president.

**Ms Shearer:** No, it is the second.

**Mr SULLIVAN:** Second? In front of us anyway. Welcome. Mr Gnech raised CCC recommendation 18 in relation to section 197. The CCC chair—and I do not want to verbal him—effectively said that in making that recommendation his view is that that is the way the law ought to already be interpreted. He is suggesting that recommendation 18 is not an extension of how the perjury admissibility should work but, rather, he is concerned that it is not interpreted that way. Can you talk to that point?

**Mr Gnech:** I can. Can I say that I do not want to verbal the chair of the CCC either, but the key phrase is the way he believes the perjury provision should be interpreted. He is aggrieved by a number of decisions that have been handed down by the honourable courts that are not in favour of CCC prosecutions. In light of that, our position is that if there are to be any amendments around this particular clause it would require some significant more specific consultation across the stakeholders rather than Mr MacSporran's opinion as to how this should be interpreted, with all due respect.

**Mr SULLIVAN:** Ms Shearer, one of the other recommendations made was in relation to a change to the CCC research function. The CCC has put in a recommendation to broaden what they can use that money on. Other stakeholders have suggested that that research function be removed completely. Does the Law Society have a view as to whether there is merit in the CCC having that element of public research?

**Ms Shearer:** I do not think it is something on which we have a defined position. I am happy to add that to the submissions that we send within the next week.

**Mrs McMAHON:** I have a general question on your recommendations about oversight and accountability and the potential establishment of a second organisation to provide further oversight of the CCC. You make reference to the Inspector-General's office. How do you see that connected with the CCC and this committee as well as the Office of the Independent Assessor? Do we potentially run into the issue of creating another oversight body that in and of itself can be accused of the very things the CCC is often accused of?

**Mr Gnech:** You raise some valid concerns. We are in the position where the CCC in this state is in fact a rolling royal commission. They have extensive powers, which may be for a proper purpose, but they have extensive powers overriding fundamental rights. For there not to be an adequate oversight of the use of those powers and the way they operate with regard to the use of powers is, in our submission, unsatisfactory. We certainly do not implore upon introducing a system where myriad overzealous vexatious complaints affect the operations and the functions of the CCC. In our submission there needs to be a more adequate way of dealing with complaints of the oversight body in circumstances where they have such extreme powers.

**Mrs McMAHON:** In relation to what that body might look like and its connection to this committee and the role of the parliamentary commissioner, where do you see that sitting?

**Mr Gnech:** That is a further difficult question. There should be a body that has the ability to investigate serious complaints with regard to the use of the powers by the CCC and any serious complaints with regard to the use of those powers. As it currently stands, anybody who has some type of oversight over the CCC does not have substantial investigative powers. Often individuals who have grievances are left without any answer in that regard. It is a complicated question. It needs to be a body that can balance the functions of the CCC—which I think everyone accepts has a pertinent role here in Queensland—while at the same time address any creeping that exists with an organisation, especially in circumstances where, each time there is a review, the CCC is asking for more and there is creeping. Every couple of years they are asking for more and more. I guess the question will be: when will that stop? That leads into one of the other recommendations—

**Mr CRANDON:** Can we stay on that point for a moment? I have some follow-up questions.

**Mr SULLIVAN:** Yes, I have a very quick one on that point, too. In adding a different oversight body, and as you say there are several bodies that have oversight of the CCC, do you run the risk that you actually reduce the targeted accountability of the CCC because everybody thinks it is somebody else's responsibility and that can lead to the scenario where complaints and grievances actually fall through the gaps?

**Mr Gnech:** One hundred per cent that is correct. That is why the lines would have to be very definitive. That is why it would have to be a very narrow—for want of another term, being a lawyer—jurisdiction for this second oversight body to govern. That is why we come back to saying that it is a balancing act between compromising the functions and the work that is done by the Crime and Corruption Commission but also addressing—at the moment where there could be legitimate complaints that are simply not being investigated, a standard letter saying, 'This matter is not being investigated' is insufficient for an individual who might have a very legitimate grievance against the actions of the CCC.

**Mr CRANDON:** I want to follow up on that to try to get a bit of handle on this. Do you have an issue with regard to the expertise of the PCCC members from time to time in terms of looking at these matters or is it something else?

**Mr Gnech:** There are a lot of difficult questions coming today. That, again, is an issue. I do not mean to pass on any disrespect, but in my experience in attempting to have a grievance with regard to the conduct of the CCC resolved by the parliamentary committee the response is, with all due respect, unhelpful to someone who has a grievance. It is often a very generic letter that says, 'There will not be an investigation. Move on,' basically.

**Mr CRANDON:** That is your opinion.

**Mr Gnech:** Yes.

**Mr CRANDON:** I want to take that a step further. Are you familiar with the parliamentary commissioner’s oversight role and that the parliamentary commissioner can in fact make a decision to investigate matters?

**Mr Gnech:** Yes.

**Mr CRANDON:** Indeed—and we were just talking to the commissioner earlier today and she talked about this—if the commissioner does not have the power to investigate because of a particular aspect of the CC Act, she can come back to us. Whoever it might be going forward can come back to us and ask us to request that she investigate.

**Mr Gnech:** That is right. The first point of that is resourcing. The term ‘resourcing’ is often used in the response in the letters. That is one aspect that would need to be corrected. The system that we are submitting to you may just mean refining that role of the commissioner, and that is the direction to head in.

**Mr CRANDON:** That is actually where I was going. In this additional submission you may have some thoughts around that with regard to additional resources or what have you. We do have the commissioner, of course, and her offsider who has a huge amount of experience in regard to that role. As a committee, in public hearings we have discussed whether or not there are sufficient resources there. If you have some views on that, you might come back to us because that could be something that we could look at.

