



## Office of the Parliamentary Crime and Corruption Commissioner

Parliament House  
George Street  
Brisbane Qld 4000  
Ph: 07 355 36652 Fax: 07 355 36654  
pcc.commissioner@parliament.qld.gov.au  
www.parliament.qld.gov.au/pccc

24 June 2016

Hon Nick Goiran MLC  
Chairman  
Joint Standing Committee on the  
Corruption and Crime Commission  
Legislative Assembly Committee Office  
WA Parliament  
Level 1, 11 Harvest Tce  
WEST PERTH WA 6005

Dear Mr Goiran,

### **Re: Appointment process for Parliamentary Crime and Corruption Commissioner**

I thank you for your letter of 25 May 2016 inviting me to make a submission to your inquiry into the efficiency and timeliness of the current appointment process for Commissioners and Parliamentary Inspectors of the Corruption and Crime Commission in Western Australia.

In Queensland the appointment process for the Parliamentary Crime and Corruption Commissioner (the equivalent of Western Australia's Parliamentary Inspector of the Corruption and Crime Commission) is set out in section 306 of the *Crime and Corruption Act 2001*.

#### **306 Selection for appointment of parliamentary commissioner**

- (1) The Speaker must advertise nationally for applications from suitably qualified persons to be considered for selection as the parliamentary commissioner.
- (2) Sub Subsection (1) does not apply to the reappointment of a person as the parliamentary commissioner.
- (3) The Speaker may appoint a person as the parliamentary commissioner only if the appointment is made with the bipartisan support of the parliamentary committee.

By arrangement with the Speaker, in practice the selection process for the appointment of the Parliamentary Commissioner is conducted by the Parliamentary Crime and Corruption Committee (the equivalent of your Committee). The Committee places the advertisement and receives and considers the applications from applicants. The Committee then shortlists and interviews prospective candidates. Thereafter, upon reaching a bipartisan decision as to the preferred candidate, a recommendation is made from the Committee to the Speaker to appoint the nominated person as Parliamentary Commissioner. Pursuant to section 307 of the *Crime and Corruption Act*, the Parliamentary Commissioner must be appointed by the Speaker and within seven sitting days after the appointment, the Speaker must table a notice of the appointment in the Legislative Assembly.

The involvement of the Parliamentary Committee in the earliest stages of this selection process and the requirement for the Committee's bipartisan support for the candidate, makes the process quite streamlined in theory. Unlike the current model for the equivalent appointment in Western Australia, this process also avoids the possibility that a prospective appointee might proceed through a number of steps in an appointment process only to fail to receive the bipartisan support of the Committee "at the last hurdle" so to speak.

I also consider that the extensive involvement of the Queensland Committee in the selection process for the Parliamentary Commissioner is desirable having regard to the close working relationship between the Committee and the Parliamentary Commissioner as illustrated by section 10 of the *Crime and Corruption Act* which states that the Parliamentary Commissioner "*helps the Parliamentary Crime and Corruption Committee in the performance of its functions.*"

In Queensland the appointment process for the Chairperson, Deputy Chairperson, Chief Executive Officer and Commissioners (senior officers) of the Crime and Corruption Commission is set out in sections 227 to 229 of the *Crime and Corruption Act*.

#### **227 Advertising for appointment**

- (1) The Minister must advertise nationally for applications from suitably qualified persons to be considered for selection as the chairperson.
- (2) The Minister must advertise throughout the State for applications from suitably qualified persons to be considered for selection as the deputy chairperson, the chief executive officer or an ordinary commissioner.
- (3) Subsections (1) and (2) do not apply to the reappointment of a person as a commissioner or the chief executive officer.

#### **228 Prior consultation and bipartisan support for appointments**

The Minister may nominate a person for appointment to the office of chairperson, deputy chairperson, ordinary commissioner or the chief executive officer only if—

- (a) the Minister has consulted with—
  - (i) the parliamentary committee; and
  - (ii) except for an appointment as chairperson—the chairperson; and
- (b) the nomination is made with the bipartisan support of the parliamentary committee.

#### **229 Appointment of officers**

- (1) Officers are to be appointed by the Governor in Council.
- (2) Officers are appointed under this Act and not the *Public Service Act 2008*.

Therefore, in the selection process for senior officers of the Crime and Corruption Commission, it is the Minister (the Attorney-General) who places the advertisement and receives and considers the applications from applicants. The Attorney-General is responsible for the shortlisting and interviewing of prospective candidates and decides upon a nominee for the position. The nominee is then interviewed by the Committee in order to obtain its bipartisan support.

Your Committee may be aware of some difficulties attending the selection process in the appointment of the current Chairperson of the Crime and Corruption Commission, Mr Alan MacSporran QC. In July 2015 it was reported that the Liberal National Party “*had been blocking the appointment amid a standoff over their wish to have former deputy premier Jeff Seeney chair the PCCC.*”<sup>1</sup> Ultimately, the Committee’s support for the appointment was provided although the mechanism utilised to achieve the support was reportedly the subject of some criticism:

*The nomination process attracted controversy, with the Liberal National Party accusing Labor of doing a “sneaky deal” to get its nominee approved.*

*Katter’s Australia Party MP Rob Katter took the place of a Labor MP on the Parliamentary Crime and Corruption Committee (PCCC) last week, to give the Government the cross-party support required by law.*<sup>2</sup>

This mechanism was open to the Labor government under the definition of “bipartisan support” in schedule 2 of the *Crime and Corruption Act* which includes “*support of a majority of the members, other than a majority consisting wholly of members of the political party or parties in government in the Legislative Assembly*”.

For completeness and accuracy I should advise that the Committee’s bipartisan support for the nomination of Mr MacSporran was not that required under section 228(b) of the *Crime and Corruption Act*. The requirement for the bipartisan support of the Committee was removed pursuant to amendments made to the Act under the Liberal National Party government in July 2014. Instead, the Committee had the power to veto the Minister’s nomination. Nonetheless, it was reported that the Committee’s rules required bipartisan endorsement of the nominee – hence the temporary Committee membership of Mr Katter MP. The requirement for bipartisan support of the Committee in section 228 was reinstated under the Labor government in May 2016.

I am also aware of at least one other occasion when it appeared that party political issues impacted upon a prospective appointment to the position of Chairperson of the Crime and Corruption Commission.

In conclusion then, I would endorse Queensland’s appointment process for the position of Parliamentary Crime and Corruption Commissioner for the reasons stated above. However, in relation to the appointment process for senior Commission officers, in order to avoid possible perceptions of political bias, I can see some advantage in having persons outside the party political process involved in, at least, the nomination of a prospective appointee as is the case in Western Australia.

Thank you for affording me the opportunity to provide a submission to your Committee’s inquiry.

Yours faithfully



Paul Favell  
**Parliamentary Crime and  
Corruption Commissioner**

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<sup>1</sup> <http://www.abc.net.au/news/2015-07-30/alan-mcsporrans-named-as-queensland-crime-and-corruption-chairman/6659232>

<sup>2</sup> *ibid*