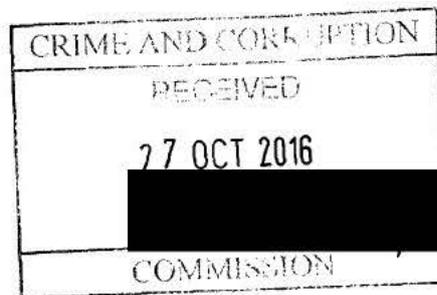


Submission 82 - Name Withheld



Crime and Corruption Commission
QUEENSLAND



June 2016

**Making allegations of corrupt
conduct public**
Is it in the public interest?

Submission form

Do you wish to maintain partial or complete confidentiality?

We will generally publish submissions on our website — including the name of the submitter but no contact details. If you would prefer to maintain partial or complete confidentiality, please indicate your preference by selecting one of the following:

NAME WITHHELD — PARTIAL CONFIDENTIALITY
I consent to my submission being published on the CCC website, without my name being disclosed.

CONFIDENTIAL — COMPLETE CONFIDENTIALITY
I do not consent to my submission being published on the CCC website.

If there is no clear selection of one of these alternatives, we will regard any submission (including an anonymous submission) as a public document, and will publish it on our website.

The CCC may quote from your submission or refer to it, either generally or individually, in publications.

Privacy statement

No submission marked as confidential will be published on our website. However, any submission may be subject to disclosure under the *Right to Information Act 2009* and the *Information Privacy Act 2009*, and applications to access submissions will be determined in accordance with those Acts.

If you provide your details, we may contact you to ask whether you consent to further consultation for the purposes of this project.

Your details

Provide as much or as little information as you wish.

Name(s):

Organisation:

Address:

Phone: Mobile: Fax:

Email:

Your submission

You may wish to address the following considerations in your submission.

Open, transparent and accountable government

I make this submission with a focus on public sector allegations of corrupt conduct with a special interest in local government.

Open, transparent and accountable government is a corner stone of civil society. Secrecy through prohibitions on complainants, whistle blowers & victims does not support open, transparent and accountable government and is not in the public interest. The public interest is only served by disclosure followed by sufficiently detailed, timely and accurate reporting.

I note that from the CCC discussion paper on this issue there is a shift in thinking based around potential reputational damage to candidates during the last state and local government elections. As a man of considerable years, a previous Councillor and now Mayor, I know full well the dirty campaign tactics used by certain individuals, organisations and parties. Dirty campaigning is an issue for the electoral act and defamation law to deal with, not the CCC through seeking to prohibit complainants, whistle blowers and victims from saying, publishing or disclosing, what they discern is necessary. Complainants know the environment they are coming from and there are very good reasons in the public interest why they may choose to and need to report that they have made a complaint alleging corrupt conduct. In a similar way, a complaint to police may be made public. It is in the public interest to know that a complaint has been made and that it is being assessed by the relevant authority. In many cases the details do not need to be published however the public do take comfort from knowing that the relevant authority has been notified. It is then up to the CCC to provide commentary on their response; ie. that the complaint has to be assessed. The CCC role in communication is not good enough and needs to be routine and consistent so that a broader section of the community understand the relevant steps of the process. The public interest is not served by criminalising or constraining complainants.

Freedom of speech

Freedom of speech is a personal choice that may be guided or informed by organisations like the CCC, however it must never be strictly constrained by legislation. Other safety nets like defamation law may appear technical, time consuming and costly, however amendments to that legislation would be more justified than a prohibition or criminalisation of the publishing or disclosure of complaints. Making allegations of corrupt conduct public is in the public interest and must not be prohibited. As a Mayor, I have personally had to direct a lot of time to this matter and the community has a right to know that I am not missing in action. The community has a right to know that I am 'onto it' and have reported it to the relevant authority. Under the circumstances, I am interested to

know if the CCC thinks that [REDACTED] my [REDACTED] statements [REDACTED] anyway inappropriate. A persons actions are only reasonable if they are reasonable in all the circumstances and I believe that my actions [REDACTED] reasonable under all the circumstances. The CCC may not be aware of all of those circumstances, however in the fullness of time I believe my timely and carefully worded communication will be understood and appreciated for what it is and that it is essential in managing all the parts of the organisation in an effective, consistent and timely manner. I am happy to take feedback, however I believe that such a communication strategy should be in the toolbox that CCC officers consider recommending to complainants or organisations from time to time.

Reputation of alleged subject officers

Alleged subject officers are alleged offenders and that needs to be kept in context. The community does have a right to know of allegations and the complainant who has lived/worked with this alleged behaviour is in the best position to determine if and when it is in the public interest to make it public that a complaint has been made.

White collar crime can be aligned to other criminal frameworks and processes utilised by QPS. Where certain information is already public, or ought to be publically available to reasonable people, then the suspicion of corrupt conduct is already public and it should be at the complete discretion of the complainant if and when they publicise or disclose that a complaint has actually been made. If an alleged perpetrator is named or identified by the complainant or others through the powers of deduction, publication or disclosure the alleged perpetrator has the right to put their side of the story on the record and the best thing they could do is to state that they will assist the CCC with their assessment and investigations. The alleged subject officer may choose to take holidays, long service leave or other. Complainants are rarely in such a fortunate position or afforded such luxury by the organisation. There is also a prudent point often before charges can be laid where a subject alleged offender should be stood down. In white collar crime it is important to remove the alleged perpetrator from the scene before the assessment begins and not waiting until charges are laid. Society does not accept that an alleged murderer or child sex offender could remain at the scene of the crime or in the family home while assessments or investigations are undertaken, yet in the white collar world it is expected that an alleged perpetrator will remain at their desk throughout the assessment and investigation. This is a disgusting injustice that would not be tolerated were it not in the public service white collar sector.

Fair trial

Society has recognised protocols and policies to deal with alleged perpetrators and the important issue of fair trial especially where the alleged offence is already very public including video footage etc. The same principles should apply to the public sector where the alleged perpetrator and their offences are already in the public domain. The effects of public sector offences are already visible in communities although it is not as obvious as a body on the street, the effects of public sector offences is in the public view and already

within the suspicions or knowledge of reasonable people.

Effectiveness of the CCC

The CCC effectiveness is not something I can comment on in detail at this time. It was however disappointing, that the CCC admitted knowing about the issues at our Council, however had so far not managed to do anything about it.

Silence is consent and as Mayor I will not be party to that silence nor consent.

I doubt the CCC can be effective in relation to local government issues when the local government act gives Mayors the ability to direct the CEO without having to put that direction in writing. This coupled with the fact that the CEO carries out the preliminary assessment of complaints is a dangerous mix that is open to abuse by perpetrators and those controlled by them even if that control is not lawful.

The effectiveness of the CCC's communication strategies must be reviewed and fixed. There needs to be standardised communication tools to deal with cases where an allegation of corrupt conduct is made public, as well as when the CCC chooses to publish the allegation of corrupt conduct as an investigative tool. It is not the role of the CCC to deal with dirty campaigning tactics unless that mud involves criminal activity, eg. the federal medi-scare campaign.

The CCC also needs to communicate the different findings they make and the relevance of each status. Eg. insufficient evidence is not assumed to be innocence. Once the CCC communicated this it could well encourage new information to come forward.

Other

Given my role and responsibilities, I believe that I have a responsibility to adequately inform staff and the community of my actions. If disclosure and publication in this form were to ever be prohibited or criminalised then that would be a completely unreasonable impediment on my responsibilities as a Mayor.

