



Crime and Corruption and Other Legislation Amendment Bill 2024

Report No. 4, 57th Parliament
Community Safety and Legal Affairs Committee
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Community Safety and Legal Affairs Committee

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All web address references are current at the time of publishing.

Contents

Chair’s foreword	iii
Recommendations	iv
Executive Summary	v
1 Introduction	1
1.1 Referral	1
1.2 Policy objectives of the Bill	1
1.3 Background	3
1.3.1 Crime and Corruption Commission	3
1.3.2 Parliamentary Crime and Corruption Committee	4
1.3.3 Parliamentary Crime and Corruption Committee Report No. 97, Review of the Crime and Corruption Commissioner	5
1.3.4 Parliamentary Crime and Corruption Committee Report No. 106, Review of the Crime and Corruption Commission’s Activities	5
1.3.5 Parliamentary Crime and Corruption Committee Report No. 108, Inquiry into the Crime and Corruption Commission’s investigation of former councillors of Logan City Council; and related matters	5
1.3.6 Commission of Inquiry relating to the Crime and Corruption Commission Report	6
1.3.7 Crime and Corruption Commission Culture and corruption risks in local government: Lessons from an investigation into Ipswich City Council (Operation Windage)	7
1.4 Legislative compliance	8
1.4.1 <i>Legislative Standards Act 1992</i>	8
Committee comment	8
1.4.2 <i>Human Rights Act 2019</i>	8
Committee comment	9
1.5 Should the Bill be passed?	9
2 Examination of the Bill	10
2.1 Enforcement powers and reasonable excuse including privilege	10
2.1.1 Background	10
2.1.2 Proposed amendments	11
2.1.3 Stakeholder feedback and departmental response	13
Committee comment	14
2.2 Journalist shield laws	15
2.2.1 Background	15
2.2.2 Proposed amendments	16
2.2.3 Stakeholder feedback and department response	16
Committee comment	19
2.3 Tenure, qualifications and appointments	19
2.3.1 Background	19
2.3.2 Proposed amendments	21

2.3.3	Stakeholder feedback and department response	22
	Committee comment	23
2.4	DPP advice on corruption offences	24
2.4.1	Background	24
2.4.2	Proposed amendments	24
2.4.3	Stakeholder feedback and department response	25
	Committee comment	28
2.5	Directions for the performance of duties by CCC officers	28
2.5.1	Background	28
2.5.2	Proposed amendments	29
	Committee comment	29
2.6	Parliamentary Commissioner investigations	29
2.6.1	Background	29
2.6.2	Proposed amendments	30
2.6.3	Stakeholder feedback and department response	30
2.7	Criteria for prescribing entities as units of public administration	30
2.7.1	Background	30
2.7.2	Proposed amendments	31
2.7.3	Stakeholder feedback and department response	31
	Committee comment	31
2.8	Other amendments	31
2.8.1	Connolly-Ryan Inquiry records	31
2.8.2	Other amendments	32
2.8.3	Proceedings for indictable offences	32
	Committee comment	32
	Overall committee comment	32
	Appendix A – Submitters	33
	Appendix B – Officials at public departmental briefing	34
	Appendix C – Witnesses at public hearing	35
	Appendix D – Recommendations addressed in the Bill	36
	Appendix E – Report No. 97 Recommendations	38
	Appendix F – Report No. 106 Recommendations	41
	Appendix G – Report No. 108 Findings and Recommendations	44
	Appendix H – Commission of Inquiry relating to the Crime and Corruption Commission Report	46
	Statement of Reservation	49

Chair's foreword

This report presents a summary of the Community Safety and Legal Affairs Committee's (committee's) examination of the Crime and Corruption and Other Legislation Amendment Bill 2024.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

It is important we remain ever vigilant in the ongoing fight against corruption.

Corruption undermines democracy. We cannot allow it to fester. The capture of the public sector by corrupt and criminal elements leads to a loss of trust in public institutions and democratic processes.

Strong anti-corruption institutions such as the Crime and Corruption Commission (CCC) are key in our ongoing fight against corruption. However, we walk a narrow path – endowing these institutions with coercive power runs the risk of subverting our fundamental democratic freedoms. Checks and balances, external oversight, and eternal vigilance is needed.

While the purpose of this Bill is not to alter the current powers of the CCC, the reforms in the Bill are nevertheless important in streamlining how the CCC performs its functions, and in providing additional avenues of accountability and oversight. I believe that this Bill, as part of our ongoing fight against corruption, strikes a balance between the need for institutions with robust anti-corruption powers, and the need for equally robust accountability mechanisms that apply to these institutions.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff and the Department of Justice and Attorney-General.

I commend this report to the House.



Peter Russo MP

Chair

Recommendations

Recommendation 1	9
The committee recommends the Crime and Corruption and Other Legislation Amendment Bill 2024 be passed.	9

Executive Summary

On 15 February 2024, Hon Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, introduced the Crime and Corruption and Other Legislation Amendment Bill 2024 (Bill) into the Queensland Parliament. The Bill was referred to the Community Safety and Legal Affairs for detailed consideration.

The Bill seeks to improve the operation and performance of the Crime and Corruption Commission (CCC) by amending the *Crime and Corruption Act 2001* (CC Act) and other related legislation. The Bill’s key reforms include:

- a review of Chapters 3 and 4 of the CC Act to develop uniform provisions and clarify the application of privileges under the Act
- establishing journalist shield laws
- implementing a requirement for the CCC to seek the advice of the Director of Public Prosecutions (DPP) on corruption offences arising from a corruption investigation.

The proposed amendments are largely in response to the recommendations of several reports including the:

- Parliamentary Crime and Corruption Committee’s:
 - Report No. 97, *Review of the Crime and Corruption Commissioner*
 - Report No. 106, *Review of the Crime and Corruption Commission’s Activities*
 - Report No. 108, *Inquiry into the Crime and Corruption Commission’s investigation of former councillors of Logan City Council; and related matters*
- Report of the Commission of Inquiry relating to the Crime and Corruption Commission
- Crime and Corruption Commission’s Report: *Culture and corruption risks in local government: Lessons from an investigation into Ipswich City Council (Operation Windage)*.

Stakeholders and subscribers were invited to make written submissions on the Bill and the committee received 11 submissions. A public hearing was held on 4 March 2024 in Brisbane to speak with submitters and stakeholders. A public briefing was also held with representatives from the Department of Justice and Attorney-General on 8 March 2024.

Key issues raised during the committee’s examination of the Bill included:

- engagement of the DPP for advice on corruption offences
- consideration of claims of privilege, including journalist privilege
- tenure provisions for CCC senior executives.

Stakeholders also raised issues relating to the nature of the coercive powers of the CCC, the experience of former Logan City councillors, and future reform of the CCC and CC Act.

The committee is satisfied that the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament, and that any limitations of human rights, as set out in the *Human Rights Act 2019*, are reasonable and justifiable.

The committee recommends the Bill be passed.

1 Introduction

1.1 Referral

On 15 February 2024, Hon Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, introduced the Crime and Corruption and Other Legislation Amendment Bill 2024 (Bill) into the Queensland Parliament. The Bill was referred to the Community Safety and Legal Affairs for detailed consideration.

1.2 Policy objectives of the Bill

Attorney-General, introduction speech, 15 February 2024



The CCC plays a critical role in Queensland’s anti-corruption and integrity landscape and has various other important functions in combatting and reducing major crime, witness protection and civil confiscations. ...

The UN [United Nations] notes that the diversion of scarce resources by corrupt parties affects a government’s ability to provide basic services to its citizens... [M]ost fundamentally, corruption undermines the prospects for economic investment and widespread public suspicion that systems are corrupt and that criminal offences are committed by elites in both private and public spheres undercuts government legitimacy and undermines the rule of law...

... the commission of inquiry [relating to the Crime and Corruption Commission (CCC)] noted it is imperative the CCC must remain an independent, fair and impartial body trusted by the public to achieve its important statutory functions.

The Bill’s main policy objective is to ‘improve the operation and performance of the Crime and Corruption Commission (CCC) through making a range of legislative amendments, principally to the *Crime and Corruption Act 2001* (CC Act)’.¹

The key reforms of the Bill relate to:

- a review of Chapters 3 and 4 of the CC Act to:
 - develop uniform provisions with generic application to the CCC functions where appropriate
 - clarify what specific privileges are abrogated or unaffected by the provisions of the CC Act.
- establishing journalist shield laws applicable under the CC Act based on the existing framework in the *Evidence Act 1977* (Evidence Act)
- implementing a requirement for the CCC seek the advice of the Director of Public Prosecutions (DPP) on corruption offences arising from a corruption investigation.²

In relation to the Bill’s objectives and the ongoing reform of the CCC, the Attorney-General stated:

The measures in this bill deliver a range of critical reforms. However, our work is not over and we know there are a number of important PCCC recommendations still to address. This work will continue in consultation with the CCC and other stakeholders alongside various other reform activities underway to enhance the integrity framework in this state.³

¹ Explanatory notes, p 1.

² Department of Justice and Attorney-General, correspondence, 23 February 2024, p 1.

³ Record of Proceedings, 15 February 2024, p 252.

A number of the proposed amendments are in response to various reports:

Date	Report	Recommendations addressed in Bill
30 June 2016	Parliamentary Crime and Corruption Committee (PCCC), Report No. 97, Review of the Crime and Corruption Commission (PCCC Report No. 97).	Review of Chapters 3 and 4 of the CC Act (relating to compulsory powers, hearings and privilege claims) (Recommendation No. 6). Public Interest Disclosures (Recommendation No. 27).
August 2018	CCC, Culture and corruption risks in local government: Lessons from an investigation into Ipswich City Council (Operation Windage) (Windage Report).	Criteria for prescribing entities as units of public administration (Recommendation No. 3(b)).
30 June 2021	PCCC, Report No. 106, Review of the Crime and Corruption Commission's Activities (PCCC Report No. 106).	Qualifications of Ordinary Commissioners (Recommendation No. 1). PCCC consideration of appointments (Recommendation No. 3). Appointment tenure (Recommendation No. 4). Directions for the performance of duties by CCC officers (Recommendation No. 5). Public Interest Disclosures (Recommendation No. 9). Parliamentary Commissioner investigations (Recommendation No. 28).
2 December 2021	PCCC, Report No. 108, Inquiry into the Crime and Corruption Commission's Investigation of Former Councillors of Logan City Council; and Related Matters (PCCC Report No. 108).	Appointment tenure (Recommendation No. 5).
9 August 2022	Commission of Inquiry relating to the Crime and Corruption Commission, Report (CCC COI Report).	DPP to provide advice (Recommendation Nos. 25-28).

A list of these recommendations can be found in Appendix D.

1.3 Background

1.3.1 Crime and Corruption Commission

The CCC is an independent statutory body⁴ set up to combat and reduce the incidence of major crime and corruption in Queensland’s public sector.⁵ The CCC, which came into being on 1 July 2014, was previously known as the Crime and Misconduct Commission. The CC Act introduced changes not only to the name but to its governance structure and complaints management responsibilities.⁶

The CCC:

- investigates major crime such as drug trafficking, fraud and money laundering
- investigates corruption in state government departments, public sector agencies and statutory bodies, the Queensland Police Service, local governments, government-owned corporations, universities, prisons, courts, tribunals and elected officials and advises agencies on managing and preventing corruption
- administers Queensland’s proceeds of crime regime
- has responsibility for Queensland’s witness protection program.⁷

The CCC consists of:

- a full-time Commissioner who is also appointed as chairperson
- a part-time Commissioner who is also appointed as the Deputy Chair
- 3 part-time Commissioners who are Ordinary Commissioners
- a Chief Executive Officer.⁸

The CCC organisational structure is as follows:



Source: Crime and Corruption Commission⁹

⁴ CC Act, s 221A.

⁵ Crime and Corruption Commission, About the CCC, <https://www.ccc.qld.gov.au/about/about-ccc>.

⁶ Crime and Corruption Commission, Our history, <https://www.ccc.qld.gov.au/about-us/our-history/crime-and-corruption-commission>.

⁷ Crime and Corruption Commission, Our functions, <https://www.ccc.qld.gov.au/about/about-ccc/our-functions>.

⁸ Explanatory notes, p 4; CC Act, s 223.

⁹ Crime and Corruption Commission, Organisational Chart, <https://www.ccc.qld.gov.au/about-us/our-leadership/organisational-chart>.

1.3.1.1 Powers and privileges under the CC Act

The CCC has extensive enforcement powers under Chapter 3 of the CC Act, including:

- require a person to give information and/or produce a document or thing (section 72)
- enter and search official premises including inspecting, copying and removing any document or thing in or on the premises (section 73)
- require a person (including a prisoner, patient or forensic disability client) to attend a commission hearing (sections 82, 83)
- apply for a warrant to enter and search a place to obtain evidence (section 86)
- enter, search and/or dig up, detain a person and/or seize a thing found at the place (sections 92, 110, 111)
- install and use surveillance devices to intercept and record private conversations (section 128).¹⁰

The CCC also has the power to hold public or private hearings (sections 176, 177) and compel a witness to answer questions (section 192) with the maximum penalty for refusing to answer being 200 penalty units (\$30,960)¹¹ or 5 years imprisonment.¹²

The CCC is the only Queensland law enforcement agency with powers to conduct coercive hearings requiring witnesses to attend hearings and give evidence. These investigative powers are not ordinarily available to other investigative bodies including the Queensland Police Service (QPS).¹³

1.3.2 Parliamentary Crime and Corruption Committee

The PCCC is established under section 291 of the *Crime and Corruption Act 2001* (CC Act), and under section 292 has oversight of the CCC, with its functions including:

- to monitor and review the performance of the CCC's functions
- to report to the Legislative Assembly on matters relevant to the CCC and matters relevant to the performance of the CCC's functions or the exercise of the CCC's powers
- examine the CCC's reports including its annual report
- participate in the selection and removal of commissioners and the chief executive officer
- review the activities of the CCC every 5 years and table a report in the Legislative Assembly for each review about any action that should be taken in relation to the CC Act or the functions, powers and operations of the CCC.¹⁴

¹⁰ CC Act, Chapter 3.

¹¹ The value of a penalty unit is \$154.80: Penalties and Sentences Regulation 2015, s 3; *Penalties and Sentences Act 1992*, ss 5, 5A.

¹² CC Act, Chapter 4.

¹³ DJAG correspondence, 23 February 2024, p 1.

¹⁴ Explanatory notes, p 2; CC Act, s 292.

1.3.3 Parliamentary Crime and Corruption Committee Report No. 97, Review of the Crime and Corruption Commissioner

Report No. 97 was completed by the PCCC pursuant to its review function. The report was tabled on 30 June 2016 and made 29 recommendations.¹⁵ A full list of the recommendations can be found in Appendix E of this report. The Queensland Government supported (or supported in principle) all 23 recommendations directed to the government, tabling its response on 16 December 2016.¹⁶

1.3.4 Parliamentary Crime and Corruption Committee Report No. 106, Review of the Crime and Corruption Commission's Activities

Report No. 106 was completed by the PCCC pursuant to its review function.¹⁷ It was tabled on 30 June 2021 and made 30 recommendations.¹⁸ A full list of the recommendations can be found in Appendix F of this report. The Government supported (or supported in principle) 20 of the 22 recommendations directed to the government, tabling its response on 17 December 2021.¹⁹

1.3.5 Parliamentary Crime and Corruption Committee Report No. 108, Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters

The PCCC tabled its Report No. 108 on 2 December 2021, making 14 findings and 6 recommendations.²⁰ A full list of the findings and recommendations can be found in Appendix G of this report. The Queensland Government supported all 5 recommendations directed to the government, tabling its response on 31 January 2022.²¹

1.3.5.1 Background to report

On 26 April 2019, the CCC charged the then Logan City Mayor and 7 Logan City Councillors with fraud.²² These charges were brought by a police officer seconded to the CCC.²³ As all 8 councillors were immediately suspended under section 175K of the *Local Government Act 2009*, their removal from office resulted in the Logan City Council's inability to be quorate.²⁴ In May 2019, the Logan City Council was dissolved following a motion moved by the Minister for Local Government in the Queensland Parliament.²⁵ On 14 April 2021, the charges were discontinued by the DPP, with the Crown prosecutor advising the court:

... [A]fter a thorough review of the matter the Crown has determined that there is insufficient evidence to continue with the fraud charge where all eight are charged and so therefore will be offering no evidence on that charge and ask for ... them to be discharged.²⁶

¹⁵ Explanatory notes, p 2; PCCC Report No. 97.

