



ATTORNEY GENERAL; MINISTER FOR COMMERCE

Our Ref: 44-05378



Hon Nick Goiran MLC
Chairman
Joint Standing Committee on the Corruption and Crime Commission
Parliament House
Harvest Terrace
PERTH WA 6000

Dear Mr Goiran

Nick

RESPONSE TO JSCCCC: REPORT NO 1 JUNE 2013 REPORT NO 2 JUNE 2013

I note that you and Mr Paul Papalia MLA have tabled the above two reports in the Legislative Assembly and the Legislative Council on behalf of the Joint Standing Committee on the Corruption and Crime Commission.

My response, on behalf of the Government is as follows:

Report No 1 Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?

Recommendation 1

The Criminal Property Confiscation Act 2000 should be amended so as to invest the functions conferred upon the Director of Public Prosecutions in Sections 11-14 upon the Commissioner of the Corruption and Crime Commission. This would allow the CCC to conduct, on application by the WA Police Commissioner, investigations of unexplained wealth into targets identified by the WA Police. These functions could then be removed from the ambit of the DPP.

A Bill will be introduced into the Spring session of the 39th Parliament which will incorporate those elements of the 2012 CCC Amendment Bill 2012 concerned with criminal property confiscation and unexplained wealth. The Bill will retain the DPP's role in applications for unexplained wealth declarations as it would be prudent for it to be able to pursue such an application if it is prosecuting members of a criminal organisation, but does **not** have prima facie evidence of a crime against a person associated with that organisation.

Recommendation 2

The Corruption and Crime Commission Act 2003 should be amended to give the CCC the power to initiate civil proceedings, and to freeze and maintain custody over property, so as to enable the CCC to investigate unexplained wealth in line with the provisions of sections 11-14 of the Criminal Property Confiscation Act 2000.

See response to Recommendation 1 above.

Report No 2

How the Corruption and Crime Commission handles allegations and notifications of Police misconduct.

Recommendation 1

That Section 7A of the CCC Act 2003 be amended to read "Act's purpose.

The main purposes of this Act are:

- (a) to aid the efforts of the WA Police to combat and reduce the incidence of organised crime; and*
- (b) to improve continuously the integrity of the WA Public Sector **and in particular the WA Police**".*

I will be introducing a separate Bill into Parliament in the Spring session that will propose the transfer of the CCC's responsibility for public sector misconduct, and the CCC's responsibilities for corruption prevention and education, to the Public Sector Commissioner.

This will mean, in the first instance, that the CCC will be able to devote more attention to the oversight of police misconduct investigations. This, together with your Committee's observation that the current Commissioner is placing increased emphasis on police oversight, would appear to obviate the need for the Committee's proposed amendment to Section 7A of the CCC Act 2003.

Recommendation 2

The Corruption and Crime Commission Act 2003 should be amended to allow for the appointment of a full time Deputy and/or Assistant Commissioner of the Corruption and Crime Commission to whom specific functions may be delegated by the Commissioner, and who is able to act as the Commissioner in his absence.

As mentioned in my response to Recommendation 1, the proposed move of responsibility for public service misconduct investigations as well as prevention/education functions will have significant workload impact on the CCC which will have to be assessed more closely once the transfer has been effected.

With this in mind, as well as existing provisions for the appointment of Acting Commissioners and Assistant Commissioners, I cannot, at this point in time, see a need for a full time Deputy Commissioner.

I will review the situation once the Bills I intend to introduce during the Spring session have been in operation for a reasonable period of time.

Recommendation 3

The Corruption and Crime Commission Act 2003 should be amended to require the role of the Corruption and Crime Commission's Executive Director to be performed by someone who meets the same criteria for appointment to the role of Commissioner. This would allow the Executive Director to be an Acting Commissioner in the Commissioner's absence.

This proposal is unwise as it could lead to blurring between the two positions. It also appears unnecessary as either an Acting Commissioner or an Assistant Commissioner (under proposed legislation) can act and have the full powers of the Commissioner.

Recommendation 4

That the CCC Act should be amended to make it clear that the Corruption and Crime Commission may include findings of fact in its reports.

Unless there is an element of the argument supporting this Recommendation not clearly articulated in the Report, I cannot see the need for such an amendment in the light of the provisions contained in Section 18 of the current Act, as well as proposed amendments contained in the 2012 CCC Amendment Bill.

Recommendation 5

The Corruption and Crime Commission should report to Parliament on the outcome of any operation that it conducts – even when that outcome is not controversial.

Again, the rationale for this approach is not clearly articulated in the Report. As such, I cannot see a reason for the proposed amendment bearing in mind the provisions contained in Division 3 of the CCC Act around the role of the Parliamentary Inspector. Further, the potential benefits there would be of such a change are not described in the Report.

As indicated previously, the Government is now committed to the development of the two Bills mentioned above. The Government is also considering other provisions contained in the CCC Amendment Bill 2012, as well as some of the matters raised by the JSCCCC in its reports on the CCC, for inclusion in a future Bill.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael Mischin', with a stylized flourish at the end.

Hon. Michael Mischin MLC
ATTORNEY GENERAL; MINISTER FOR COMMERCE

30 JUL 2013