**CHAIR:** My question relates to your submission around the ongoing investigations into institutions such as local councils and the issue of certainty for individuals involved in those investigations. Certainty is in the public interest so investigations should have clear parameters. Are you able to expand on how that could best be achieved? Can you further expand on your concerns around the appropriate framework for ongoing investigations?

**Mr Gnech:** Is your question solely around councillors or in general?

**CHAIR:** No, any party subject to investigation.

**Mr Gnech:** Overall, it is the QLS submission that we have to be careful with overreach with regard to jurisdictions of watchdogs such as the CCC. Their primary purpose, in our submission, is to investigate systemic issues, major investigations, high-profile investigations or otherwise investigations where there is a conflict of interest for the director-general of the department to take carriage of that investigation under the devolution system under the act. Our submission is that the—and again I use the word—jurisdiction or the area in which the CCC should have carriage should be limited. It should be specific. There should be no grey. It gives the power back to the directors-general in charge of each department to manage their staff.

At the moment—and I use this word—the overreach is, in our submission, impacting upon the efficiency of the departments when matters are being overseen by the CCC and returned to the department for an investigation without them being able to perform any resolution without first getting a review by the CCC. There are occasions where that back and forth can happen 10 or 15 times on a matter. That is why there is no certainty when an investigation starts. Everyone in this room would be familiar with investigations that have lasted years with regard to conduct.

**CHAIR:** Correct.

**Mr Gnech:** That is entirely unacceptable, in our submission. To fix that, in our submission, you first need to stop the overreach, give the power back to the directors-general of the departments and let the CCC do that high-level oversight with regard to systemic issues, major complaints and particularly complaints where conflicts of interest exist.

**CHAIR:** I do not think there is anything else from us. Is there anything else that you would like to add at this point that we have not covered? With your written submission and your oral submissions you have covered a lot of ground, particularly in response to the CCC’s submissions.

**Mr Gnech:** If I could address the CCC’s recommendation 5 about the limited tenure of senior officers and chief executive officers within the organisation. The QLS is against any change in that position. Limited tenures were introduced as recommendations from the Fitzgerald inquiry. When there are ingrained, long-term tenures, it is a breeding ground for corruption and the potential for corruption. Our position is that there should be no shift away from that position that was recommended all those years ago.

**Mr Mackenzie:** If we have the time, we might touch upon recommendation 12 as well.

**CHAIR:** We have three minutes.

**Mr Mackenzie:** It is a recommendation that the society strongly opposes. It seems to be a recommendation that the CCC would hold itself as an arbiter of whether a person has a claim to privilege. That might refer only to the privilege against self-incrimination or it might even extend to legal professional privilege. The point of those privileges, when they are properly claimed, is to preserve the integrity of communications or knowledge that an investigative agency should not have. An investigative agency should not be in a position of determining for itself whether the privilege applies. That is a function that needs to be undertaken by an independent body. Presently it is usually the Supreme Court. That position should be maintained. The recommendation appears to us to be a significant intrusion into the protection afforded to people who are consulting with lawyers.

**CHAIR:** Understood.

**Ms Shearer:** Finally, in relation to the CCC’s recommendation 11 about the extension of its extraordinary powers into the area of crime prevention, that is something that we oppose. The framework for the CCC is that it has extraordinary powers to deal with a limited range of circumstances. That is the justification for powers that are otherwise quite inconsistent with the fundamental tenets of our justice system. We do not think it is appropriate for that to move into some prospective crime prevention forum.

**CHAIR:** Yes, the narrow scope of power is there for a reason, because of the large amount of power that is entrusted to it in that scope.

**Ms Shearer:** Yes.

**CHAIR:** I understand.

**Dr ROBINSON:** Following up on one of the other members’ questions, you were commenting on conducting ongoing investigations in institutions such as local councils. There have been councils and councillors investigated, and some of those investigations of individual councillors have taken some time. Some of them are still before the courts. I am trying to pick up on your phraseology. You were talking about councillors or other broader groups of people who might be involved. Are there any specific aspects that should be kept in mind in terms of when it is another person in a level of government, in this case a councillor, and it is found that there is insufficient evidence to convict or to find them guilty, because beyond that obviously their career is impacted? Is there a special dynamic to that or a particular additional concern other than perhaps other types of authorities that might come before that sort of situation?

**Mr Gnech:** The discretion to commence a prosecution against an individual should be a privileged one and it should be taken with great care for the very reasons that you have raised, member. If care is not taken and it is a prosecution either before a tribunal such as a councillor conduct tribunal or a court with regard to criminal charges, whether or not that charge is successful it could end the professional career of that person just on the basis of the allegations and the media attention. Again, it is a balancing act with bringing wrongdoers to justice in whichever forum, but it comes back to the privileged nature of having the power to commence such prosecutions. As a matter of record, I guess, with those prosecutions that are brought, although there have been some high-profile prosecutions of late that have been successful, there are a far larger number of prosecutions brought in this space that are unsuccessful.

**Mr SULLIVAN:** Brought by the CCC rather than the DPP?

**Mr Gnech:** That is correct.

**CHAIR:** Thank you, Mr Gnech, Mr Mackenzie and Ms Shearer for your time here today. We very much appreciate it. Your insights into this are valued. We have come to the conclusion of our public hearing today. Thank you very much to all the witnesses and stakeholders who have participated. Thank you to our Hansard reporters. A transcript of all of those proceedings will be available on the committee’s parliamentary webpage in due course. I declare this public hearing for the review of the Crime and Corruption Commission’s activities closed.

**The committee adjourned at 1.01 pm.**