¹⁶ Explanatory notes, p 2.

¹⁷ Explanatory notes, p 2; CC Act, s 292(f).

¹⁸ Explanatory notes, p 2; PCCC Report No. 106.

¹⁹ Explanatory notes, p 2.

²⁰ Explanatory notes, p 2; PCCC, *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters*, Report No. 108, December 2021.

²¹ Explanatory notes, p 2.

²² Report No. 108, p 43.

²³ CCC COI, p 12.

²⁴ Report No. 108, p 9.

²⁵ Report No. 108, p 9.

²⁶ Report No. 108, p 46. Note: On 26 March 2018, the mayor was charged with additional offences allegedly committed while in office, and he was later committed for trial.

On 5 May 2021, the Local Government Association of Queensland (LGAQ) wrote to the PCCC outlining concerns with the CCC's conduct throughout the investigation associated with the Logan City Councillors. The LGAQ alleged:

- inappropriate intervention in matters relating to the dismissal from employment of the former chief executive officer of the Logan City Council, Ms Sharon Kelsey, and in particular, inappropriate intervention and involvement in civil proceedings instituted by Ms Kelsey in the Queensland Industrial Relations Commission, and to which it was not itself a party, and in a manner that was likely to alter the outcome of those proceedings
- inappropriate use of its power to charge councillors with the crime of fraud (as defined in section 408C of the Criminal Code).²⁷

On 28 May 2021, the PCCC resolved to investigate the issues raised by the LGAQ and held public hearings in August to October 2021.

1.3.6 Commission of Inquiry relating to the Crime and Corruption Commission Report

PCCC Report No. 108, inquiring into the CCC's investigation of Logan City councillors, called into question several aspects of the CCC's operations. Recommendation 6 of Report No. 108 called for a Commission of Inquiry or similar to review the CCC's functions and structure:

The PCCC recommends the Queensland Government instigate a review of the CCC's structure in regards to its investigatory and charging functions, and the role of seconded police officers at the CCC, as a Commission of Inquiry or similar, to be headed by senior counsel of sufficient standing to consider this structural basis of the CCC that has its roots in the Fitzgerald Inquiry.²⁸

The Queensland Government supported this recommendation, and established a Commission of Inquiry (COI) on 31 January 2022, the same day they delivered their response to PCCC Report No. 108.²⁹

The Honourable Gerald Edward (Tony) Fitzgerald AC KC was appointed as Chairperson and the Honourable Alan Wilson KC as Commissioner. The inquiry's terms of reference required examination and report on 3 principal matters:

- the structure of the CCC in relation to its use of seconded police officers
- the legislation, procedures, practices, and processes of the CCC relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC investigations
- section 49 of the CC Act.³⁰

The report of the COI was given to the Queensland Government on 9 August 2022, and tabled on 16 August 2022.³¹ The COI specifically identified 2 key risks with respect to the CCC's operational model:

- the risk of institutional capture of the CCC by the QPS due to the system by which QPS officers are seconded to the CCC

²⁷ Report No. 108, p 14; LGAQ correspondence, 5 May 2021, pp 1-2.

²⁸ CCC COI report, p 13.

²⁹ Queensland government response, CCC COI report.

³⁰ CCC COI report, p 11; Commission of Inquiry relating to the Crime and Corruption Commission, About, <https://www.cccinquiry.qld.gov.au/about>.

³¹ Explanatory notes, p 8.

- the risk of corruption investigations adopting an overly ‘law enforcement’ approach, at the expense of other responses like systemic or organisational changes intended to promote prevention.³²

The report made 32 recommendations, including a recommendation that the CCC should seek the advice of the DPP in order to provide additional oversight of decision making in corruption investigations.³³ The CCC stated they would ‘immediately commence implementing the recommendations’.³⁴ A full list of the findings and recommendations can be found in Appendix H of this report.

1.3.7 Crime and Corruption Commission Culture and corruption risks in local government: Lessons from an investigation into Ipswich City Council (Operation Windage)

The Windage Report is a public report issued by the CCC on their investigation into Ipswich City Council.³⁵ It was tabled on 14 August 2018. The purpose of the Windage Report was to:

... identify corruption risks that arise when governance, legislative and disclosure obligations pertaining to local government are ignored, and to remind public officials and elected officials of the importance of transparency and accountability.³⁶

The report made 4 recommendations relating to:

- educating councillors on their rights and responsibilities as councillors
- setting standards for monitoring and compliance in high risk areas
- reforms to the use of private companies established by councils, noting that this creates corruption risks through a lack of oversight and transparency
- prohibition of private email accounts in the conduct of official business.³⁷

1.3.7.1 Background to report

On 17 October 2016, the CCC commenced a corruption investigation, Operation Windage, in relation to allegations of corrupt conduct in the Ipswich City Council. The report noted:

At the Ipswich City Council, the last two mayors have been charged with criminal offences, as have the last two CEOs, a Chief Operating Officer and two council employees. Intelligence and investigative enquiries during Operation Windage identified that an unhealthy culture within the Ipswich City Council contributed to the alleged corrupt activity.³⁸

The investigation identified alleged criminal and corrupt activity, including corruption offences, attempting to pervert the course of justice, fraud, breach of bail, extortion and perjury.

The most serious failures related to:

- lack of oversight and accountability for expenditure and public resources
- use of mechanisms which allowed avoidance of scrutiny of actions and requests for information under the *Right to Information Act 2009* (RTI Act).

³² DJAG, correspondence, 23 February 2024, p 11; CCC COI report, p 6.

³³ Explanatory notes, p 8; CCC COI report, p 7.

³⁴ <https://www.ccc.qld.gov.au/news/ccc-chairperson-statement-coi>.

³⁵ Crime and Corruption Commission, *Culture and corruption risks in local government: Lessons from an investigation into Ipswich City Council (Operation Windage)*, August 2018, p 6.

³⁶ Windage report, p 6.

³⁷ Windage report, p 8.

³⁸ Windage report, p 16.

- inappropriate relationships between the Council and the private sector, in particular property developers and contractors, and
- improper use of power and influence for personal benefit.

The CCC noted that it identified significant governance failures in its investigation. While a number of these failures did not meet the threshold of corrupt conduct or had no evidence to pursue criminally, they were nevertheless ‘significant and extremely concerning’.³⁹

1.4 Legislative compliance

The committee’s deliberations included assessing whether or not the Bill complies with the Parliament’s requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* (LSA) and the *Human Rights Act 2019* (HRA).

1.4.1 *Legislative Standards Act 1992*



Fundamental legislative principles require that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.⁴⁰

The committee’s assessment of the Bill’s consistency with the LSA considered potential issues relating to following fundamental legislative principles (FLPs) raised by the Bill:

- rights and liberties of individuals:
 - self-incrimination
 - general rights and liberties of individuals - offences and penalties.
- sufficient regard to the institution of Parliament.

Part 4 of the LSA that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. Explanatory notes were tabled with the introduction of the Bill. The notes contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill’s aims and origins.

Committee comment

The committee is satisfied that the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament. Any relevant considerations of FLPs are discussed in section 2 of this report.

1.4.2 *Human Rights Act 2019*



A law is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable.⁴¹

The committee’s assessment of the Bill’s compatibility with the HRA considered the potential issues and limitations relating to the following human rights raised by the Bill:

- recognition and equality before the law

³⁹ Windage report, p 9.

⁴⁰ LSA, s 4(2).

⁴¹ HRA, s 8.

- freedom of expression
- the right to have access, on general terms of equality, to the public service and to public office
- property rights
- privacy and reputation
- right to liberty and security of person
- fair hearing
- rights in criminal proceedings.

Committee comment

The committee is satisfied that any potential limitations on human rights proposed by the Bill are demonstrably justified. Any relevant considerations of human rights issues are discussed in section 2 of this report.

A Statement of Compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

1.5 Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Crime and Corruption and Other Legislation Amendment Bill 2024 be passed.

2 Examination of the Bill

This section discusses key issues raised during the committee’s examination of the Bill. It does not discuss all consequential, minor or technical amendments.

2.1 Enforcement powers and reasonable excuse including privilege



The Bill proposes to streamline the CCC’s enforcement powers by:

- providing single processes outside a hearing for the discovery of information and the production of documents and things
- ensuring consistency across functions for attendance and consideration of matters at hearings
- streamlining offence provisions for failure to comply with the exercise of enforcement powers.⁴²

The Bill also proposes to streamline the application of privilege by inserting new Chapter 4A (clause 32) into the CC Act which would:

- simplify the definition of privilege and clarify the abrogation of self-incrimination privilege
- provide uniform processes applying across all relevant functions for the determination of claims of reasonable excuse including privilege
- provide uniform provisions for the safekeeping of documents or things where a claim of reasonable excuse or privilege is raised.⁴³

2.1.1 Background

The proposed amendments to Chapters 3 and 4 of the CC Act relating to enforcement powers and privilege respond to recommendation 6 of Report No. 97:

Recommendation 6 of Report No. 97



The committee recommends that the government review Chapters 3 and 4 of the CC Act to: develop uniform provisions with generic application to Crime and Corruption Commission functions where appropriate; and clarify what specific privileges are abrogated or unaffected by the provisions of the CC Act.⁴⁴

The main issue identified in Report No. 97, according to the Bill’s explanatory notes, was that ‘different powers and processes apply depending on the function being exercised’. This has led to ‘significant complexity and potential confusion’.⁴⁵ Recommendation 6 of Report No. 97 recommended reviewing Chapters 3 and 4 of the CC Act. The review was aimed at clarifying the application of power and privilege provisions where possible, and was not about strengthening the powers of the CCC.⁴⁶

The Department of Justice and Attorney-General (DJAG) noted that the provisions in Chapters 3 and 4 have differing powers and processes depending on the function being exercised. This is largely the result of the 2001 merger of the Criminal Justice Commission and the Queensland Crime Commission. The varying approaches have created unnecessary duplication, inconsistency and ambiguity in the implementation of the CCC’s powers and processes.⁴⁷

⁴² Explanatory notes, p 11.

⁴³ Explanatory notes, p 11.

⁴⁴ Explanatory notes, p 3; PCCC Report No 97, p 35.

⁴⁵ Explanatory notes, p 3; Record of Proceedings, 15 February 2024, p 250.

⁴⁶ Explanatory notes, p 2.

⁴⁷ DJAG correspondence, 23 February 2024, p 2.

2.1.2 Proposed amendments

2.1.2.1 *Production powers*

The Bill makes several amendments relating to production powers:

<p>Power to require production of a document or thing</p> <p>The Bill proposes to insert a single set of provisions to require production of a document or thing outside of a hearing applying to a crime investigation, a specific intelligence operation (crime), a corruption investigation, a specific intelligence operation (corruption) as well as witness protection functions.</p> <p>The chairperson would be able to issue a notice for a person to produce a document or thing if they reasonably suspect a person possesses a document or thing that is relevant to the investigation, operation, or witness protection function. The Bill would also provide that a person commits an offence if they do not comply with a notice to produce, unless they have a reasonable excuse.⁴⁸</p>
<p>Power to require immediate production at a hearing</p> <p>The Bill proposes to add new sections requiring the immediate production of a document or thing at a hearing relevant to the investigation or operation.⁴⁹ These provisions apply to a crime investigation, a specific intelligence operation (crime), a corruption investigation, a specific intelligence operation (corruption).⁵⁰</p>
<p>Power to require production at a hearing</p> <p>The Bill retains the power for the chairperson to issue a notice requiring a person to attend a commission hearing, but removes the power to require attendance at a hearing ‘solely to establish a reasonable excuse or claim of privilege in crime, specific intelligence operations (crime) and witness protection function hearings’.⁵¹</p>
<p>Offence for failure to produce documents or things</p> <p>The Bill would create a single offence for failure to produce documents or things at a hearing, applying to all relevant functions. The Bill also sets circumstances under which a claim of reasonable excuse or privilege will apply, and provides that a claim of legal professional privilege does not apply when waived.⁵²</p>
<p>Power to require production for confiscation related investigation</p> <p>The Bill propose to include separate provisions in relation to the power to require production for confiscation related investigations.⁵³</p>

2.1.2.2 *Discovery powers*

The Bill proposes amendments relating to the CCC’s discovery powers. The amendments are intended to:

- streamline provisions for crime or corruption investigations and intelligence operations
- allow the chairperson to issue a notice to discover
- create a single offence for failure to comply with notice to discover.⁵⁴

⁴⁸ Bill, cl 12 (CC Act, new ss 72-77); DJAG correspondence, 23 February 2024, p 3.

⁴⁹ DJAG correspondence, 23 February 2024, p 2. Bill, new ss 81C, 81D.

⁵⁰ Bill, cl 12 (CC Act, new ss 81C, 81D); DJAG correspondence, 23 February 2024, pp 2-3.

⁵¹ DJAG correspondence, 23 February 2024, p 3; Bill, cl 13 (CC Act, new s 82).

⁵² DJAG correspondence, 23 February 2024, p 4.

⁵³ DJAG correspondence, 23 February 2024, p 4.

⁵⁴ DJAG correspondence, 23 February 2024, p 4.

2.1.2.3 Entry and search powers

The Bill largely replicates the current CC Act's provisions for entry and search powers relating to search powers on official premises for corruption investigations.⁵⁵

2.1.2.4 Refusal to answer question at a hearing

The Bill creates a single offence for failure to answer a question at a commission hearing.⁵⁶

2.1.2.5 Claims of reasonable excuse including privilege

New Chapter 4A deals with the definition of privilege and the process for dealing with claims of reasonable excuse in response to the exercise of the CCC's coercive powers.⁵⁷ Key amendments are summarised below:

Initial consideration of claims of reasonable excuse including privilege by the CCC

For claims made outside of hearings, the Bill proposes to apply a two-step process whereby:

- a Commission officer considers a claim
- the deciding officer decides the claim or declines to decide the claim.

A person may apply to the Supreme Court for a determination of the claim.

For claims made in hearings, the Bill provides a process whereby the presiding officer can decide a claim or decline to decide a claim.⁵⁸ Where a claim is not found to be established, there is a right to seek leave to appeal to the Supreme Court. A related procedure applies to documents and things, and a separate procedure applies to claims for legal professional privilege in relation to a document or thing where the person has no authority to waive the privilege.⁵⁹

Applications to Supreme Court and considerations by the Supreme Court

The Bill sets out how claims of reasonable excuse including privilege would be dealt with by the Supreme Court. The procedure differs depending on whether or not a claim is based on privilege. Leave to apply to the Supreme Court is granted if:

- the application has a significant prospect of success, or
- there is an important question of law involved.

