



Speech By  
**Hon. Mark Ryan**


**MEMBER FOR MORAYFIELD**

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Record of Proceedings, 13 February 2019

**POLICE SERVICE ADMINISTRATION (DISCIPLINE REFORM) AND OTHER  
LEGISLATION AMENDMENT BILL**

**Introduction**

 **Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (11.41 am): I present a bill for an act to amend the Crime and Corruption Act 2001, the Police Service Administration Act 1990 and the acts mentioned in schedule 1 for particular purposes, and to repeal the Police Service (Discipline) Regulations 1990. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

*Tabled paper:* Police Service Administration (Discipline Reform) and Other Legislation Amendment Bill 2019 [\[152\]](#).

*Tabled paper:* Police Service Administration (Discipline Reform) and Other Legislation Amendment Bill 2019, explanatory notes [\[153\]](#).

I rise today to introduce the Police Service Administration (Discipline Reform) and Other Legislation Amendment Bill 2019. Thirty years ago Tony Fitzgerald asked us to remain eternally vigilant so that history would never repeat itself. This bill builds on the Fitzgerald legacy.

As Minister for Police, I have had the opportunity to work with some of the nearly 12,000 police officers around this great state, a safe state. The community demands from our police officers the highest standards of professional behaviour, and I can say with confidence the vast majority—the overwhelming majority—of police officers perform their duties with honesty and integrity. However, there will be some instances where police officers fall short of these standards and do not meet the expectations of the community. In these instances, the importance of a robust police discipline system is evident. Without a comprehensive and effective police discipline system, confidence in our Police Service risks becoming eroded. Police officers may not be held accountable for their actions. Police officers may not be encouraged to behave appropriately.

During the 2015 state election, this government made a commitment to review the police discipline system and implement a new system that ensures accountability and fairness for police officers and the communities they serve. This bill delivers on that commitment. Today I pay tribute to the Chair of the Crime and Corruption Commission, Mr Alan MacSporran, for spearheading the review of the police discipline system. Mr MacSporran initiated a series of roundtable talks with all the key stakeholders: the Queensland Police Service, the Queensland Police Union of Employees, the Queensland Police Commissioned Officers' Union of Employees, government representatives, representatives of the legal fraternity and members of the opposition. The results were historic and more than 20 years in the making. The result was bipartisan support from all of those stakeholders. It was through these discussions and a united determination to make a difference that we reached this watershed moment.

The impact that this bill and the associated Police Service policy will have on the current discipline system will be profound. This will be a defining moment in the evolution of the Queensland Police Service. This bill heralds major changes—structural changes—within the Police Service and new

management practices that are designed to correct, instruct and improve officer behaviour. All this is set against the backdrop of a more mobile, agile, borderless policing model which takes Queenslanders to a safer future.

Our current discipline system allows a prescribed officer to conduct disciplinary hearings into an allegation of inappropriate police conduct. The officer subject to the allegations—the subject officers—may contest the allegation and any sanction the prescribed officer intends to impose on the subject officer if the allegations are proven. The current system classifies officer misbehaviour into two categories: a breach of discipline or misconduct.

A breach of discipline is defined as a breach of the Police Service Administration Act, the Police Powers and Responsibilities Act or a direction of the commissioner but does not include misconduct. Misconduct, on the other hand, is defined as conduct that is disgraceful, improper or unbecoming of an officer; or shows unfitness to be or continue to be an officer; or does not meet the standard of conduct the community expects of a police officer.

Misconduct is not limited to conduct that occurs in an official capacity and there is no requirement for a nexus between an officer's conduct in a private capacity and their official role. Categorising misbehaviour into either a breach of discipline or misconduct is problematic. Disputes have arisen about whether particular behaviour would constitute a breach of discipline or misconduct and, as prescribed police officers from different police regions may conduct discipline hearings, there is fertile ground for inconsistencies to arise between decisions made about similar acts of misbehaviour around the state. Further, the inherent complexities of our current discipline system are exacerbated through the avenues of review available for a discipline decision.

