

CPSU response to questions on notice from Select Committee hearing of 28 September 2018.

1. Conduct of public examinations

In our submissions of May 2017 and August 2018 the CPSU emphasised the need for hearings or examinations to be conducted ordinarily in private. Notwithstanding this, the CPSU does accept it may be appropriate in various circumstances for an examination to be in public. The CPSU says the Exposure Draft needs to strike the right balance between the competing interests of individual privacy and public transparency and open justice. The Exposure Draft should ensure the conduct of a public examination is demonstrably in the public interest and outweighs any countervailing interests in confidentiality and privacy.

2. The relationship between the Exposure Draft to establish an ACT Integrity Commission and the current Public Interest Disclosures Act 2012 (PID Act)

The CPSU supports recommendation 78 for a review of the PID Act from the Inquiry into an Independent Integrity Commission – Report. How the PID Act and the Integrity legislation interact is something that needs specific elaboration in this context. It would be important to ensure the two pieces of legislation can work without undermining the new and important role the Integrity Commission should play in anti-corruption investigation.

In principle, the CPSU would support the Integrity Commissioner being a person to whom a protected disclosure can be made under the PID Act. The protections of the PID Act should apply where relevant regarding witnesses or other persons assisting Integrity Commission proceedings. The proposed Exposure Draft may also need provide for how the two acts interact and allow a public interest disclosure to be more appropriately dealt with as a complaint under the Integrity legislation.

3. CPSU comments on the Anti-Corruption and Integrity Bill 2018 (Opposition Bill)

In our August 2018 submissions the CPSU mentioned various elements of the Opposition Bill. This included concern the Opposition Bill was not clear in specifying that contractors to government, and employees of contractors are subject to provisions of the proposed legislation. Concerns included how the Opposition Bill proposed to deal with engagement of staff, as the CPSU does not believe it is appropriate to exclude membership of political parties as a selection criteria for Commission staff. The CPSU also was opposed to that Bill's powers for covert and controlled operations and insufficient protections for complainants and witnesses. Overall, the CPSU supported the more detailed and comprehensive Exposure Draft provided by the government.

4. Circumstances where a draft investigation report shouldn't be provided to persons being investigated: s186

In our August 2018 submissions, the CPSU expressed concern at the requirement for agencies and for other persons to be consulted on the draft investigation reports prior to being made public. For example, a draft report's release to agencies or persons concerned could provide opportunity for certain persons to act unscrupulously prior to the reports public release or any disciplinary or police involvement. For high profile reports is could encourage rumour, speculation or unauthorised release. The Commission should have the discretion not to provide the investigation report for comment to agencies or other persons where it would not be in the public interest or the interest of persons concerned.