If leave is granted, the burden of proof is on the person making the application (other than for journalist privilege), with costs covered by the CCC. If a deciding officer or presiding officer finds a claim of privilege is not established, the person can apply to the Supreme Court within 7 days. When deciding a claim, the Supreme Court:

- must deal with the matter expeditiously
- hear the matter in a closed court, and
- may access the document, thing or information subject to the claim.

Claims of privilege in relation to search warrants and seizure of evidence in relation to a corruption investigation are to be considered by the Supreme Court only. Claims made in relation to confiscations related investigations must be determined by the Supreme Court, after initial consideration by a CCC officer.⁶⁰

⁵⁵ DJAG correspondence, 23 February 2024, p 5.

⁵⁶ DJAG correspondence, 23 February 2024, p 5.

⁵⁷ DJAG correspondence, 23 February 2024, p 5.

⁵⁸ Explanatory notes, p 46.

⁵⁹ DJAG correspondence, 23 February 2024, p 7.

⁶⁰ DJAG correspondence, 23 February 2024, p 7.

Claims of privilege

The Bill retains the privileges currently available under the CC Act, with the addition of journalist privilege.⁶¹ The intention of the amendments is to provide for ‘relatively uniform provisions’ that will apply to decisions made by the Supreme Court, a presiding officer, or a deciding officer.

The Bill provides for several specific claims of privilege:⁶²

Self-incrimination privilege is defined in the CC Act as the privilege an individual may claim at law on the ground of self-incrimination. The Bill continues to abrogate self-incrimination privilege. Regardless of whether it is established or not, a requirement must be complied with. The Bill also continues to apply section 197, except when a document or thing is produced in the context of a corruption investigation. Self-incrimination privilege may not be claimed in relation to the execution of a search warrant under section 94 (corruption investigation) or in relation to seizure of evidence under section 110A (confiscation related investigation) and section 111 (corruption investigation).

Legal Professional privilege protects the confidentiality of communications between a lawyer and their client. The Bill continues to apply legal professional privilege to all functions.

Parliamentary privilege broadly refers to the powers, rights and immunities which belong in law, and are particular to, the Parliament and its members. In Queensland, the powers, rights and immunities of the United Kingdom House of Commons apply to the Legislative Assembly. The Bill continues to apply parliamentary privilege to all functions.

Public interest immunity provides that a court will not require or compel the disclosure of information that would be injurious to the public interest. The Bill continues to apply public interest immunity to all functions.

Confidentiality is defined in the current CC Act to mean (in relation to the ground of confidentiality) a ground recognised at law that giving an answer or disclosing a communication or document, would be a breach of an oath taken or statutory or commercial obligation or restriction to maintain secrecy. As is the position under the current CC Act, under the Bill, the privilege may not be claimed in relation to the execution of a search warrant under section 94 (corruption investigation) or in relation to seizure of evidence under sections 110A (confiscation related investigation) and 111 (corruption investigation).

Journalist privilege is applied to all functions within the Bill. Key definitions of ‘journalist’, ‘relevant person’, ‘informant’ and ‘news medium’ are defined consistently with corresponding definitions in the Evidence Act. The process for claims in relation to search warrants under section 94 will continue to be dealt with under the Evidence Act.

2.1.3 Stakeholder feedback and departmental response

2.1.3.1 Entry and search powers

Queensland Law Society (QLS) opposed section 81L, which gives the CCC Chairperson power to issue a search warrant, stating that they felt the amendment was ‘inappropriate and removes a critical check present in the current system where a judicial officer is able to interrogate the reasons for the issue of a warrant’. They questioned how this power sits with other powers given to judicial officers in relation to search warrants under the legislation.⁶³

In response, DJAG noted that the amendments reflect sections in the current CC Act. In keeping with the policy objectives of the review of Chapters 3 and 4, the amendments do not extend the coercive powers of the CCC, but rather streamline their operation. DJAG further notes that new section 81L is based on section 73 of the current CC Act.⁶⁴

⁶¹ DJAG correspondence, 23 February 2024, p 8.

⁶² DJAG correspondence, 23 February 2024, pp 8-9.

⁶³ QLS, submission 10, p 2.

⁶⁴ DJAG, correspondence, 1 March 2024, p 7.

2.1.3.2 Legal professional privilege

QLS submitted that they do not support amendments relating to legal professional privilege. They stated that the CC Act should not be amended to restrict a person's ability to claim legal professional privilege. QLS also opposed section 191(3), which makes it an offence for a person to fail to provide the name and address of the person to whom a legally professionally privileged communication is waived. They submitted that they consider this provision overreach, and stated that 'any legislative attempt to undermine the sanctity of legal advice is of critical concern'.⁶⁵

In response to QLS's concerns, DJAG stated that the amendments relating to legal professional privilege reflect principles within the current CC Act, holding that legal professional privilege can be waived, and once waived, cannot be re-enlivened.⁶⁶

2.1.3.3 Refusal to answer question - self incrimination

QLS stated that they believe witnesses appearing before the CCC should be able to refuse to answer a question on the grounds that such information may incriminate a person, and they opposed amendments abrogating self-incrimination.⁶⁷

In response, DJAG stated that the purpose of the review of Chapters 3 and 4 was not to alter the position under the current CC Act with respect to the abrogation of self-incrimination privilege.⁶⁸

Committee comment

The committee notes that the amendments to Chapters 3 and 4 of the CC Act are intended to streamline provisions for crime or corruption investigations and intelligence operations without altering the coercive powers of the CCC. The committee recognises that these amendments will provide greater clarity in the interpretation and intent of the Act. These amendments will also help ensure that resources are more efficiently allocated.

Self-incrimination

The committee notes that the Bill's abrogation of self-incrimination privilege raises issues in relation to FLPs. However, the committee recognises that the inability to use derived evidence would undermine the effectiveness of the CCC's ability to conduct corruption investigations. The committee notes that the ultimate goal of a corruption investigation is to protect the integrity of public institutions. As such, these investigations differ from purely criminal investigations, and justify limitations to rights against self-incrimination.

The committee recognises that the abrogation of the self-incrimination privilege for CCC corruption investigations is appropriate and necessary. The public good derived from empowering the CCC with special investigatory powers outweighs the risk of potential detriment to individuals. Nevertheless, the committee recognises that the CCC should be subject to a significant degree of oversight in order to ensure it exercises these powers responsibly, without exceeding its mandate.

Supreme Court closed hearings

The committee notes that new sections 205ZL and 205ZI of the CC Act require the Supreme Court to hold closed hearings in relation to claims of reasonable excuse including privilege. While these provisions may contravene the principles of open justice and the right to a fair hearing under section 31 of the HRA, the committee considers these limitations justified. Closed court hearing may be required to enable the CCC to conduct its functions effectively, and to protect the privacy and safety of those involved in a corruption investigation.

⁶⁵ QLS, submission 10, p 2.

⁶⁶ DJAG, correspondence, 1 March 2024, p 6.

⁶⁷ QLS, submission 10, p 2.

⁶⁸ DJAG, correspondence, 1 March 2024, p 7.

2.2 Journalist shield laws



The Bill proposes to introduce amendments to provide for better protections of a journalist's confidential sources in relation to CCC investigations.⁶⁹ The Bill would amend the CC Act to apply a qualified journalist privilege consistent with the Evidence Act.⁷⁰ The amendments provide that:

- where a person claiming journalist privilege disagrees with the decision of the CCC, they have the right to apply to the Supreme Court to decide their claim
- while confiscation related investigations are not included in the new processes for dealing with claims of reasonable excuse, including privilege, journalist privilege is applied to confiscations matters
- existing provisions under the Evidence Act will continue to apply to the execution of search warrants by a CCC officer (including a police officer seconded to the CCC) under the CC Act.⁷¹

The amendments also provide that claims of journalist privilege will be initially considered by the CCC.⁷²

2.2.1 Background

The identity of a journalist's confidential sources is protected under the Evidence Act.⁷³ However, the Evidence Act does not currently apply to the CCC, aside from in relation to search warrants.⁷⁴

When introducing the Evidence and Other Legislation Amendment Bill 2021, the Attorney-General noted that a review of the applicability of journalist shield laws to the CCC would take place in the future as part of the government's review of the CC Act:

The government is committed to examining shield laws as part of the ongoing work that is being undertaken regarding the operation of privileges under the Crime and Corruption Act which arise from the previous recommendation of the PCCC. I can assure stakeholders that further consultation will be undertaken in relation to this work and that we will be in a position to determine the most appropriate course of action in the first half of next year.⁷⁵

DJAG noted that the position of journalist privilege with regards to integrity and crime bodies varies across other legislations:

The position across other jurisdictions' integrity and crime bodies varies. Victoria, which otherwise affords journalist privilege in its evidence legislation, expressly abrogates the journalist privilege, while the Northern Territory, Australian Capital Territory, Tasmania and the National Anti-Corruption Commission specifically allow for claims of journalist privilege. Journalist privilege in New South Wales, South Australia and Western Australia is not expressly incorporated nor dealt with under the core legislative instruments governing these states' integrity bodies, and this is also the case for the New South Wales Crime Commission and the Australian Criminal Intelligence Commission.⁷⁶

⁶⁹ Explanatory notes, p 4.

⁷⁰ Explanatory notes, p 15.

⁷¹ DJAG correspondence, 23 February 2024, pp 10-11.

⁷² DJAG correspondence, 23 February 2024, p 10.

⁷³ DJAG correspondence, 23 February 2024, pp 9-10.

⁷⁴ Under section 14S(2) of the Evidence Act. DJAG correspondence, 23 February 2024, p 9.

⁷⁵ Legal Affairs and Safety Committee, *Evidence and Other Legislation Amendment Bill 2021, Report No. 23*, February 2022, p 15.

⁷⁶ DJAG correspondence, 23 February 2024, p 10.

2.2.2 Proposed amendments

2.2.2.1 *Initial consideration by CCC*

Although consistent in key features, the process for considering a claim of journalist privilege raised during the course of a CCC investigation will vary from the process established under the Evidence Act.⁷⁷

The Bill provides that claims of journalist privilege will be initially considered by the CCC.⁷⁸ This is consistent with the application of all other kinds of privilege under the CC Act. As is the case with other forms of privilege, the CCC will not be able to access a document, thing or information that is the subject of a claim of journalist privilege. The onus of proof is on the CCC to establish public interest in disclosing the identity of the informant.⁷⁹

2.2.2.2 *Subsequent determination by the Supreme Court*

If a person disagrees with a decision on journalist privilege by the CCC, they have a right to apply to the Supreme Court to decide their claim. The same procedures will apply as to other privilege claims under the Act.⁸⁰ DJAG advised that, when a claim of journalist privilege is established, the Supreme Court:

... may order a journalist or relevant person to produce a document, thing or information or answer the question if satisfied that the public interest in disclosing the informant's identity outweighs any likely adverse effect of the disclosure on the informant or another person, and the public interest in the communication of facts and opinions to the public by the news media and the news media's ability to access sources of facts.⁸¹

2.2.2.3 *Confiscation, search warrants and related general seizure provisions*

DJAG noted that, while confiscation related investigations are not included in the new processes for dealing with claims of reasonable excuse including privilege, journalist privilege is applied to confiscations matters.⁸² The existing provisions under the Evidence Act will continue to apply to the execution of search warrants by a CCC officer under the CC Act.⁸³ If a claim of journalist privilege is made in relation to a thing or document seized under these sections, the person making the claim, or the CCC, may apply to the Supreme Court to decide the claim.⁸⁴

2.2.3 Stakeholder feedback and department response

2.2.3.1 *Journalist shield laws - general principles*

While QLS was supportive of the amendments relating to journalist privilege, Australia's Right to Know Coalition (ARTK) criticised several aspects of the shield laws. ARTK referenced the recent case of *Al Muderis v Nine Network Australia Pty Limited* [2023] FCA 1623 and submitted that the Bill's implementation of shield laws was inconsistent with the principles in this case, which emphasise that the confidentiality of sources is paramount, and that a high bar must be met to overturn a claim of privilege.⁸⁵

⁷⁷ DJAG correspondence, 23 February 2024, p 10.

⁷⁸ Bill, cl 32.

⁷⁹ Explanatory notes, p 16.

⁸⁰ DJAG correspondence, 23 February 2024, p 10.

⁸¹ DJAG correspondence, 23 February 2024, p 10.

⁸² DJAG correspondence, 23 February 2024, p 11.

⁸³ General powers to seize evidence in cases where a place is lawfully entered under a search warrant are provided for under section 110A and section 111.

⁸⁴ Explanatory notes, pp 15-16; DJAG correspondence, 23 February 2024, p 11.

⁸⁵ DJAG, correspondence, 1 March 2024, p 8.

In response to these concerns, DJAG noted that the Bill does not require a journalist or relevant person to comply with CCC directions if this would disclose the identity of an informant. Further, journalist privilege may only be overridden if in the public interest, where this public interest outweighs any likely adverse effect of the disclosure. DJAG further noted that how courts interpret the provisions of the Bill is a matter for the courts themselves, and they will be guided by 'general rules of statutory interpretation and the doctrine of precedent'.⁸⁶

2.2.3.2 CCC preliminary decisions

ARTK opposed the provisions whereby an initial claim of journalist privilege will be decided by the CCC. They stated that they believe such decisions should only be made by the Supreme Court, and questioned the ability of the CCC to remain impartial. They recommended that journalist privilege be distinguished from other types of privilege in the Bill by amending the Act to provide that matters of journalist privilege must be considered directly by the Supreme Court.⁸⁷ ARTK further noted that section 205ZF does not clarify which party bears the burden of proof in deciding claims of privilege.

DJAG responded that the intention of the amendments are to apply journalist privilege to the CCC in the context of a review of chapters 3 and 4 of the CC Act, with a key objective being the need to establish consistent procedures for all types of privilege under the Act.⁸⁸ They stated that '[a]dopting an alternative and inconsistent approach for journalist privilege is a policy matter for Government'.⁸⁹ DJAG further noted that having the CCC decide preliminary claims of privilege will reduce the case workload of the Supreme Court in cases where the CCC establishes privilege exists. In cases where journalist privilege is denied by the CCC, the applicant has the right to apply to the Supreme Court for a final determination. The CCC can also refer a matter directly to the Supreme Court. This, DJAG submitted, is designed to ensure that the CCC is not required to decide on claims in circumstances where they are not in a position to do so.⁹⁰

In relation to burden of proof, DJAG noted that the provisions reflect the current approach under the CC Act where no specific provision is made for a burden of proof on matters dealt with by the CCC. This is 'in keeping with the non-adversarial nature of CCC proceedings'.⁹¹

2.2.3.3 Amendments to section 205D(4)

ARTK proposed amending new section 205D(4) to provide greater protection of confidential sources, including by providing for situations such as where the editor supervising a journalist does not know the identity of the informant but has access to documents which could lead to their identification.⁹²

DJAG responded that the proposed changes to section 205D(4) were designed, according to policy objectives, to align with that of the Evidence Act, and not to extend the scope of privilege beyond that applied under the Evidence Act. The department clarified that the journalist privilege provisions are not intended to serve as a code of conduct for journalists, and that a journalist or relevant person may disclose the identity of an informant if they choose to do so.⁹³

⁸⁶ DJAG, correspondence, 1 March 2024, p 8.

⁸⁷ ARTK, submission 9, p 5.

⁸⁸ DJAG, correspondence, 1 March 2024, p 10.

⁸⁹ DJAG, correspondence, 1 March 2024, p 10.

⁹⁰ DJAG, correspondence, 1 March 2024, p 11.

⁹¹ DJAG, correspondence, 1 March 2024, pp 10-11

⁹² DJAG, correspondence, 1 March 2024, p 9.

