

PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE

Report No. 108, 57th Parliament

Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters

QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

The Crime and Corruption Commission (Commission) is a statutory body established for the primary purposes of combatting and reducing the incidence of major crime and to continuously improve the integrity of, and reduce the incidence of corruption in, the public sector in Queensland. The *Crime and Corruption Act 2001* (CC Act) establishes the Commission and sets out its functions and powers.

On 2 December 2021, the Parliamentary Crime and Corruption Committee (Committee), which is also established under the CC Act, tabled a report (No. 108) on its *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters* (the Report).

Under section 292 of the CC Act the Committee has a statutory duty to monitor and review the performance of the Commission's functions including the power to report to the Legislative Assembly, commenting as it considers appropriate, on either of the following matters the Committee considers should be brought to the Assembly's attention:

- (i) matters relevant to the Commission;
- (ii) matters relevant to the performance of the Commission's functions or the exercise of the Commission's powers.

On 28 May 2021 the Committee resolved to:

- investigate the issues raised by the Local Government Association of Queensland in its correspondence to the committee, dated 5 May 2021 (the 'complaint'); and
- publicly inquire into and report on:
 1. the Commission's investigation of former councillors of Logan City Council which led to the former councillors being charged with fraud (which charges have now been discontinued);
 2. the decision and considerations of the Commission to charge these former councillors;
 3. the evidence and submissions and other relevant documentation provided to the Director of Public Prosecutions (DPP) by the Commission in support of these charges;
 4. the communications, whether oral or in writing, from the DPP to the Commission with respect to these charges;
 5. the Commission's involvement in related civil matters including those which were brought before the Queensland Industrial Relations Commission and Queensland Industrial Court, including the Commission's interaction with former councillors, the former CEO of Logan City Council and any other relevant officers of Logan City Council at relevant times;
 6. the Commission's use of coercive powers and matters relating to the dissemination of information obtained under coercion to parties in non-criminal proceedings;

7. the process by which the Commission considers and determines whether to refer matters to the DPP;
8. the Commission's interaction with the DPP more broadly, including existing information sharing and other processes that facilitate interaction, and whether the current processes and guidelines are appropriate;
9. whether current provisions enabling the Commission to report on an investigation to particular entities under section 49 of the CCC Act is appropriate and sufficient;
10. the Commission's role in charging persons with an offence arising from its investigations; and
11. any other related matters. (together, the 'inquiry')

The Committee's inquiry involved consideration of 31 submissions and ten days of public hearings.

The Report makes 14 findings and six recommendations.

The Queensland Government's response to the Report's recommendations is outlined below. The Government notes that the recommendations request consideration of issues or that further reviews be undertaken. Following this work, the Government will give consideration to any policy and legislative reforms in the future.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1 -

The Committee recommends the Queensland Government review the effectiveness and appropriateness of protections afforded to public interest disclosers under the *Public Interest Disclosure Act 2010*, including the roles of the Commission and other relevant entities.

Queensland Government response: Supported.

The Queensland Government agrees with the Committee that the protections afforded to public interest disclosers under the *Public Interest Disclosure Act 2010* would benefit from review, in consultation with relevant stakeholders, to ensure clarity in the roles, jurisdiction and powers of the Commission and other relevant entities in relation to public interest disclosers and to ensure the protections are adequate and fit for purpose.

Recommendation 2 -

The Committee recommends that the Queensland Government review the broad scope of both the present section 60 and former sections 60 and 62 of the CC Act to ensure an appropriate balance is reached between the Commission being able to utilise information in pursuance of its functions and the rights of other parties to not be detrimentally impacted by the dissemination of that information, in particular that obtained by use of the Commission's extraordinary powers.

Queensland Government response: Supported.

The Queensland Government notes the concerns raised by the Committee with respect to the dissemination of information and accordingly will review section 60 of the CC Act and former sections 60 and 62, in consultation with relevant stakeholders.

Recommendation 3 -

The Committee recommends the Queensland Government review section 49 of the CC Act. Furthermore, consideration should be given to a requirement that the Commission obtain the recommendation of the Director of Public Prosecutions (DPP), or a senior independent legal advisor, before exercising (through seconded police officers) the discretion to charge serious criminal offences (including disqualification offences under the *Local Government Act 2009*) in the exercise of its corruption function.

Queensland Government response: Supported.

The Queensland Government notes the Committee's report refers to the Commission's intention to implement changes in relation to Commission's charging processes.

However, noting the direct relationship between this recommendation and Recommendation 6, the Queensland Government agrees that a review of section 49 (Reports about complaints dealt with by the commission) of the CC Act should be undertaken by the Commission of Inquiry to be established in response to Recommendation 6 as outlined below.

Recommendation 4 -

The Committee recommends that the Commission engage in reform of culture (including seeking external advice) to assist in creating a best practice organisational culture that aligns with the purpose, functions and goals of the Crime and Corruption Commission under the *Crime and Corruption Act 2001*, and to enhance public confidence in the organisation.

Queensland Government response: Noted.

This recommendation is addressed to the Commission.

The Queensland Government notes the concerns raised by the Committee about the culture of the Commission. It is essential that the public maintain confidence in the ability of the Commission to perform its functions impartially and fairly and the Government encourages the Commission to implement this recommendation.

Recommendation 5 -

The Committee recommends the Department of Justice and Attorney-General consider issues regarding the tenure of senior officers, and take into account the Commission's adoption of the Committee's position in relation to single, non-renewable appointments for the Commission Chairperson, Deputy Chairperson and Ordinary Commissioners, in conjunction with its consideration of relevant recommendations of the Committee's Report No. 106, arising from the five year review, tabled on 30 June 2021.

Queensland Government response: Supported.

The Queensland Government agrees to consider the tenure of senior officers alongside implementation of the Government's response to Committee's Report No. 106 which committed to consider amendments to the CC Act relating to a single non-renewable appointment for the Chairperson and Ordinary Commissioners of the Commission.

Recommendation 6 -

The Committee recommends the Queensland Government instigate a review of the Commission's structure in regards to its investigatory and charging functions, and the role of seconded police officers at the Commission, as a Commission of Inquiry or similar, to be headed by senior counsel of sufficient standing to consider this structural basis of the Commission that has its roots in the Fitzgerald Inquiry.

Queensland Government response: Supported.

Having regard to the significance of the Committee's findings and recommendations, the operation of section 346 (*Commissions of Inquiry Act 1950* prevails over this Act) of the CC Act, the need for public confidence in the Commission as an effective, impartial and independent integrity body in relation to corruption and major crime in Queensland and also the need for openness, transparency and accountability, the Queensland Government proposes to establish a Commission of Inquiry as soon as possible under the *Commissions of Inquiry Act 1950* to examine and report on issues relating to:

- the structure of the CCC in relation to use of seconded police officers;
- legislation, procedures, practices and processes relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC investigations generally; and
- the operation of section 49 of the CC Act.