



CRIME AND CORRUPTION COMMISSION

MAKING ALLEGATIONS OF CORRUPT CONDUCT PUBLIC: IS IT IN THE PUBLIC INTEREST?

TRANSCRIPT OF PUBLIC FORUM

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Panel members:

Mr Alan MacSporran QC
Mr Marshall Irwin
Mr Richard Bingham
Dr Rebecca Denning

CCC Chairperson and Panel Chair
CCC Ordinary Commissioner
Queensland Integrity Commissioner
CCC Director, Policy and Research

Speaker:

Ms Bronwyn Fursey

Acting Deputy-General Counsel
Queensland Rail

Mr MacSporran QC So, I say welcome again and we will start with our first speaker who is Ms Bronwyn FURSEY, I think, from Queensland Rail. Welcome, Ms FURSEY.

Ms Fursey Thank you.

Mr MacSporran QC Just for the record, can you state your full name and where you're from?

Ms Fursey Yes. My name is Bronwyn FURSEY. I'm the Acting Deputy-General Counsel at Queensland Rail.

Mr MacSporran QC Thank you. Now we have your submission and we have read it. But, consistently with our practice from yesterday, we would like to invite you, if you want to, to make an opening statement, about five minutes, just to summarise your position on the issues.

Ms Fursey Thank you. I do have a brief statement.

Mr MacSporran QC Yes.

Ms Fursey As both the Crime and Corruption Commission and others who have provided submissions have identified, this issue captures a number of competing interests, including the public interest in a transparent and accountable government and freedom of speech on the one hand and protecting the reputation of individuals who have had – thank you – who have had an unproven allegation made against them on the other.

Queensland Rail's primary interest in this issue stems from its role as employer of a number of personnel in remote and regional areas. We understand that publicising allegations of corrupt conduct has received attention on a number of occasions previously, often in the context of politicians referring allegations of corrupt conduct to the Crime and Corruption Commission or its predecessors during election campaigns, allegedly with the intention of damaging an opponent.

However, in Queensland Rail's view, publicising allegations of corrupt conduct also affects individuals who are not politicians, particularly where the subject of those allegations is in a regional or remote community. In this regard, Queensland Rail is mindful that a person's reputation can be damaged simply by being associated

with an allegation of corrupt conduct and considers there is a need to protect the privacy of all individuals associated with allegations of corrupt conduct.

In Queensland Rail's respectful view, the risks associated with publicising allegations of corrupt conduct could be mitigated by amending the Crime and Corruption Commission in a manner – Corruption Act in a manner similar to that recommended by The Honourable Ian CALLINAN AC and Professor Nicholas ARONEY in their 2013 report. In summary, this proposal would make it an offence to disclose the fact or substance of a complaint to, or that it is being investigated by the Crime and Corruption Commission if disclosure would tend to identify any person associated with the complaint subject to several expiring events.

In Queensland Rail's view, this prohibition is not all encompassing and is only intended to protect against the identification of a person associated with a complaint before the investigation is finalised. Thank you.

Mr MacSporran QC

Thank you. Do I take it then that what you're proposing is that you wouldn't prohibit the publication of all allegations, just the fact that the allegation has come to the CCC for investigation?

Ms Fursey

What we'd be proposing is an amendment similar to that contained in Section 56 of the ICAC Act in South Australia, which prohibits the disclosure of information that would tend to identify any person associated with the complaint, the fact that a complaint has been made to or is being investigated by the CCC, the substance of the complaint that has been made to or investigated by the CCC, subject to the expiring events that would apply.

Mr MacSporran QC

I'm particularly interested in your submission in terms of the additional complications for a complainant in a regional or remote area. I suppose the first thing is that someone in those areas who is a complainant potentially should have confidentiality imposed to protect their position. You would agree with that?

Ms Fursey

Yes.

Mr MacSporran QC

Where there's a publication of the allegation in a regional or remote area, I would think it would cause enormous

difficulties for the complainant in terms of being able to remain in that small community.