⁹³ DJAG, correspondence, 1 March 2024, p 9.

2.2.3.4 Harmonisation of different warrant regimes

In relation to warrants, ARTK noted that the Bill proposes different ways of dealing with different types of warrants, and submitted that warrant under sections 94 and 111 should be treated in the same manner.⁹⁴

In response, DJAG noted that the policy objectives underpinning the review of Chapters 3 and 4 do not extend to amending or strengthening the coercive powers available to the CCC. According to DJAG, the policy objectives of the amendments are to streamline the provisions where appropriate. DJAG noted that the amendments fill a gap in the Evidence Act in relation to journalist privilege. In the Evidence Act, discrete provisions already apply to claims of journalist privilege in the context of a search warrant, including a CCC search warrant.⁹⁵

2.2.3.5 Judges' access to privileged document, thing or information

ARTK raised concerns regarding section 205ZL(7), which provides that the Supreme Court can access a document, thing or information that is the subject of a journalist privilege claim. They suggested that neither the current CC Act nor the Evidence Act expressly allow a judge to access the document or thing central to the dispute.⁹⁶

In response, DJAG noted that the aim of the amendments was to apply journalist privilege to the CCC in a manner as consistent as possible with that of all other privilege claims under the CC Act, and to align these claims with the framework provided by the Evidence Act. DJAG further stated that a court would need to know the identity of an informant in order to properly regard statutory considerations including the likely adverse effect of the disclosure on the informant or another person, the importance of the identity of the informant to the relevant proceeding, and whether the informant's identity as the source of the information provided was already in the public domain.⁹⁷

2.2.3.6 Offence provision for CCC officers accessing document, thing or information

ARTK submitted that an offence provision should be included to require that the relevant CCC officer must not access the document, thing or information about which they are making a decision.⁹⁸ In response, DJAG noted that:

... these provisions are designed to protect the integrity of contested privileged material and ensure that a CCC investigation is not prejudiced. Failure by the CCC to comply with the requirement would risk compromising any future prosecution through the exclusion of the evidence or a stay of the proceedings on the grounds of unfairness to the accused. This is considered a significant deterrent, whereas applying a penalty would have little remedial value for a person whose privileged material has been unlawfully accessed.⁹⁹

DJAG also noted that section 332 of the CC Act, which allows for judicial review of a CCC investigation into corrupt conduct where a person claims the investigation is being conducted unfairly, could also apply in these circumstances.

⁹⁴ ARTK, submission 9, p 9; DJAG, correspondence, 1 March 2024, p 14.

⁹⁵ DJAG, correspondence, 1 March 2024, p 14.

⁹⁶ DJAG, correspondence, 1 March 2024, p 12.

⁹⁷ DJAG, correspondence, 1 March 2024, p 12.

⁹⁸ ARTK, submission 9, p 8.

⁹⁹ DJAG, correspondence, 1 March 2024, p 13.

Committee comment

The committee notes the issues raised by stakeholders in relation to journalist shield laws. The committee is satisfied that the provisions for journalist shield laws set out in the Bill strike a balance that upholds the rights of journalists and their confidential sources, while ensuring the CCC is able to effectively carry out investigations.

2.3 Tenure, qualifications and appointments



The Bill proposes to make amendments to implement recommendations 1, 3 and 4 of PCCC Report No. 106 and recommendation 5 of PCCC Report No. 108 by providing for:

- qualifications for ordinary commissioners (clauses 34 and 47)
- PCCC consideration of appointments (clauses 35, 42 and 47)
- tenure (clauses 36 - 38 and 47).¹⁰⁰

2.3.1 Background

The explanatory notes to the Bill provide information on the policy drivers for the proposed amendments relating to tenure, qualifications, and appointments:

Explanatory notes, pp 16-17



The amendments in the Bill respond to PCCC recommendations and are designed to enhance the independence of the CCC Commissioners and represent an appropriate balance between providing for increased flexibility in senior executive appointments to allow for retention of corporate knowledge and a succession pipeline for more senior positions and the need to guard against stakeholder capture and other corruption risks within the CCC as a core integrity agency in Queensland.

2.3.1.1 Tenure

Under the current CC Act, a commissioner and the Chief Executive Officer can only be appointed for a term of up to 5 years. They can be re-appointed to the position, as long as the total time in that office is not more than 10 years in total.¹⁰¹

The PCCC in Report No. 106 recommended that the maximum term of the Chairperson and ordinary commissioners should be reduced from 10 years to no more than 7 years, with commissioners being appointed for a single non-renewable term. This recommendation was supported by the Queensland Government, noting that reducing the maximum term will ‘help to address the potential for a Commissioner to, or perceived to, be impacted by the imperative for re-appointment’.¹⁰²

Recommendation 4 of Report No. 106



The PCCC recommends consideration be given to amending the CC Act to provide for a single non-renewable appointment for the Chairperson and Ordinary Commissioners of the CCC, not exceeding seven years.

Senior officers can also only be appointed for a term of up to 5 years under the current CC Act. They too can be reappointed for further terms, as long as the total time in office is not more than 10 years.

¹⁰⁰ Explanatory notes, pp 16-17.

¹⁰¹ Explanatory notes, p 5; CC Act, s 231.

¹⁰² Explanatory notes, p 6; Government Response dated 17 December 2021, p 3, <https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2021/5721T2140.pdf>.

If it can be shown it is necessary for the efficient operation of the commission, they can be appointed for a further term, as long as their total time in office is not more than 15 years.¹⁰³

The PCCC in Report No. 108 recommended the government consider the tenure of senior officers in conjunction with its review of the tenure of commissioners. This recommendation was supported by the Queensland Government.¹⁰⁴

The Bill's explanatory notes state that the amendments to tenure propose to:

... enhance the independence of the CCC Commissioners and represent appropriate balance between providing for increased flexibility in senior appointments to allow for retention of corporate knowledge and a succession pipeline for more senior positions and the need to guard against stakeholder capture and other corruption risks within the CCC as a core integrity agency in Queensland.¹⁰⁵

2.3.1.2 Qualifications for ordinary commissioners

The CC Act provides that to be appointed as chief executive officer, the person must have 'qualifications, experience or standing appropriate to perform the functions of the chief executive officer'. It also provides that for a person to be appointed as an ordinary commissioner, they must have 'qualifications, experience or standing appropriate to assist the commission to perform its functions'.¹⁰⁶

The PCCC in Report No. 106 recommended that ordinary commissioners hold a range of relevant qualifications.

Recommendation 1 of Report No. 106



The PCCC recommends that section 225 of the CC Act be amended, to require at least 2 persons to have a demonstrated interest and ability in community affairs, public administration or organisational leadership, to be qualified as Ordinary Commissioners.

According to the Bill's explanatory notes, the Government noted that, while the CC Act already permits persons with a variety of experiences to be qualified for appointment as Ordinary Commissioners, they support amending the Act to make these requirements explicit.¹⁰⁷ In her introductory speech, the Attorney-General stated that this amendment would 'support increased diversity and inclusion in the CCC and ensure its leadership is not dominated by lawyers'.¹⁰⁸

2.3.1.3 PCCC consideration of appointments

Under the current CC Act, bipartisan support of the PCCC is required for commission appointments to the CCC (including the Chairperson, Deputy Chairperson and Ordinary Commissioners), and CEO of the CCC.¹⁰⁹ Nominations for these positions are made by the responsible Minister, who must then consult with the PCCC. The PCCC is not required to provide reasons for its support or non-support of nominations.¹¹⁰ The PCCC in Report No. 106 recommended developing a mechanism to ensure nominees are appropriately considered by the PCCC.

¹⁰³ Explanatory notes, pp 5-6; CC Act, s 247.

¹⁰⁴ Explanatory notes, p 6.

¹⁰⁵ Explanatory notes, pp 16-17.

¹⁰⁶ Explanatory notes, p 5; CC Act, s 225.

¹⁰⁷ Explanatory notes, p 5.

¹⁰⁸ Record of Proceedings, 15 February 2024, p 250.

¹⁰⁹ CC Act, s 228(b); PCCC No. 106, p 11.

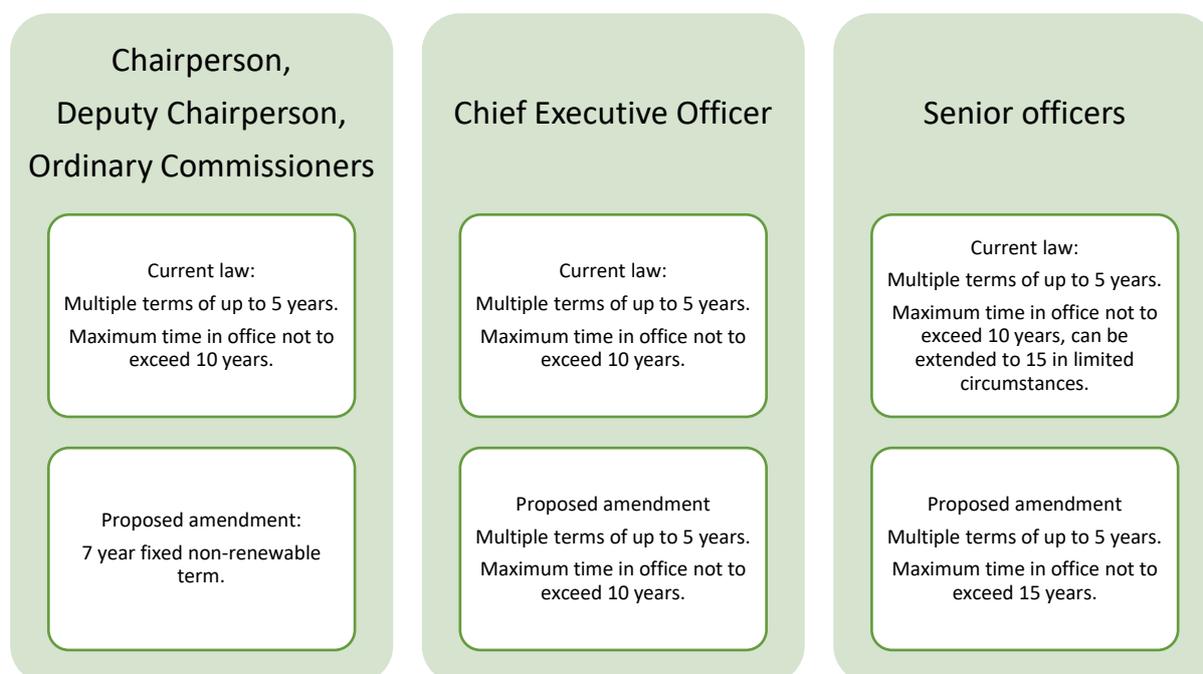
¹¹⁰ CC Act, s 228(a); PCCC No. 106, p 11.

2.3.2 Proposed amendments

2.3.2.1 *Tenure*

The Bill introduces a 7-year fixed non-renewable term for the Chairperson, Deputy Chairperson and Ordinary Commissioners, which will replace the current tenure of multiple terms with a total term not exceeding 10 years.¹¹¹ The Bill also proposes to insert new section 231A, which provides that the Chief Executive Officer may be appointed for a term not longer than 5 years, and can be reappointed as long as they do not hold the office for more than 10 years in total.¹¹² The Bill also amends section 247 of the CC Act to retain the appointment of senior officers for a term of no more than 5 years, but removes the previously limiting precondition of showing the reappointment is ‘necessary for the efficient operation of the commission’. The total time a senior officer can hold office will be extended to no more than 15 years. The Bill also includes a provision that the tenure limits will reset if the person has permanently left the employ of the CCC for 10 years.¹¹³ Where the appointment of a senior officer will result in them holding office for a period in excess of 10 years, the PCCC must be given written notice of the appointment including the period of the further term.¹¹⁴

The proposed amendments are summarised below:



2.3.2.2 *Qualifications for ordinary commissioners*

The Bill would amend section 225 of the CC Act by introducing a requirement that at least 2 out of 3 ordinary commissioners must have demonstrated interest and ability in:

- community affairs
- public administration, or
- organisational leadership.¹¹⁵

¹¹¹ Explanatory notes, p 17; Bill, cl 36.

¹¹² Explanatory notes, p 17; Bill, cl 36.

¹¹³ Explanatory notes, p 17; Bill, cl 37.

¹¹⁴ Explanatory notes, p 17; Bill, cl 38 .

¹¹⁵ DJAG correspondence, 23 February 2024, p 16.

2.3.2.3 *PCCC consideration of appointments*

The Bill would amend section 228 of the CC Act by providing that the PCCC must notify the Minister whether an appointment of CCC commissioner (including chairperson) or CEO has bipartisan support within 30 days. It also amends section 292 to require that the PCCC publish information about its participation in the appointment process, including reasons for delays in providing bipartisan support, and, where appropriate, reasons for withholding support.¹¹⁶

2.3.3 Stakeholder feedback and department response

2.3.3.1 *Tenure*

The CCC submitted that some of the Bill's provisions for duration of tenure would impact its performance:

- There are inherent challenges to the CCC retaining corporate knowledge and ensuring operational continuity in circumstances where the Chairperson of the CCC and its commissioners are appointed for fixed term tenure.
- Senior executive positions are limited by the 5 year contract provisions, which reflects the orthodox approach adopted in the Queensland public service. However senior executive positions at the CCC are also limited by duration of tenure provisions, with the result that there are regular and repeated breaks in the continuity of senior leadership overseeing the CCC's operations.
- When recruiting for these senior executive positions, the disparity of employment conditions between the CCC and the public service creates challenges in attracting eligible candidates. The CCC is a less attractive employer than other Queensland public sector entities and integrity agencies in other jurisdictions where positions do not have the same tenure limitations. The CCC also encounters difficulty retaining senior executives for the full duration of tenure, since candidates will inevitably start to look for other opportunities some time before the expiry of a fixed term contract.
- The tenure provisions do not allow a sufficient 'pipeline' to offer senior executives the opportunity to develop broad experience across the CCC's prevention, crime, corruption, research and intelligence functions which would be desirable for the positions of the Senior Executive Officers (Crime) and (Corruption) and the Chief Executive Officer of the CCC.¹¹⁷

With regards to the tenure of the Chief Executive officer, the CCC submitted that their tenure should be consistent with the tenure provisions for other senior executive positions. They also noted the lack of tenure limits for anti-corruption agencies in New South Wales, Victoria and the Commonwealth.

The CCC argued that 'there is no greater risk of institutional capture or corruption risk at the CCC than in the Queensland public service, and no differential approach to the employment of senior executives is necessary or appropriate'.¹¹⁸ They acknowledged that mitigating the risk of institutional capture was important, but questioned how this would be achieved by 'imposing an arbitrary limit of duration of tenure', and instead suggested employing senior executives on 5 year contracts.¹¹⁹

In their submissions, a number of former Logan City councillors expressed concerns over the Bill's provisions for tenure, including suggestions that tenure should be reduced, and not more than 10 years for senior officers, and that the maximum terms for Chairperson, Deputy Chairperson and

¹¹⁶ DJAG correspondence, 23 February 2024, p 16.

¹¹⁷ CCC, submission 1, pp 2-3.

¹¹⁸ CCC, submission 1, p 3.

¹¹⁹ CCC, submission 1, pp 2-3.

