



Office of the  
Director-General

Department of  
Education

20 MAR 2024

The Honourable Catherine Holmes AC SC  
Reviewer  
Independent CCC Publication Review  
Email: [CCCPublicationReview@justice.qld.gov.au](mailto:CCCPublicationReview@justice.qld.gov.au)

Dear Ms Holmes

Thank you for your letter dated 27 February 2024 regarding the independent review into the Crime and Corruption Commission's (CCC) reporting about the performance of its corruption functions.

Please find below some initial considerations to inform your recommendations about the subject matter.

**Consideration 1: How and when such reports or statements should be published**

If there are no findings of corruption, and reports are permitted to be published by the CCC, including personal information, then it may give a perception of a process that is not procedurally fair to the rights of an individual.

As such, the Department of Education considers it useful as part of the review to assess this area carefully to support informing outcomes appropriately. This approach is likely then to strike a reasonable balance between natural justice and the rights of an individual, with the rights of the public to remain clearly informed about government administration, including the performance of agencies such as the CCC.

Workplace health and safety obligations and the wellbeing of public sector employees are of the highest priorities for an employer. Noting impacts that may be realised to an individual's wellbeing, reputation, career and human rights, should reports and statements be permitted that include an individual's particulars where there is no finding, they may be seen to disregard these important responsibilities where corrupt conduct is suspected. The Department stresses the importance of taking into account these important responsibilities as part of review considerations to fully inform recommendations.

Where disciplinary matters to resolve conduct are occurring, privacy regarding an employee and their employment is important to support procedural fairness and human rights for the individual. These processes are not designed to be punitive, but rather to resolve inappropriate behaviour so that it is corrected. As such, these principles are considered important for consideration when contemplating the powers and authority of the CCC regarding corrupt conduct.

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In considering the functions of the CCC as they now exist, current provisions appear adequate to support the functions of the CCC without requiring additional broadened authority. When considering the current interpretation of the High Court decision *CCC v Carne [2023] HCA 28*, it appears, on the surface, to be adequate to allow for reporting on corruption only where there is a finding of corrupt conduct by using section 69(1) of the *Crime and Corruption Act 2001* (CC Act).

**Consideration 2: The content of such reports or statements, including the desirability of requiring or limiting the inclusion of certain information in reports or statements**

The main purpose of the CC Act is to combat and reduce the incidence of major crime and to continuously improve the integrity of, and to reduce the incidence of, corruption in the public sector.

The CCC holds its functions to:

- raise the standards of integrity and conduct in the public sector;
- to ensure complaints about corruption are dealt with appropriately;
- to deal with conduct that may allow, encourage or cause corrupt conduct, or be connected with corrupt conduct; and
- to investigate whether corrupt conduct, or conduct that may allow, encourage or cause corrupt conduct or be connected with corrupt conduct, may have happened, may be happening or may happen.

In performing these functions, the CCC is subject to monitoring and review by the Parliamentary Crime and Corruption Committee.

The functions as set out in the CCC's own literature do not obviously appear to require it to publish personal details relating to an individual in order to fulfil its functions appropriately.

If the CCC is afforded broader powers to report on individuals, and therefore publish information about them explicitly without a finding of corruption, then it should be demonstrated as to how it affords improved ability to carry out their functions specifically.

It is considered appropriate that strict use of such rules should also be implemented if powers are broadened, in order to consider impacts on an individual. As part of developing rules to accompany broader powers, it may be appropriate to require a rationale about how publishing without a finding of corrupt conduct adds to the performance of functions in comparison to that of redacted reports being afforded, for instance.

Impacts on complaint frameworks for the public sector and impacts to ongoing process including performance and conduct, criminal matters, public interest disclosures, human rights and privacy should be considered to ensure no unintended consequence on the quality, timeframes or confidentiality of these processes if powers are broadened as part of any recommended legislative amendment. This approach is likely to avoid negative impacts.

If amendments are introduced, it is suggested the CCC develop a policy to support the public sector in applying new rules, with consideration given to existing complaint frameworks to ensure regulatory reporting and associated processes to resolve conduct matters, including to the CCC, are not impacted negatively.

**Consideration 3: Whether legislative amendments should be made to operate retrospectively**

On the face of it, it does not seem necessary to apply any amendments retrospectively. However, there may be a specific reason this is deemed appropriate that is unknown at this time. If it is necessary to introduce retrospective amendments to legislation, further consideration of this proposal may be required to determine any unintended consequences of doing so.

Provisions of Chapter 1, Part 1 of the *Information Privacy Act 2009*, regarding the relationship with other Acts, will cover any amendment to the CCC legislation and allow them to function together.

Should you wish to discuss this matter further, I invite you to contact Mrs Karen Gibbons, Director, Integrity – Intake Referrals and Partnerships (and CCC Liaison Officer), on [REDACTED] or by email at [REDACTED]

Thank you for the opportunity to provide information to assist your review.

Yours sincerely



**MICHAEL DE'ATH**  
**Director-General**

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