

22 February 2017

Mr David Mackie
Director-General
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Your ref 3587095

Our ref Criminal Law Committee/BDS

By email: Gregory.bourke@justice.qld.gov.au, Courtney.arndell@justice.qld.gov.au

Dear Director-General

Crime and Corruption and Other Legislation Amendment Bill 2017

Thank you for your letter dated 27 January 2017, enclosing a copy of the confidential consultation draft of the *Crime and Corruption and Other Legislation Amendment Bill 2017* and Explanatory Notes. Thank you for the opportunity to make comments on the draft Bill and for providing an extension of time to provide our comments.

As there has been only a very brief opportunity to review the amendment to the Bill, an in-depth analysis has not been conducted. It is possible that there are issues relating to fundamental legislative principles or unintended drafting consequences which we have not identified. We look forward to the Bill's passage through the Parliamentary Committee process and hope that the Committee has a reasonable opportunity to consider the draft legislation and provide more useful and in-depth feedback, which will hopefully assist in improving the quality of the legislation being passed.

Our comments on the specific clauses of the Bill are as follows.

Clause 5 – amendment of section 15 (meaning of corrupt conduct)

The Society is concerned about the wide definition of corruption in clause 5 of the Bill. While we agree that both the crime and corruption functions of the Commission should be weighted equally, we consider that the broad definition of corrupt conduct might lead to unintended

consequences. Upon our reading, the definition is so broad that it would allow the Crime and Corruption Commission to investigate almost all grievances when one applies proposed section (4)(a). For example, one public servant threatening to punch another public servant might be corrupt conduct, as the threat would constitute 'common assault'. Similarly, the provisions of proposed section 3(d) and the use of the word "evading" could be applied to a debt owed to the State Penalties and Enforcement Register.

We understand the need for the Crime and Corruption Commission to have access to extensive powers in order to effect its functions. However, we do not consider that these powers should be open-ended and limitless. As such, it is our view that the jurisdiction of the Crime and Corruption Commission should be restricted to corruption that:

- involves or affects a Queensland public official or public authority
- is deliberate or intentional (as opposed to negligence or mistake)
- is a criminal offence, or a disciplinary offence, or constitute reasonable grounds for dismissing or otherwise terminating the services of a public official, or in the case of a member of the Queensland Parliament or local government councillor, a substantial breach of an applicable code of conduct.

Clause 9

Clause 9 seeks to insert a new provision – proposed section 40A (record of alleged corrupt conduct not notified). We understand the policy rationale for this provision and consider that these requirements should be undertaken as a matter of best practice. However, these are onerous legislative conditions to place on a public official. In our view, these requirements are more appropriate for placement in best practice guidelines and should be the subject of education and training for those in decision-making positions.

Thank you again for consulting with us. We look forward to our continued involvement in the policy and legislative process.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Senior Policy Solicitor, Ms Binari De Saram on b.desaram@qls.com.au or 3842 5889.

Yours faithfully



Christine Smyth
President