Ordinary Commissioners should be limited to 5 years.¹²⁰ Mr Pidgeon suggested limiting tenure to 4 year terms, in alignment with state government elections, with a limit of two consecutive 4 year terms.¹²¹

In response to the CCC’s concerns, DJAG referred to the comments made by the PCCC in Report Nos 106 and 108:

DJAG notes that in Report No. 106, *Review of the Crime and Corruption Commission activities* (June, 2021) (Report No. 106), at page 16, the PCCC acknowledged the importance of attracting and retaining a high calibre of qualified and appropriately experienced staff, particularly at senior levels, but commented that the PCCC does not support the proposal of the CCC to remove limits on the tenure of senior officers or the Chief Executive Officer (CEO) of the CCC.

In PCCC Report No. 108, *Inquiry into the Crime and Corruption Commission’s investigation of former councillors of Logan City Council; and related matters* (Report No. 108) the PCCC recommended DJAG consider issues regarding the tenure of senior officers, and take into account the CCC’s adoption of the PCCC’s position in relation to single, non-renewable appointments for the CCC Chairperson, Deputy Chairperson and Ordinary Commissioners, in conjunction with its consideration of relevant recommendations of Report No. 106 (recommendation 5).

The PCCC otherwise made no recommendation in its reports about tenure limits for these positions. The Government response to Report No. 108 supported recommendation 5, noting that the Government agreed to consider the tenure of senior officers alongside implementation of the Government’s response to 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, not exceeding seven years.¹²²

DJAG provides the following in relation to amendments of the CC Act relating to tenure:

DJAG, correspondence, 3 March 2024, p 16



The amendments to the CC Act:

- enhance the independence of the senior officer positions (by removing the requirement for the CCC to establish reappointment is necessary for the efficient operation of the CCC and allowing reappointment subject only to the existing performance standards); and
- represent an appropriate balance between providing for increased flexibility in senior executive appointments to allow for retention of corporate knowledge and a succession pipeline for more senior positions and the need to guard against stakeholder capture and other corruption risks within the CCC as a core integrity agency in Queensland.

Committee comment

The committee notes the submissions relating to tenure, qualifications, and appointments. The committee notes that while certain provisions of the Bill do not accord with various recommendations of reports noted previously, the amendments are intended to strike a balance between flexibility in senior executive appointments in the CCC and the need to guard against stakeholder capture.

¹²⁰ DJAG, correspondence, 1 March 2024, pp 17-18; See: Smith, submission 3, Schwarz, submission 5, Pidgeon, submission 7.

¹²¹ Pidgeon, submission 7, p 5.

¹²² DJAG, correspondence, 1 March 2024, pp 15-16.

2.4 DPP advice on corruption offences

The Bill addresses recommendations 25, 26, 27 and 28 of the CCC COI report by providing for:

- a requirement to seek pre-charge advice from the DPP on corruption offences
- establishment of a memorandum of understanding (MoU) between the CCC and DPP.

2.4.1 Background

The Attorney-General provided the following in her introductory speech:

Attorney-General, introductory speech, 15 February 2024



One of the key reforms in this bill is to provide enhanced oversight of decision-making in corruption investigations by requiring that the advice of the Director of Public Prosecutions be sought about a decision to bring charges arising from a corruption investigation. The commission of inquiry highlighted the complexity of cases investigated by the CCC and the harm that can eventuate if after a prosecution has been commenced criminal charges are subsequently withdrawn. Sound charging decisions are essential to the reputation and continued good standing of the CCC, and the commission of inquiry concluded that external oversight of decisions to charge in respect of matters arising out of a corruption investigation is essential to ensure the decision is made without reference to impermissible considerations.

The provisions arise from the CCC COI report which recommended the DPP's advice should be required before a charge arising from a corruption investigation is laid in order to ensure impartiality around charging decisions (Recommendation 25). Recommendation 26 was that the CCC and DPP develop a memorandum of understanding outlining the practices and procedures for the referral of matters and the provision of advice, including timeframes.¹²³ Recommendations 27 and 28 were to require the CCC to report to the Minister, PCCC and the Parliamentary Commissioner regarding the arrangement for the provision of advice by the DPP to the CCC, and about the effectiveness and utility of the memorandum of understanding, including timeframes and timeliness of the advice provided by the DPP.¹²⁴

2.4.2 Proposed amendments

2.4.2.1 *Pre-charge advice*

The Bill proposes to amend the CC Act to require that, before commencing a prosecution for a corruption offence, the CCC must seek the written advice of the DPP on whether a person should be prosecuted, and if so, for what offences.¹²⁵ According to DJAG, the Bill also provides that:

The CCC must provide the DPP with a report on the corruption investigation and include all relevant information known to the CCC. This includes compelled materials and is not limited to material that would be admissible in a prosecution.

Where a prosecution is commenced without first seeking advice because of exceptional circumstances, the CCC must seek the DPP's written advice as soon as reasonably practicable. The CCC must give a copy of the DPP's written advice to the prosecuting entity as soon as reasonably practicable after it is received. The prosecuting entity may need to take steps consistent with the advice, for example amending or withdrawing the charges before the court.

...

¹²³ DJAG, correspondence, 23 February 2024, p 12.

¹²⁴ DJAG, correspondence, 23 February 2024, p 12.

¹²⁵ DJAG, correspondence, 23 February 2024, p 12.

Where the DPP provides written advice to the CCC that a prosecution should be commenced, and the prosecuting authority declines to commence the prosecution, the CCC must inform the PCCC and Parliamentary Commissioner.¹²⁶

2.4.2.2 Memorandum of understanding

The Bill amends the CC Act to require the CCC and the DPP to enter an MoU to facilitate the operation of the new process for the prosecution of corruption offences. DJAG advised:

The memorandum of understanding must provide for various things as proposed by the CCC COI report, including the kind of information that must be included in a request by the CCC for the DPP's advice. It may also provide guidance on what constitutes exceptional circumstances for the purposes of commencing a prosecution before seeking the DPP's advice.

The CCC must publish a copy of the memorandum of understanding on its website.

To implement recommendations 27 and 28, the Bill provides that the CCC must advise the Minister as soon as practicable after the memorandum of understanding is entered into and that CCC must also report at regular intervals to the Minister, PCCC and Parliamentary Commissioner on the effectiveness and utility of the memorandum. These reports must include information about the timeliness of advice provided by the DPP.¹²⁷

2.4.3 Stakeholder feedback and department response

2.4.3.1 Pre charge advice - notice requirements

QLS recommended that new section 49D(1)(a) be expanded to include:

... particular details of the name of the prosecutor who prepared the advice referred to in new section 49D(1)(a)(i) and a description (e.g. the title and date of document) of the material referred to in new section 49B(2)(a) and (b).¹²⁸

QLS argued that this would allow practitioners to manage cases more efficiently, and reduce reliance on the filing of subpoenas.¹²⁹

In response DJAG advised that:

... the purpose of the notice is to ensure that the court has visibility of relevant matters relating to the proceeding, namely that the advice of the DPP has been sought in relation to the charges which are the subject of the prosecution.¹³⁰

DJAG further noted that the lawyer who prepares the advice would not be the person who appears for the prosecution of the matter, meaning that information relating to the person who prepared the advice is unnecessary with regards to the purpose of the notice.

Regarding the suggestion that the notice include a description of the material referred, DJAG advised that:

... such documenting may unnecessarily risk the wider dissemination of information which confirms the existence of privileged and prejudicial material as any such notice is to be prepared by the DPP and filed in the court registry. Should a legal representative for an accused wish to scrutinise DPP compliance then the subpoena procedures are more appropriate.

Given that under the new advice function established by the Bill all available and relevant material, whether admissible or inadmissible, is to be provided to the DPP in order to obtain their genuine independent advice, if the prosecutor undertaking the prosecution was exposed in any way to the detail

¹²⁶ DJAG, correspondence, 23 February 2024, p 12.

¹²⁷ DJAG, correspondence, 23 February 2024, p 13.

¹²⁸ QLS, submission 10, p 3.

¹²⁹ QLS, submission 10, p 3.

¹³⁰ DJAG, correspondence, 1 March 2024, p 4.

of coerced material, this could result in proceedings being jeopardised or frustrated on the basis of unfairness to the accused. As outlined in the statement of compatibility for the Bill, DJAG notes that the internal governance of the ODPP [Office of the Director of Public Prosecutions] operates in a way that ensures coerced material can be quarantined from the prosecutor undertaking the prosecution. This is to ensure that the DPP does not gain any forensic advantage in exercising its prosecutorial function due to the provision of the compelled evidence of an accused person as part of the advice process.¹³¹

2.4.3.2 Pre charge advice – exceptional circumstances

LGAQ noted the proposed amendments in relation to exceptional circumstances, and welcomed guidance as to where exceptional circumstances may be necessary.¹³²

QLS submitted that it believes the Bill departs from the recommendations in the CCC COI report in relation to ‘exceptional circumstances’ in section 49C:

We cannot identify any justification for this provision from the inquiry from 2021 and, in our view, the EN are insufficient to justify a departure from the recommendations of the inquiry. The EN refer to the Commission of Inquiry report noting, "the CCC COI suggests that this may be in emergent situations where an arrest is essential". This is not, without more criteria being satisfied, an exceptional circumstance. Arrest is a power to be exercised with discretion.¹³³

DJAG provided the following in relation to the application of ‘exceptional circumstances’:

Recommendation 25 of the CCC COI report contemplated that the requirement to obtain DPP advice prior to charges being laid should apply ‘other than in exceptional circumstances’ and recommended a specific procedure should apply in such cases to require the CCC to obtain the DPP’s advice as soon as reasonably practicable and take steps consistent with the advice.

DJAG notes that ‘exceptional circumstances’ when used in legislation is not generally a defined term. It is intended to allow for a range of factual circumstances, including those that may not be anticipated at the time of drafting the amendments.

DJAG considers that it would be impossible to define all the facts and circumstances that may be considered exceptional, however, an example has been included in the Bill for guidance – that is, an emergent situation where an immediate arrest is essential.

DJAG further notes that exceptional circumstances does not alleviate the need to obtain the DPP’s advice. As highlighted above, in these circumstances recommendation 25 requires the CCC to obtain the DPP’s advice in relation to the charge against the person as soon as reasonably practicable after charges are laid and take steps consistent with the advice. New section 49C(2)-(6) outlines this process.¹³⁴

In her introductory speech, the Attorney-General provided the following:

To ensure flexibility, ‘exceptional circumstances’ is not defined but, as noted by the commission of inquiry, may include where arrest is necessary to ensure the person’s appearance before a court—for example, where an alert notifies investigators that a target is at the airport with a one-way ticket to a non-extradition country. Exceptional circumstances must be determined having regard to the particular facts and circumstances of the individual matter. Where exceptional circumstances exist, the CCC must still seek the DPP’s written advice as soon as reasonably practicable.¹³⁵

¹³¹ DJAG, correspondence, 1 March 2024, pp 4-5

¹³² LGAQ, submission 2, pp 4-5.

¹³³ QLS, submission 10, p 3.

¹³⁴ DJAG, correspondence, 1 March 2024, p 4.

¹³⁵ Record of Proceedings, 15 February 2024, p 249.

2.4.3.3 *Prosecution of corruption offences*

LGAQ submitted that it ‘strongly supports’ the implementation of recommendation 25 of the CCC COI report, stating that:¹³⁶

The LGAQ notes that it has long been the LGAQ’s submission that section 49(2) of the *Crime and Corruption Act 2001* (CC Act) needs to be amended to require, prior to the laying of serious criminal charges about corrupt conduct, the CCC to report on its investigation to the Office of the Director of Public Prosecutions (ODPP).

...

The LGAQ notes that it has previously submitted that section 49(2) of the CC Act should be amended to require an intended CCC decision to lay criminal charges for a “disqualifying offence” (under section 153(6) of the Local Government Act 2009 (LGA)), to be first subject to a report to, and review by, the Director of Public Prosecutions (DPP) (or senior independent legal adviser), prior to such charges being laid.¹³⁷

QLS submitted that:

... the new subdivision does not address the concern of the CCC effectively prosecuting matters, or being involved in the prosecution of matters, where these matters should be referred, and left with, a prosecuting authority to determine the next steps.

The QLS submits the CC Act, when read as a whole, clearly outlines that it investigates matters and, if it considers there should be criminal charges following an investigation, refers the matter to a prosecuting authority. The QLS notes this is explicitly provided for in new sections 49B and 49C of the Bill.

While there is a specific provision in section 50 of the CC Act outlining the limited circumstances when the CCC can prosecute a matter, section 49 necessitates that a prosecution following a corruption investigation should be undertaken by a prosecuting authority and not by the CCC itself.¹³⁸

QLS further submitted that they have:

... previously expressed concern about the CCC deploying seconded police officers to carry out its functions. We are particularly concerned now by the new definition of ‘prosecuting authority’ in section 49(5) which explicitly includes a police officer seconded to the commission.¹³⁹

In response to the concerns raised by QLS, DJAG noted that:

... the longstanding use of seconded police officers by the CCC was considered in detail by the CCC COI. The CCC COI recommended that police officers who are seconded to the CCC retain their police powers as per sections 174 and 255 of the CC Act (recommendation 2), including their charging function in relation to corruption offences.

DJAG notes the CCC COI report made no recommendation to specifically exclude seconded police officers from the definition of “prosecuting authority” under section 49 and the Bill clarifies that a prosecuting authority includes a police officer seconded to the CCC under section 255.¹⁴⁰

In response to LGAQ, DJAG noted that:

... a key policy objective of the Bill is to implement the Government’s response to certain recommendations of the CCC COI report relating to advice from the DPP about charges arising from corruption investigations.

While DJAG notes that the CCC COI did not specifically consider “disqualifying offences” in making its recommendations around providing oversight of decisions to charge following a corruption investigation,

¹³⁶ LGAQ, submission 2, p 4.

¹³⁷ LGAQ, submission 2, p 6.

¹³⁸ QLS, submission 10, pp 2-3.

¹³⁹ QLS, submission 10, p 3.

¹⁴⁰ DJAG, correspondence, 1 March 2024, p 3.

depending on the circumstances and context of the corruption investigation, a “corruption offence” under the CC Act may be a “disqualifying offence” under the LGA, and therefore may be captured by proposed new sections 49A to 49G.¹⁴¹

2.4.3.4 *Memorandum of Understanding*

Ms Schwartz was supportive of an MoU between the CCC and DPP, submitting that:

I feel the MOU should include the requirement that the DPP is to check and ensure the CCC has followed legislation and investigated with natural justice, fairly unbiasedly, impartially and have undertaken a balanced and thorough investigation which the CCC grossly failed to do so in the case of the Logan 7.¹⁴²

Mr Pidgeon submitted that:

... there must be performance benchmarks and reporting provisions placed onto the DPP to ensure that the DPP has undertaken all possible actions to ensure the CCC has acted according to the CC Act, has acted impartially and acted properly when considering whether to further charges against potentially innocent parties.¹⁴³

In response to these comments, DJAG advised:

In commenting upon the DPP’s suitability as the entity best placed to provide advice about corruption offences, the CCC COI report relevantly noted (at p.131) that the DPP is best placed to identify gaps in evidence and to have the CCC follow up evidentiary issues; assess the sufficiency of evidence; and scrutinise potential defences open on the material to hand.

DJAG also notes the CCC COI report made other recommendations directed to the CCC to improve the way the CCC operates, including for the diversification and civilianisation of the CCC’s Corruption Division to ensure a multidisciplinary approach to investigations and to reduce the risk of institutional capture.¹⁴⁴

Committee comment

The committee notes that submitters were supportive of provisions to allow for DPP oversight of CCC corruption investigations. The committee notes that concern was raised in relation to the prosecution powers of the CCC, the powers available to police officers seconded to the CCC, and the treatment of former Logan City councillors. The committee recognises the importance of external oversight in ensuring the CCC remains accountable, and in high community standing.