Ms Fursey Yes, and I think it's important to note that our submission does concern the rights of the complainant to remain anonymous, any witnesses that might be called by the Commission as well as the subject of the complaint, in a small community things are likely to become, I'd suggest, more widely known within the small community. And it will make it more difficult for both the subject of the complaint and the complainant themselves to remain in the community.

Mr MacSporran QC And of course if it becomes known there is a real risk that the complainant could be ostracised and shamed, as it were, in that community.

Ms Fursey That would be our view, yes.

Mr MacSporran QC In terms of addressing that issue, apart from maintaining confidentiality, I gather there's not an easy solution in terms of relocating or attempting to relocate such a complainant?

Ms Fursey There would not be, and particularly when we are thinking of our employees in those areas, it may be difficult to relocate them in terms of the job that they're doing and obviously they will have ties to the community which would make it inconvenient, to say the least, for those people to be moved around.

Mr MacSporran QC And you could argue, I suppose, unfair to require them to move in circumstances where they have done nothing more than report misconduct.

Ms Fursey Absolutely, yes.

Mr MacSporran QC Right, all right, thank you.

Mr Irwin Without going into detail, is this submission based on actual experience that Queensland Rail has had with specific cases?

Ms Fursey Look, I can't speak to any specific cases and any specific examples-

Mr Irwin No, and I'm not asking you to-

Ms Fursey And, sorry, what I'm meaning to say is I'm not aware of any specific examples. I can certainly make enquiries and come back to the Committee with some information.

Mr Irwin All right, thank you. That's all I have at this stage.

Mr MacSporran QC Thank you. Just in relation to that, do you know whether the Department does keep records of numbers of complaints and complaints that may have been demonstrated to have been false and so forth?

Ms Fursey I don't personally know that. I would expect so, yes.

Mr MacSporran QC Okay. Well, again, we can leave it on the basis if you are content to do that for us; to have some enquiries made and perhaps you can make another written submission to us with some figures if you have them?

Ms Fursey Certainly.

Mr MacSporran QC Thank you.

Mr Bingham That's good. Thank you.

Dr Denning We heard yesterday the argument that the publication or airing of these allegations in public actually draws out more information about that matter or indeed general corruption matters. The proposal to essentially prioritise the needs of complainants and witnesses etcetera obviously runs at odds with that a little bit, how do you think that we should be thinking about that balancing act between the rights of confidentiality of the people involved in the matter and trying to elicit more information about corruption?

Ms Fursey Look, we would suggest, I think, that the balance is that the corollary to that is that publicising allegations may in fact make it less likely that witnesses will want to come forward, particularly in regional areas where they may be more likely to be identified. And it may in fact prejudice the Commission's ability to undertake a full investigation. So we would suggest that, on balance, it would be more advantageous or facilitate more fulsome investigations were confidentiality preserved.

Dr Denning So am I right in – and I just want to make sure I get this right – so is this something that you think is particularly applicable in the remote region where, rather than the

anonymity that exists within a metropolitan area, do you think that the investigating agencies are actually going to be more successful in eliciting information if they do that through the investigation as opposed to that public mechanism?

Ms Fursey Look, that would be right. Given one of our primary concerns is our employees functioning in remote areas, we would suggest that they would be better protected and that the Commission is more likely to be able to elicit that information if witnesses and complainants can be guaranteed, or so far as possible, that they are less likely to be identified, that they would be more inclined to participate fully.

Mr MacSporran QC Just one final thing from me at least, can you tell us whether – and I’m assuming you do have – does Queensland Rail have a protocol for protection of the identities of complainants in these situations?

Ms Fursey Yes, we do. We have a dedicated officer who is obviously responsible for these types of complaints. And we have protocols in place designed to protect that information and to my knowledge those protocols have been successful.

Mr MacSporran QC Thank you. Marshall?

Mr Irwin No, I’ve got nothing further. That’s clear to me.

Mr MacSporran QC That’s all I think we have.

Ms Fursey Thank you very much.

Mr MacSporran QC Thank you very much for coming.

Ms Fursey Thank you for the opportunity.

Mr Irwin Yes, thank you. Good morning.

END OF SPEAKER