A subject officer or the Crime and Corruption Commission may apply to the Queensland Civil and Administrative Tribunal to review a prescribed officer's decision about an allegation of misconduct. However, the CCC is unable to apply for a review of a prescribed officer's decision not to commence a disciplinary hearing. This could include circumstances where the prescribed officer decides there is insufficient evidence to commence a proceeding or there is only sufficient evidence to substantiate a breach of discipline instead of misconduct.

This bill addresses those shortcomings through three distinct measures. Firstly, the bill introduces a new term of 'grounds for disciplinary action'. Grounds for disciplinary action include police misbehaviour that would either be a breach of discipline or misconduct. Removing the artificial distinction between a breach of discipline or misconduct simplifies the police discipline system as the ability to review a decision will no longer be dependent upon how the behaviour is categorised. This bill will allow the CCC to apply to QCAT to review all disciplinary decisions, including a decision not to institute disciplinary proceedings against an officer. This measure strengthens the CCC's ability to monitor the Queensland Police Service handling of complaints about police officers and ensures that there is no mishandling of matters.

The third measure introduced by this bill involves establishing a central unit responsible for conducting disciplinary proceedings. The purpose of the central unit will be to deal with those disciplinary proceedings that are of such a serious nature that sanctions may only be imposed by an officer of the rank of deputy commissioner or assistant commissioner. Forming a central unit to conduct these proceedings will improve efficiencies in discipline hearings and promote consistency in the decisions that are made. Additionally, the referral of discipline matters to this unit allows other deputy commissioners or assistant commissioners from around the state more opportunity to focus on other priority policing and responsibilities in their region or in their commands.

The bill also fundamentally changes the police discipline system by making amendments that reduce delays in finalising discipline investigations; modernise the discipline sanctions that can be imposed against an officer; and formalise the role and range of management strategies that form part of the discipline process. I will address each of these facets in turn.

The bill ensures that disciplinary matters may be resolved in a timely fashion by introducing two initiatives. The first initiative involves introducing strict time frames for the commencement of disciplinary proceedings against an officer. These time frames are dependent upon when the grounds for disciplinary action arose. Generally, disciplinary proceedings in relation to a complaint must be commenced either within one year from the date the disciplinary ground arose or within six months from the complaint being made, whichever is the later. In instances where an officer is charged with a criminal offence, disciplinary investigations will often be suspended until the criminal matter is finalised. This may result in an extremely long delay in finalising any later disciplinary proceedings. This bill prevents any undue delay by imposing a time frame of six months in which disciplinary proceedings may commence from the criminal matter being finalised or withdrawn.

The second initiative that further improves the timeliness of the police disciplinary system is the establishment of abbreviated disciplinary proceedings. Where the complained about conduct is acknowledged and the subject officer readily admits to that conduct, an ADP may be used to efficiently resolve a disciplinary matter, removing the need for a full investigation to be completed. The bill authorises a prescribed officer, with the approval of the CCC, to invite a subject officer to participate in the ADP instead of participating in a full disciplinary hearing proceeding. Participation by the subject officer in the ADP is completely voluntary. A subject officer invited by a prescribed officer to participate in the ADP has the opportunity to provide submissions addressing the complaint within a period of at least 21 days and may also indicate the disciplinary sanctions or professional development strategy the subject officer would be prepared to accept. After considering the submissions made by the subject officer, the prescribed officer may propose a sanction in response to the subject officer's conduct.

The bill includes an important safeguard in this process, as any offer of a proposed sanction must be made with the consent of the CCC. If the subject officer consents to finalising the matter through the ADP, the prescribed officer must impose the sanction approved by the CCC; however, the ADP should not be considered a soft option that is only used for minor complaints. The ADP may be used in more serious complaints where the officer accepts responsibility for his or her own actions. In such a case, the sanction proposed by the prescribed officer will reflect the seriousness of the matter.

A further safeguard has also been incorporated into the ADP to ensure that its utility will extend into the future. I have earlier emphasised one safeguard to this process in that the CCC has to approve each proposed sanction. In addition to this, the bill allows the CCC or the subject officer the right to apply to QCAT for an order quashing the ADP process and outcome if fresh, additional or substituted evidence later becomes available. This means evidence that, if it had been considered by the prescribed officer, would have altered the decision to use the ADP.