2.5 Directions for the performance of duties by CCC officers

2.5.1 Background

Under the CC Act, a CCC officer can be employed by the CCC as:

- commission staff under section 254
- seconded staff under section 255, or
- as an agent under section 256.

While section 257 of the current CC Act provides for the CCC to issue directions for the performance of duties for commission staff and seconded staff, no such power exists for agents engaged under section 256.¹⁴⁵ Section 256 of the current CC Act provides:

¹⁴¹ DJAG, correspondence, 1 March 2024, p 2.

¹⁴² Schwartz, submission 5, pp 3-4.

¹⁴³ Pidgeon, submission 7, p 6.

¹⁴⁴ DJAG, correspondence, 23 February 2024, p 6.

¹⁴⁵ Explanatory notes, p 6.

(1) To meet temporary circumstances, the commission may engage suitably qualified persons to provide it with services, information or advice.

(2) A person engaged under subsection (1) is engaged on the terms and conditions decided by the commission and not under the Public Sector Act 2022.

Recommendation 5 of PCCC Report No. 106 recommended amending section 256.

Recommendation 5 of the Report No. 106



The PCCC recommends that section 257 of the CC Act be amended, to enable the CCC to issue directions for the performance of duties by CCC officers who are employed by the CCC under section 256 of the CC Act.

In its submission to the PCCC in the 2021 inquiry, the CCC commented on its concerns regarding those engaged under section 256:

There are circumstances where a person’s misconduct may be so grave that the CCC’s CEO would consider that dismissal is the appropriate disciplinary outcome. Where a person is a secondee, dismissal for these purposes only amounts in practice to termination of the secondment. The same considerations apply to disciplinary sanctions such as demotion or reduction in pay levels – they do not apply to seconded officers because the CCC cannot alter the underlying employment relationship between the employee and their ‘home agency’.¹⁴⁶

2.5.2 Proposed amendments

The Bill amends section 257 of the CC Act to enable the CCC to issue directions on the performance of duties by commission officers who are engaged by the CCC under section 256 of the CC Act.¹⁴⁷

Committee comment

The committee is satisfied that the proposed amendments address concerns regarding CCC officers employed under section 256 of the CC Act.

2.6 Parliamentary Commissioner investigations

2.6.1 Background

DJAG summarised the role of the Parliamentary Commissioner as follows:

The Parliamentary Commissioner performs an important oversight role in relation to the CCC including, as required by the PCCC, to audit and inspect records and registers and to investigate complaints made against the CCC or a CCC officer.¹⁴⁸

Under the current CC Act, the Parliamentary Commissioner cannot investigate the purely internal conduct of a CCC officer, as the CCC is not a unit of public administration (UPA). This is because section 15 of the CC Act defines corrupt conduct as conduct of a person ‘that adversely affects, or could adversely affect ... the performance of functions or the exercise of powers of a unit of public administration’.¹⁴⁹ This means purely internal conduct of a CCC officer cannot be corrupt conduct, and therefore cannot be investigated by the Parliamentary Commissioner.

In 2021, the Principal Legal Officer in the Office of the Parliamentary Commissioner noted that existing provisions would still allow the Parliamentary Commissioner to investigate an internal CCC matter, but

¹⁴⁶ PCCC Report No. 106, p 18.

¹⁴⁷ Explanatory notes, p 17.

¹⁴⁸ DJAG, correspondence, 23 February 2024, p 19.

¹⁴⁹ PCCC Report No. 106, p 131.

that the Parliamentary Commissioner would have to request the PCCC refer a matter to it.¹⁵⁰ DJAG has noted that this appears to be an ‘unnecessary step’.¹⁵¹ Recommendation 28 of PCCC Report No. 106 suggested amending the CC Act to clarify this situation.

Recommendation 28 of the Report No. 106



The PCCC recommends that section 314 of the CC Act be amended, to clarify that the Parliamentary Commissioner has the function to investigate on his or her own initiative a matter which relates to the conduct of a CCC officer, that would, if the person were an officer in a unit of public administration, be corrupt conduct.

2.6.2 Proposed amendments

The Bill amends section 314 of the CC Act to ensure that the Parliamentary Commissioner can investigate on their own initiative a matter relating to a CCC officer that would otherwise be considered corrupt conduct.¹⁵²

2.6.3 Stakeholder feedback and department response

The Parliamentary Commissioner supports the proposed amendment to section 314 of the CC Act to clarify that the Parliamentary Commissioner may conduct an own initiative investigation in relation to conduct of a CCC officer that would be corrupt conduct if the officer were an officer in a UPA.

The Parliamentary Commissioner notes the current wording of section 314 unnecessarily limits the Parliamentary Commissioner’s own initiative investigative jurisdiction. The Office of the Parliamentary Commissioner sought an amendment similar to that proposed in the Bill in a submission to the PCCC’s 2015 review of the CCC’s activities.¹⁵³

DJAG has noted the Parliamentary Commissioner’s comments.

2.7 Criteria for prescribing entities as units of public administration

2.7.1 Background

Recommendation 3(b) of the Windage Report was that councils’ controlled entities (CCEs) should be deemed to be UPAs, bringing these entities within the oversight of the CCC and also subjecting them to the RTI Act.¹⁵⁴

DJAG noted that the current CC Act already provides a mechanism whereby entities may be prescribed as UPAs, bringing them within the jurisdiction of the CCC. There are no CCEs (or any other entities) currently prescribed as UPAs under the CC Act.¹⁵⁵ DJAG further noted that:

... amendments to the RTI Act contained in the *Information Privacy and Other Legislation Amendment Act 2023* (IPOLA Act) provide for clearer criteria for declaring by regulation entities as public authorities under the RTI Act, and clarify that entities can be declared as public authorities for only part of their functions. Under the amendments, before an entity is declared to be a public authority, it must meet certain criteria and the Minister must consider it to be in the public interest for an entity to be prescribed as a public authority, having regard to specified matters.¹⁵⁶

¹⁵⁰ PCCC Report No. 106, p 132.

¹⁵¹ DJAG, correspondence, 23 February 2024, p 19.

¹⁵² Bill, cl 43.

¹⁵³ Parliamentary Crime and Corruption Commissioner, submission 8, p 2.

¹⁵⁴ Windage Report, p 8.

¹⁵⁵ DJAG, correspondence, 23 February 2024, p 19.

¹⁵⁶ DJAG, correspondence, 23 February 2024, p 19.

2.7.2 Proposed amendments

DJAG summarised the Bill’s amendments implementing recommendation 3(b) of the Windage Report as follows:

The Bill amends section 20 of the CC Act to introduce clear criteria, including a public interest test, for prescribing an entity as a UPA. The introduction of transparent, guiding factors on the face of the legislation, consistent with those made to the RTI Act by the IPOLA Act, is designed to ultimately enhance the utility of the provision.¹⁵⁷

DJAG stated that these amendments are consistent with those made to the RTI Act by the IPOLA Act [*Information Privacy and Other Legislation Amendment Act 2023*] and are ‘designed to ultimately enhance the utility of the provision’.¹⁵⁸

2.7.3 Stakeholder feedback and department response

LGAQ noted the amendments to section 20 of the CC Act, and requested that:

... the Committee consider adding a consultation component with the relevant council CEO into the public interest test established by the Bill, to ensure there is adequate understanding of the relevant council controlled entity under consideration by the Minister as a unit of public administration.¹⁵⁹

DJAG provided the following in relation to the amendments relating to prescribing an entity as a UPA:

While the amendments do not mandate any form of formal consultation to be undertaken either with an entity being considered for prescription as a UPA or any other person, DJAG notes that there is nothing to prevent the Minister from undertaking such consultation where appropriate and in order to satisfy themselves that it is in the public interest to prescribe the entity.¹⁶⁰

Committee comment

The committee notes the purpose of the amendments to section 20 of the CC Act is to implement recommendation 3(b) of the Windage Report. The committee notes that it is important to ensure CCEs are subject to CCC oversight.

2.8 Other amendments

Other amendments contained within the Bill are discussed below.

2.8.1 Connolly-Ryan Inquiry records

The Bill amends the CC Act to enable the storage of the ‘Connolly-Ryan inquiry’ records at the premises of Queensland State Archives on behalf of the Parliamentary Commissioner.¹⁶¹ DJAG provides the following background and reasoning for this amendment:

The Inquiry into the Future role, Structure, Powers and Operations of the Criminal Justice Commission (known as the Connolly-Ryan Inquiry) was established in October 1996 but terminated in August 1997. Generally, records of a COI become the responsibility of an identified public authority and are transferred to QSA following its conclusion. However, this process was not followed with respect to the Connolly-Ryan Inquiry and under section 374 of the CC Act, the Parliamentary Commissioner continues to have responsibility for the records. The records are currently held in the Parliament’s Legislative Council strongroom where they are causing storage issues.¹⁶²

¹⁵⁷ DJAG, correspondence, 23 February 2024, p 20.

¹⁵⁸ DJAG, correspondence, 23 February 2024, p 20.

¹⁵⁹ LGAQ, submission 2, p 5.

¹⁶⁰ DJAG, correspondence, 1 March 2024, p 21.

¹⁶¹ Bill, cl 46.

¹⁶² DJAG, correspondence, 23 February 2024, p 20.

The Parliamentary Commissioner supported the amendments.¹⁶³

2.8.2 Other amendments

As the Attorney-General outlined in her introductory speech, a range of miscellaneous minor and technical amendments are also included in the Bill. This includes an amendment to the *Telecommunications Interception Act 2009* to ensure the Parliamentary Commissioner and Public Interest Monitor can report on contraventions of conditions or restrictions in telecommunications interception warrants issued under part 2-5 of the Commonwealth *Telecommunications (Interception and Access) Act 1979*. The Bill also amends the *Public Sector Act 2022* to broaden the scope of persons to whom the Premier may delegate a ministerial function.¹⁶⁴

2.8.3 Proceedings for indictable offences

The Bill amends the CC Act to categorise offences carrying a maximum penalty of 5 years imprisonment as misdemeanours and ensures that section 219 (Proceedings for an offence) applies on the basis that they are indictable offences.¹⁶⁵

Committee comment

The committee notes that, to have sufficient regard for the rights and liberties of individuals, the consequences of legislation should be relevant and proportionate. In line with this, a penalty should be proportionate to the offence, and penalties within legislation should be consistent with each other. The provisions in the Bill may in some cases result in individuals facing higher penalties, including longer prison terms. The committee is satisfied that the penalties for the offences provided for in the Bill are relevant and proportionate.

Overall committee comment

The committee recognises that the prosperity of democratic societies depends on robust anti-corruption mechanisms and institutions. At the same time, these powerful institutions must be subject to external oversight and frequent review to ensure they remain trusted as independent investigatory bodies. The significant coercive powers of these institutions must be balanced with safeguards that protect fundamental rights and freedoms.

The committee is satisfied that the amendments set out in the Bill strike this balance.

In conducting this inquiry, the committee heard from stakeholders who raised the prospect of future reforms to the CCC relying on further recommendations contained within various PCCC reports, the CCC COI report, and the Windage report. The committee agrees that the government should consider future reform to implement further recommendations contained within these reports.

¹⁶³ DJAG, correspondence, 1 March 2024, p 21.

¹⁶⁴ Record of Proceedings, 15 February 2024, p 252.

¹⁶⁵ DJAG, correspondence, 23 February 2024, p 22.

Appendix A – Submitters

Sub #	Submitter
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1	Crime and Corruption Commission
2	Local Government Association of Queensland
3	Laurence William Smith
4	David Kenny
5	Trevina Schwarz
6	Name withheld
7	Phil Pidgeon
8	Michael Woodford, Parliamentary Crime and Corruption Commissioner
9	Australia's Right to Know Coalition
10	Queensland Law Society
11	Cherie Dalley

Appendix B – Officials at public departmental briefing

Department of Justice and Attorney-General

- Leanne Robertson, Acting Deputy Director-General, Justice Policy and Reform
- Kathryn Allan, Acting Director, Strategic Policy and Legislation, Justice Policy and Reform
- Glenda Newick, Acting Principal Legal Officer, Strategic Policy and Legislation, Justice Policy and Reform
- Kristina Lang, Acting Senior Legal Officer, Strategic Policy and Legislation, Justice Policy and Reform

Appendix C – Witnesses at public hearing

Australia's Right to Know

- Gina McWilliams, Senior Legal Counsel, News Corp Australia
- Georgia-Kate Schubert, Policy and Government Affairs, News Corp Australia

Bar Association of Queensland

- Laura Reece, Barrister
- Joshua Jones, Barrister

Crime and Corruption Commission

- Bruce Barbour, Chairperson
- David Caughlin, Executive Director, Legal, Risk and Compliance

Queensland Law Society

- Rebecca Fogerty, President
- Dominic Brunello, Chair, QLS Criminal Law Committee
- Bridget Cook, Senior Policy Solicitor

Trevina Schwarz

Laurence Smith

Phil Pidgeon

Appendix D – Recommendations addressed in the Bill

Report	Rec No.	Recommendation
97	6	The PCCC recommends that the government review of Chapters 3 and 4 of the CC Act to: develop uniform provisions with generic application to CCC functions where appropriate; and clarify what specific privileges are abrogated or unaffected by the provisions of the CC Act.
97	27	The PCCC recommends that the CC Act be amended to enable CCC officers to make lawful disclosures concerning suspected corrupt conduct and improper conduct (as defined in section 329(4) of the CC Act). The amendments should also ensure that a CCC officer who makes such a disclosure is entitled to the same protections granted to public sector employees under the <i>Public Interest Disclosure Act 2010</i> .
106	1	The PCCC recommends that section 225 of the CC Act be amended, to require at least 2 persons to have a demonstrated interest and ability in community affairs, public administration or organisational leadership, to be qualified as Ordinary Commissioners
106	3	The PCCC recommends that for the consideration of nominees for appointment as commissioners (including the Chairperson) and Chief Executive Officer of CCC, that the government give consideration to developing a mechanism to ensure nominees are appropriately considered by the PCCC, and any delay in progressing consideration of appointments be able to be publicly discussed.
106	4	The PCCC recommends consideration be given to amending the CC Act to provide for a single non-renewable appointment for the Chairperson and Ordinary Commissioners of the CCC, not exceeding seven years.
106	5	The PCCC recommends that section 257 of the CC Act be amended, to enable the CCC to issue directions for the performance of duties by CCC officers who are employed by the CCC under section 256 of the CC Act.
106	9	The PCCC recommends the government consider legislative amendments to enable CCC officers to make lawful disclosures and be afforded the same protections as those engaged in a unit of public administration under the Public Interest Disclosure framework.
106	28	The PCCC recommends that section 314 of the CC Act be amended, to clarify that the Parliamentary Commissioner has the function to investigate on his or her own initiative a matter which relates to the conduct of a CCC officer, that would, if the person were an officer in a unit of public administration, be corrupt conduct.
108	5	The PCCC recommends the Department of Justice and Attorney-General consider issues regarding the tenure of senior officers, and take into account the Crime and Corruption Commission's (CCC) adoption of the committee's position in relation to single, non-renewable appointments for the CCC 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.

Report	Rec No.	Recommendation
CCC COI	25	<p>The CC Act be amended as necessary to give effect to the following changes:</p> <ul style="list-style-type: none"> a) Other than in exceptional circumstances, before a charge is laid by a seconded police officer during, or following, a corruption investigation, the CCC must seek the opinion of the Director of Public Prosecutions concerning whether a charge may properly be brought having regard to the two-tier test in the Director’s Guidelines. b) Notwithstanding any other law or any other provision of the CC Act, if the Director of Public Prosecutions advises that a charge should not be brought, the seconded police officer must not charge contrary to that advice. <p>If the Director of Public Prosecutions advises a charge may properly be brought and a decision is made by the seconded police officer not to charge, the CCC must report to the PCCC and the Parliamentary Crime and Corruption Commissioner about the decision made.</p>
CCC COI	26	<p>The CCC and the Director of Public Prosecutions develop a Memorandum of Understanding outlining the practices and procedures for the referral of matters and the provision of advice, including timeframes.</p>
CCC COI	27	<p>The CCC report to the Minister regarding the arrangement for the provision of advice by the Director of Public Prosecutions to the CCC, and about the effectiveness and utility of the Memorandum of Understanding, including timeframes and timeliness of the advice provided by the Director of Public Prosecutions.</p>
CCC COI	28	<p>The CCC report to the PCCC and the Parliamentary Crime and Corruption Commissioner on the effectiveness and utility of the Memorandum of Understanding, including timeframes and timeliness of the advice provided by the Director of Public Prosecutions.</p>
Windage	3(b)	<p>That councils’ controlled entities should be deemed to be units of public administration, bringing these entities within the oversight of the CCC and also subjecting them to the <i>Right to Information Act 2009</i>.</p>

Appendix E – Report No. 97 Recommendations

Rec. No.	Recommendation ¹⁶⁶	Government response ¹⁶⁷
1	The PCCC recommends that the governance framework of the CCC be considered by the PCCC during its periodic review of the structure of the CCC within the next 12 months.	Noted
2	The PCCC recommends that the government give consideration to the potential implications of the CCC's proposal to replace the system of specific and general referrals with a system of 'referrals only', in particular the consequences of removing the condition expressed in section 28(1)(a) of the CC Act.	Supported
3	That the CC Act be amended to provide that the Chairperson of the Commission be the Chair of the Crime Reference Committee, but may delegate this role to the Senior Executive Officer (Crime).	Supported
4	The PCCC recommends that the CCC review court judgments that could have a bearing on the operation of the CCC and the Queensland Police Service and that relevant departments, including DJAG, should ensure that any amendments considered necessary are dealt with expeditiously.	Noted
5	The PCCC recommends that the government give consideration to amending section 49 of the CC Act to remove the power for the CCC to refer corruption investigation briefs to the Director of Public Prosecutions for the purposes of considering prosecution proceedings.	Supported
6	The PCCC recommends that the government review of Chapters 3 and 4 of the CC Act to: develop uniform provisions with generic application to CCC functions where appropriate; and clarify what specific privileges are abrogated or unaffected by the provisions of the CC Act.	Supported
7	The PCCC recommends that the government consider a review of the power provisions in the PPRA and CC Act to: ensure consistency between the PPRA and CC Act and between the various functions in the CC Act where appropriate; and consider any new powers necessary for the CCC's operations.	Supported
8	The PCCC accordingly recommends that the PCCC and its successors should continue to monitor whether the definition of 'corrupt conduct' is inhibiting the CCC from investigating any conduct that ought to be subject to its jurisdiction, and any amendments to section 15 of the CC Act introduced by the Government in response to any issues identified in the responses to DJAG's Issues Paper.	Noted
9	The PCCC recommends that the CCC give greater prominence to the principle of devolution on its website and public documents, including: specifying the kinds of conduct that the CCC retains and investigates itself; the proportion of all complaints that are referred to the unit of public administration in which the conduct complained of occurred; and, explaining in plain English the practical effect of the principle of devolution.	Noted
10	The PCCC recommends that the PCCC and its successors monitor the recommendations of the independent review panel, particularly in relation to potential options for resolving the potentially conflicted role of CEOs of local governments in the preliminary assessment and general management of complaints.	Noted

¹⁶⁶ Adapted from Report No. 97. The full report can be found at: <https://documents.parliament.qld.gov.au/tp/2016/5516T1027.pdf>.

¹⁶⁷ Tabled 16 December 2016, <https://documents.parliament.qld.gov.au/tp/2016/5516T2273.pdf>.

Rec. No.	Recommendation ¹⁶⁶	Government response ¹⁶⁷
11	The PCCC recommends that the PCCC and its successors monitor and review the operation of the new notification threshold to ensure that the CCC continues to be notified of matters that ought to be brought to its attention.	Noted
12	The PCCC recommends that the CC Act be amended to require units of public administration to prepare and retain complete and accurate records of any decision not to notify the CCC of an allegation of corrupt conduct, including the reasoning on which that decision is based, the evidence (or lack thereof) considered and any findings in relation thereto.	Supported
13	The PCCC recommends that the <i>Government Owned Corporations Act 1993</i> and the <i>Public Interest Disclosure Act 2010</i> be amended to provide that where a government owned corporation is required to refer a matter under the <i>Corporations Act 2001</i> or any other federal government legislation, that the CCC also be advised so that both Federal and State bodies can liaise on the matter.	Supported
14	The PCCC recommends that the government give consideration to amending sections 55, 73 and 75 of the CC Act to expressly provide that the powers conferred on the CCC by these provisions apply to the performance of the CCC’s monitoring function.	Supported
15	The PCCC recommends that the definition of ‘reviewable decision’ in section 219BA of the CC Act be amended to specify that the CCC may apply to QCAT for the review of a decision by the QPS not to initiate disciplinary proceedings against an officer for police misconduct.	Supported
16	The PCCC recommends that section 50 of the Crime and Corruption Act 2001 be amended to enable the Commission to initiate disciplinary proceedings in QCAT’s original jurisdiction in respect of police misconduct.	Supported
17	The PCCC recommends that the government give consideration to a comprehensive review of the use of suspended sanctions within the police discipline system – in particular, whether the use of suspended sanctions is appropriate where the sanction is dismissal.	Supported
18	The PCCC recommends that the government consider amending section 12(2) of the <i>Police Service (Discipline) Regulations 1990</i> to ensure that a suspended sanction remains on the subject officer’s record.	Supported
19	The PCCC recommends that section 219G of the CC Act be amended to lengthen the period for making an application to QCAT for review of a reviewable decision to 28 days.	Supported
20	The PCCC recommends that the government give consideration to amending sections 55, 73 and 75 of the CC Act to expressly provide that the powers conferred on the CCC by these provisions apply to the performance of the CCC’s corruption prevention function.	Supported
21	The PCCC recommends that the government review the disclosure provisions of the CC Act to ensure that they reflect contemporary principles of inter-agency cooperation, while maintaining adequate protections for the protection of confidential information.	Supported
22	The PCCC recommends that sections 42 and 44 of the CC Act 2001 be amended to ensure that the Commissioner of Police or a public official may, subject to claims of privilege, use information regarding alleged corruption provided by the CCC for the purpose of dealing with the alleged corruption, including the taking of disciplinary action.	Supported

Rec. No.	Recommendation ¹⁶⁶	Government response ¹⁶⁷
23	The PCCC recommends that section 50 of the CC Act be amended to deem units of public administration and appointments therein to be within the jurisdiction of QCAT for the purpose of making findings of corrupt conduct against former public sector employees.	Supported
24	The PCCC recommends that the CC Act and other relevant legislation be amended to: <ul style="list-style-type: none"> • allow a disciplinary finding against a CCC officer who changes employment to another public sector agency to be transferred to the new employing chief executive; • allow the CCC to delegate the authority to make a disciplinary finding about a former CCC officer to the new employing chief executive; and • provide the same reciprocal rights to other public sector agencies whose employees change employment to the CCC. 	Supported
25	The PCCC recommends that the CC Act and other relevant legislation be amended to enable the CCC to provide and receive disciplinary information about a current holder of, or an applicant for, an appointment with the CCC (including a secondment) that the CCC, the chief executive of a public sector department or the Commissioner of Police has about that person. The amendments should specify that the information may be requested in the same circumstances as those currently provided for in section 188B(1)(b) of the <i>Public Service Act 2008</i>	Supported
26	The PCCC recommends that the government give consideration to a single confiscation agency administering the schemes under Chapter 2, 2A and 3 of the <i>Criminal Proceedings Confiscation Act 2002</i> and the relevant agency be provided with the appropriate resources to administer the schemes.	Supported
27	The PCCC recommends that the CC Act be amended to enable CCC officers to make lawful disclosures concerning suspected corrupt conduct and improper conduct (as defined in section 329(4) of the CC Act). The amendments should also ensure that a CCC officer who makes such a disclosure is entitled to the same protections granted to public sector employees under the <i>Public Interest Disclosure Act 2010</i> .	Supported in-principle
28	The PCCC recommends that the relevant legislation be amended to ensure that CCC officers and Police Service Review Commissioners are afforded the same protections against civil liability provided to public servants.	Supported
29	The PCCC recommends that section 14(h) of the <i>Telecommunications Interception Act 2009</i> be amended to require all authorisations under section 66(2) of the <i>Telecommunications (Interception and Access) Act 1979</i> (Cth) and all written appointments of authorising officers under section 66(4) be kept in the authority's records.	Supported

Appendix F – Report No. 106 Recommendations

Rec. No.	Recommendation ¹⁶⁸	Government response ¹⁶⁹
1	The PCCC recommends that section 225 of the CC Act be amended, to require at least 2 persons to have a demonstrated interest and ability in community affairs, public administration or organisational leadership, to be qualified as Ordinary Commissioners.	Supported
2	The PCCC recommends the definition of ‘bipartisan support’ of the parliamentary committee in Schedule 2 of the CC Act be amended so that it provides for <ul style="list-style-type: none"> • support of the members of the parliamentary committee unanimously, or • support of a majority of the members appointed by the Leader of the House (including a member appointed as a substitute committee member in place of a member nominated by the Leader of the House), and the support of a majority of members appointed by the Leader of the Opposition (including a member appointed as a substitute committee member in place of a member nominated by the Leader of the Opposition). 	Not supported
3	The PCCC recommends that for the consideration of nominees for appointment as commissioners (including the Chairperson) and Chief Executive Officer of CCC, that the government give consideration to developing a mechanism to ensure nominees are appropriately considered by the PCCC, and any delay in progressing consideration of appointments be able to be publicly discussed.	Supported in-principle
4	The PCCC recommends consideration be given to amending the CC Act to provide for a single non-renewable appointment for the Chairperson and Ordinary Commissioners of the CCC, not exceeding seven years.	Supported
5	The PCCC recommends that section 257 of the CC Act be amended, to enable the CCC to issue directions for the performance of duties by CCC officers who are employed by the CCC under section 256 of the CC Act.	Supported in-principle
6	The PCCC recommends that the CCC and the QPS update their practices and procedures in regards to public reporting associated with the charging, or investigating, of police officers, to ensure that the outcome is also subject to public reporting, in circumstances where the police officer is cleared of the publicly reported allegations.	Noted
7	The PCCC recommends the secretariat functions for the Commissioners for Police Service Review are transferred from the CCC to another appropriate entity, separate from the QPS.	Supported in-principle
8	The PCCC recommends the security vetting practices of the CCC officers continue to be monitored and considered as part of the next 5-year statutory review of the CCC’s activities.	Noted
9	The PCCC recommends the government consider legislative amendments to enable CCC officers to make lawful disclosures and be afforded the same protections as those engaged in a unit of public administration under the Public Interest Disclosure framework.	Supported in-principle
10	The PCCC recommends the definition of ‘money laundering’ in the <i>Criminal Proceeds Confiscation Act 2002</i> be reviewed.	Supported

¹⁶⁸ Adapted from Report No. 106. The full report can be found at: <https://documents.parliament.qld.gov.au/tp/2021/5721T932.pdf>

¹⁶⁹ Tabled 17 December 2021, <https://documents.parliament.qld.gov.au/tp/2021/5721T2140.pdf>

Rec. No.	Recommendation ¹⁶⁸	Government response ¹⁶⁹
11	The PCCC recommends the CCC produce easily accessible material to assist in the education of persons (and their legal representatives) participating in coercive hearings.	Noted
12	The PCCC recommends consideration be given to amending section 197 of the CC Act to ensure clarity in regards to its interpretation and intent.	Supported
13	The PCCC recommends that consideration be given to amending the intelligence operations provisions in the CC Act, to enable the CCC's Crime Reference Committee to approve special investigations and special intelligence operations other than in respect of a 'criminal organisation', as defined in the <i>Penalties and Sentences Act 1992</i> .	Supported
14	The PCCC recommends that no changes be made to sections 53, 73 and 75 of the CC Act, pursuant to Recommendations 14 and 20 of the 2016 Review Report.	Supported
15	The PCCC recommends that the government review the uncertainty and potential conflict caused between section 255(5) of the CC Act (and its example) and section 325(4) of the PPRA; and whether a senior CCC officer, or senior police officer, should be able to obtain surveillance device warrants for both the CCC's major crime and corruption function.	Supported
16	The PCCC recommends that the government consider the most appropriate way to address the issue of handwritten amendments and variations on surveillance device warrants, such as amendment of the PPRA.	Supported
17	The PCCC recommends that the PPRA be amended to remove the requirement that an application for extension or variation of surveillance device warrants must be made by the officer to whom the original warrant was issued.	Supported
18	The PCCC recommends that the government review the requirement under section 334(3) of the PPRA that a judge or magistrate who revokes a surveillance device warrant, must cause notice of the revocation to be given to the chief executive officer of the law enforcement agency.	Supported
19	The PCCC recommends that consideration be given to enabling the use of surveillance devices in a lawyer's home or car or other relevant place, in accordance with relevant sections of the PPRA, including section 330 that presently permits the use of surveillance devices in the office of a practising lawyer in limited circumstances.	Supported in-principle
20	The PCCC recommends consideration be given to legislating a requirement that the CCC report breaches of telecommunications interception warrant or a surveillance device warrants to the Public Interest Monitor or issuing authority.	Supported
21	The PCCC recommends no change to section 50 of the CC Act, pursuant to Recommendation 16 of the Report No. 97.	Supported
22	The PCCC recommends the CC Act be amended to clarify the distinction between an 'assessment' and an 'investigation'.	Supported in-principle
23	The PCCC recommends that the CCC and the Queensland Parliament (through the Speaker of the Legislative Assembly) consider the development and implementation of an information sharing protocol for the dissemination of information held by the CCC that may be relevant to the Parliament in respect of the conduct of Members of Parliament.	Noted
24	The PCCC recommends clarification be provided about whether coercive powers are available during an assessment stage or only an investigation by the CCC.	Supported in-principle

Rec. No.	Recommendation ¹⁶⁸	Government response ¹⁶⁹
25	The PCCC recommends that further consideration of the CCC’s prosecutorial practices and interaction with the Director of Public Prosecutions, be reported on as part of the PCCC’s Inquiry into the CCC’s investigation of former councillors of Logan City Council; and related matters.	Noted
26	The PCCC recommends there be an ongoing dialogue between the CCC and relevant Queensland and Commonwealth authorities to ensure all possible forms of foreign influence or interference are subject to scrutiny and investigation by relevant agencies.	Noted
27	The PCCC recommends the CC Act be amended to require that the chairperson of the PCCC is a member of the Opposition, and also one of the members nominated by the Leader of the Opposition to the PCCC.	Not supported
28	The PCCC recommends that section 314 of the CC Act be amended, to clarify that the Parliamentary Commissioner has the function to investigate on his or her own initiative a matter which relates to the conduct of a CCC officer, that would, if the person were an officer in a unit of public administration, be corrupt conduct.	Supported
29	The PCCC recommends the CCC develop and deliver additional training and educational material.	Noted
30	The PCCC recommends that the CCC engage with DJAG if issues regarding application of the <i>Human Rights Act 2019</i> arise, to ensure the CCC’s powers are not inadvertently undermined.	Noted