The bill modernises the disciplinary sanctions that can be imposed against an officer. It is important to note that the current sanctions have not been updated since 1990, almost 30 years ago. They are limited in scope, inflexible, and do not necessarily address the cause of any deficiency in behaviour. There are also concerns about some unintended consequences of the current sanctions which reduce an officer's pay level. Such a reduction can have impacts beyond the intended sanction by reducing long-term superannuation outcomes.

The bill omits current sections affecting an officer's level of salary. Instead, it implements a range of new disciplinary sanctions including suspension from duty without pay for a period not exceeding 12 months, disciplinary probation, demotion for a specific period in addition to the current permanent demotion sanction, comprehensive transfer, localised transfer, community service, and an increase in the maximum fine from two penalty units to 50 penalty units.

In accordance with recommendations made in Parliamentary Crime and Corruption Committee report No. 97, the disciplinary sanction of dismissal will no longer be able to be suspended. Similarly, the new disciplinary sanction of probation is unable to be suspended. However, in the case of any other disciplinary sanction that is suspended with or without conditions attached, the suspended sanction still forms part of an officer's disciplinary history and can be considered in any future matters.

This new range of disciplinary sanctions provides more options for dealing with inappropriate behaviour and includes options to help prevent a recurrence of the behaviour and to guide, correct and rehabilitate officers. It is important to note that dismissal still remains an option to deal with the most serious instances of inappropriate behaviour. To further support the goal of preventing inappropriate behaviours from re-occurring in the future, the bill formalises professional development strategies such as mentoring, closer supervision, additional training, counselling, guidance or temporary reassignment of duties in the new police disciplinary system.

When a complaint is first received, the commissioner must consider whether to impose a professional development strategy to reduce the risk of recurrence of similar conduct, to improve the officer's behaviour or for any other purpose and to implement this in a reasonable way as soon as practicable after the complaint arises. The bill does not limit a senior officer from giving an officer guidance or taking other reasonable management action in response to a complaint. Any professional development strategies or management action taken will be considered when decisions are made regarding the finalisation of complaints.

The bill also protects the rights of officers and ensures that cooperation and consultation between key stakeholders continues. The bill enshrines aspects of disciplinary proceedings that are currently only contained in police policy. It ensures that officers have a right of reply to any allegation which a prescribed officer substantiates against them and that they have the right to submit on the appropriateness of any proposed sanction. This bill provides principles for conducting disciplinary

proceedings, including ensuring that the rules of natural justice are observed and proceedings are conducted with as little formality and technicality as is consistent with a fair and proper consideration of the matter. In addition, review rights are maintained, with all matters now being heard by QCAT.

To futureproof and maintain some flexibility in the new disciplinary system framework, the bill allows the commissioner to make policy or guidelines regarding certain matters. All guidelines must be consistent with the provisions of the new disciplinary system as contained in the Police Service Administration Act or the Crime and Corruption Act, and the commissioner must firstly actively consult with, and have regard to, the views of the chairperson of the Crime and Corruption Commission and the unions that represent our police officers; namely, the Queensland Police Union of Employees and the Queensland Police Commissioned Officers' Union of Employees.

This bill contains amendments to implement a new police disciplinary system which will ensure that public confidence in the Queensland Police Service is maintained. It provides efficiencies in the investigation of complaints and the hearing of allegations. It will also ensure that officers are educated and supported in ways to improve their performance and, when required, allows for appropriate disciplinary action to be taken. This will be achieved by improving key facets of the police disciplinary system: by reducing delays in finalising disciplinary investigations; by modernising disciplinary sanctions; by formalising the role of professional development strategies and other management strategies; and by addressing review provisions which apply to the Crime and Corruption Commission.

This bill is indeed a watershed moment for the Queensland Police Service and the people of Queensland. It heralds an historic shift in the handling of police disciplinary matters, and this bill delivers on an election commitment that this government made at the 2015 state election. I commend this bill to the House.

### **First Reading**

**Hon. MT RYAN** (Morayfield—ALP) (Minister for Police and Minister for Corrective Services) (11.58 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

### **Referral to Legal Affairs and Community Safety Committee**

**Mr DEPUTY SPEAKER** (Mr Kelly): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.