Appendix G – Report No. 108 Findings and Recommendations

Finding No.	Findings ¹⁷⁰
1	The CCC's actions were not in accordance with the <i>Public Interest Disclosure Act 2010</i> and exceeded the specific limits on the CCC's powers under that Act.
2	In assisting Ms Kelsey as a public interest discloser within the Queensland Industrial Relations Commission process the CCC acted outside its specific powers in the CC Act.
3	The PCCC finds that the CCC considered its interests and those of Ms Kelsey were shared, and it ought to assist Ms Kelsey as much as it legitimately could.
4	The PCCC finds that the CCC acted upon the shared interest by involving itself in Ms Kelsey's Queensland Industrial Relations Commission proceedings and seeking to make documents it had obtained under compulsion available to her in that proceeding. The inference may be drawn that this was done for the purpose of Ms Kelsey's reinstatement as chief executive officer
5	The PCCC finds that the totality of the steps taken by the CCC to assist Ms Kelsey in her Queensland Industrial Relations Commission proceeding, including with respect to her desire for reinstatement, breached its duty to act, at all times, independently and impartially pursuant to section 57 of the CC Act.
6	The PCCC finds that confidential documents, including some that were likely subject to legal professional privilege, were delivered to Logan City Council on 3 October 2018 by CCC officers, without a dissemination authority, for a purpose of making them available for Ms Kelsey's use in the Queensland Industrial Relations Commission proceeding
7	The PCCC finds that confidential documents were delivered to Logan City Council on 19 November 2018 by the CCC for a weighty and substantial purpose of making them available for Ms Kelsey's use in the Queensland Industrial Relations Commission proceeding, contrary to the ruling of Black IC.
8	The PCCC considers the conduct of Detective Sergeant Andrew Francis (that was rightly criticised by Counsel Assisting) to be an example of and symptomatic of the culture of the CCC.
9	The PCCC finds that the material prepared for, and evidenced discussions of, the 24 April 2019 meeting of the CCC to consider commencing criminal proceedings against the 7 Logan City Councillors (and further proceedings against the Mayor) for fraud in respect of Ms Kelsey's public interest disclosure and termination as chief executive officer were inadequate for that purpose.
10	The PCCC finds that the discretion to charge the 7 Logan City Councillors and Mayor with fraud was affected by a desire to assist Ms Kelsey.
11	The PCCC finds that the discretion to charge the 7 Logan City Councillors and Mayor with fraud in respect of Ms Kelsey's public interest disclosure and termination as chief executive officer miscarried because all material considerations and evidence were not taken into account and weighed.
12	The PCCC finds that in August 2018 the CCC gave consideration to charging criminal offences that would cause Logan City Councillors to be removed, and the Logan City Council to be dismissed and an Administrator appointed.
13	The PCCC finds that CCC officers should have reported the absence of a dissemination authority for the delivery of documents to the Logan City Council on 3 October 2018, to the chief executive officer of the CCC, and that the chief executive officer should have notified the PCCC pursuant to section 329 of the CC Act.

¹⁷⁰ Adapted from Report No. 108. The full report can be found at:
<https://documents.parliament.qld.gov.au/tp/2021/5721T2051.pdf>

Finding No.	Findings ¹⁷⁰
14	The PCCC finds that as Chairperson, Mr Alan MacSporran QC, did not ensure that the CCC acted, at all times relevant to the matters the subject of the inquiry resolution, independently and impartially. That failing is serious and reflects poorly on the CCC.

Rec. No.	Recommendation ¹⁷¹	Government response ¹⁷²
1	The PCCC recommends the Queensland Government review the effectiveness and appropriateness of protections afforded to public interest disclosers under the <i>Public Interest Disclosure Act 2010</i> , including the roles of the CCC and other relevant entities	Supported
2	The PCCC 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 CCC 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 CCC's extraordinary powers.	Supported
3	The PCCC recommends the Queensland Government review section 49 of the CC Act. Furthermore, consideration should be given to a requirement that the CCC obtain the recommendation of the Director of Public Prosecutions, or a senior independent legal advisor, before exercising (through seconded police officers) the discretion to charge serious criminal offences (including disqualification offences under the <i>Local Government Act 2009</i>) in the exercise of its corruption function.	Supported
4	The PCCC recommends that the CCC 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 CCC under the CC Act, and to enhance public confidence in the organisation.	Noted
5	The PCCC recommends DJAG consider issues regarding the tenure of senior officers, and take into account the CCC's adoption of the PCCC's position in relation to single, non-renewable appointments for the CCC Chairperson, Deputy Chairperson and Ordinary Commissioners, in conjunction with its consideration of relevant recommendations of the PCCC's Report No. 106, arising from the 5-year review, tabled on 30 June 2021.	Supported
6	The PCCC recommends the Queensland Government instigate a review of the CCC's structure in regards to its investigatory and charging functions, and the role of seconded police officers at the CCC, as a Commission of Inquiry or similar, to be headed by senior counsel of sufficient standing to consider this structural basis of the CCC that has its roots in the Fitzgerald Inquiry	Supported

¹⁷¹ Adapted from Report No. 108. The full report can be found at: <https://documents.parliament.qld.gov.au/tp/2021/5721T2051.pdf>

¹⁷² Tabled 31 January 2022, <https://documents.parliament.qld.gov.au/tp/2022/5722T24.pdf>

Appendix H – Commission of Inquiry relating to the Crime and Corruption Commission Report

Rec. No.	Recommendation ¹⁷³
1	The use of seconded police officers by the CCC is appropriate and should continue (subject to recommendations below).
2	Police officers who are seconded to the CCC retain their police powers as per section 174 and 255 of the CC Act.
3	The current secondment arrangements between the QPS and the CCC be amended to provide the CCC with adequate and appropriate flexibility over the mix of job positions, skills and experience within the ‘CCC Police Group’.
4	The CCC and the QPS jointly review the mix of job positions, skills and experience within the CCC Police Group at least once every two years with a view to ensuring the composition of the CCC Police Group reflects the CCC’s operational needs and priorities.
5	The MoU between the CCC and the QPS be amended to reflect the need for the CCC to have adequate and appropriate flexibility over the mix of job positions, skills and experience within the CCC Police Group
6	The adequacy of the CCC’s current organisational culture in safeguarding against the risk of institutional capture form part of the external review planned by the CCC in response to Recommendation 4 of Report No. 108 of the PCCC.
7	The CCC transition to a predominantly civilianised model for its Corruption Division and only retain the number of seconded police officers required
8	The Executive Director Corruption Operations be transitioned to a civilian position as soon as possible.
9	With a view to implementing recommendation 7 over the next 5 years, the CCC and the QPS jointly review each seconded police officer position within the Corruption Division at or before the conclusion of the secondment period for each of these positions.
10	The joint review process be documented in the existing Memorandum of Understanding between the CCC and the QPS and include principles to guide the review process, including: <ul style="list-style-type: none"> a) the need for the CCC to increase its civilian investigator capability, and b) the benefits of retaining a proportion of seconded police officers in the division for the purpose of exercising policing powers and contributing to investigations where criminal investigation expertise is required.
11	The CCC ensure investigators assigned to corruption matters are adequately and appropriately inducted on commencement at the CCC and are provided with ongoing training to equip them to investigate corruption effectively.
12	A dedicated position — a Training and Development Officer — be created by the CCC to coordinate enhanced induction and ongoing training activities.
13	The CCC devise and implement a Training Strategy and Plan to enhance the skills of all investigators assigned to corruption investigations which includes, where necessary, external training.
14	The Queensland Government adequately resource the CCC to implement the Training Strategy and Plan and to employ a Training and Development Officer on a permanent basis.

¹⁷³ Adapted from Commission of Inquiry relating to the Crime and Corruption Commission Report. The full report can be found at: https://www.ccinquiry.qld.gov.au/__data/assets/pdf_file/0004/726619/report-commission-of-inquiry-relating-to-the-ccc.pdf

Rec. No.	Recommendation ¹⁷³
15	The current Corruption Strategy, Prevention and Legal unit of the Corruption Division be split into two separate units — Corruption Legal; and Corruption Strategy and Prevention — and each unit be led by an executive director.
16	The new Corruption Strategy and Prevention unit is to ensure a corruption prevention and policy perspective informs all corruption investigations.
17	The executive director or the Corruption Strategy and Prevention unit have the appropriate skills and experience to deliver the functions of the new unit including proven experience or expertise in the public sector, particularly in public administration and integrity.
18	The Queensland Government adequately resource the CCC to establish the new Corruption Strategy and Prevention unit.
19	The CCC establish an executive director-level governance group within the Corruption Division to oversee corruption investigations. The governance group will report to the Executive Leadership Team, be chaired by the Senior Executive Officer (Corruption) and include (at a minimum) the executive directors of the four business units of the Corruption Division.
20	The CCC enhance the role of the current director-level governance group within the Corruption Division in overseeing corruption investigations and ensure it reports to the executive director-level governance group.
21	The CCC continue to review and improve its operational policies and procedures to ensure they are clear, concise, consistent and easy to understand.
22	A dedicated position — a Policy and Procedure Officer — be created by CCC, to centralise, coordinate and implement the continued review and improvement of the CCC's operational policies and procedures
23	The Queensland Government adequately resource the CCC to employ a Policy and Procedure Officer on a permanent basis.
24	The CCC work with the DPP to develop a process for conducting post-prosecution reviews.
25	The CC Act be amended as necessary to give effect to the following changes: <ul style="list-style-type: none"> c) Other than in exceptional circumstances, before a charge is laid by a seconded police officer during, or following, a corruption investigation, the CCC must seek the opinion of the DPP concerning whether a charge may properly be brought having regard to the two-tier test in the Director's Guidelines. d) Notwithstanding any other law or any other provision of the CC Act, if the DPP advises that a charge should not be brought, the seconded police officer must not charge contrary to that advice. e) If the DPP advises a charge may properly be brought and a decision is made by the seconded police officer not to charge, the CCC must report to the PCCC and the Parliamentary Crime and Corruption Commissioner about the decision made
26	The CCC and the DPP develop a MoU outlining the practices and procedures for the referral of matters and the provision of advice, including timeframes.
27	The CCC report to the Minister regarding the arrangement for the provision of advice by the DPP to the CCC, and about the effectiveness and utility of the MoU, including timeframes and timeliness of the advice provided by the DPP.
28	The CCC report to the PCCC and the Parliamentary Crime and Corruption Commissioner on the effectiveness and utility of the MoU, including timeframes and timeliness of the advice provided by the DPP.

Rec. No.	Recommendation ¹⁷³
29	The PCCC, as part of its next 5-yearly review of the activities of the CCC under section 292 of the CC Act, review the arrangement for the provision of advice by the DPP to the CCC, and examine the effectiveness and utility of the MoU — thereafter, the PCCC continue to monitor the arrangement as part of its future 5-yearly reviews.
30	The Queensland Government provide adequate additional resources to the DPP to enable it to provide its advice to the CCC in a timely manner.
31	The CCC must report regularly and progressively to the Minister about the implementation and delivery of the recommendations.
32	The CCC must report regularly and progressively to the PCCC and the Parliamentary Crime and Corruption Commissioner about the implementation and delivery of the recommendations.

Statement of Reservation

Statement of Reservation

The pace of reform to the CCC under this Labor Government can only be described as glacial. This bill implements certain changes that were recommended as far back as 2016 –almost a decade ago!

Even the most recent recommendations for reform from the Parliamentary Crime and Corruption Committee (“PCCC”) were tabled 1010 days and 855 days ago respectively, the latter of which were contained in the very significant Report No. 108 of the PCCC in relation to the CCC’s investigation of former Logan City Councillors.

Notwithstanding the very long time the Government have had to consider all these recommendations, some of them remain unlegislated.

Tenure of Chairperson, Deputy Chairperson and Commissioners

While this bill implements most PCCC and other review recommendations satisfactorily, we draw attention to one part of the bill that is not implemented as recommended by the PCCC.

In the PCCC’s 5 year review tabled in 2021 (Report No. 106), it was recommended that:

“...consideration be given to amending the CC Act to provide for a single non-renewable appointment for the Chairperson and Ordinary Commissioners of the Commission, **not exceeding seven years.**” [emphasis added]

This bill amends the Crime and Corruption Act 2001 (“CC Act”) by providing for a single **fixed** non-renewable term for the Chairperson, Deputy Chairperson and Ordinary Commissioners of the CCC – for 7 years, no less and no more.

In contrast, the PCCC recommended terms not exceed 7 years. A term could be shorter.

The difference between the recommendation of the PCCC and the provisions of the bill may appear minor, but in fact they have drastic consequences for the bipartisan nature of these appointments.

Under the CC Act, these appointments are required to have bipartisan support of the PCCC. This is an essential part of ensuring that CCC appointments are not solely ‘Government appointments.’ It has been publicly reported that the PCCC has previously withheld bipartisan support to Government recommendations for appointments, and also provided bipartisan support to an appointment for a term of years different to that suggested by the Government.

This shared responsibility for appointments to the CCC – both for the nomination and for the term of appointment - is an essential part of ensuring that CCC appointments are not, and cannot be seen as, being solely made at the decision of the Government of the day.

This bill diminishes that shared responsibility by mandating that any Government nomination for the position of Chairperson, Deputy Chairperson or Ordinary Commissioner is for 7 years. Not only will this potentially limit the pool of applicants for such positions, but it also significantly reduces the usefulness of the PCCC’s “bipartisan support” mechanism. There is no scope for bipartisan support to be provided for a shorter period than 7 years. Non-Government MPs on the PCCC will be forced to “take it or leave it” when it comes to a Government nomination for a 7 year appointment – no discussion, no negotiation, no consultation about what is happening at the CCC and whether a different term of appointment may be better.

As the oversight body for the CCC, it is exactly that type of input that should be sought from the PCCC for appointments into these roles. It is the PCCC that holds the CCC to account, through public and private committee meetings in which the PCCC regularly reviews and monitors how the CCC is operating. The PCCC is best placed to understand – acting in a bipartisan manner – whether and for how long an appointment to a role should be made.

If the Government genuinely holds to the view that the CCC should be beyond partisanship, and these appointments genuinely bipartisan, it will withdraw the proposed amendments to these tenure provisions and implement the PCCC’s recommendation (set out above) instead.

Bipartisan support for PCCC decision making

The Government rejected recommendation 2 of the PCCC's 2021 5 year review (a recommendation, incidentally, made by a majority of the PCCC in which Government MPs make up a majority) to reform the definition of "bipartisan support" to ensure such decisions are genuinely bipartisan. In the past, the drafting of this definition has been manipulated by the Government to have the PCCC approve appointments to the CCC that were not supported by the Opposition. This is not bipartisanship in its plain meaning, and the relevant definition in the Crime and Corruption Act remains deficient to this day.

Executive power over the CCC

On the one hand, in this bill the Government is stripping away PCCC input into CCC appointments. This is contrary to PCCC recommendations, as outlined above (noting again that Government MPs have a majority on the PCCC).

On the other hand the Government is refusing to fix a glaring problem with the definition of bipartisan support in the CCC's legislation, one that enables the Government if it chooses to make appointments to the CCC without genuine bipartisan support.

We highlight concerns that both of these matters, being departures from the recommendations of the PCCC, serve only to strengthen the power of Executive Government in Queensland over the CCC.

This is not the direction in which this Labor Government should be taking the CCC.



Mark Boothman
Member for Theodore
Deputy Chair



Jon Krause
Member for Scenic Rim