



Community and Public Sector Union
Brooke Muscat-Bentley • ACT Regional Secretary

8 September 2017

Secretary
Select Committee on an Independent Integrity Commission
Legislative Assembly for the ACT
GPO Box 1020
CANBERRA ACT 2601

Email: committees@parliament.act.gov.au

Dear Sir/Madam

CPSU Submission to the Select Committee on an Independent Integrity Commission

The Community and Public Sector Union (CPSU) is an active and progressive union committed to the promotion of a modern efficient and responsive public sector that delivers quality services and quality jobs. We are the principal union representing employees in the ACT Public Service.

The CPSU has provided some answers taken on notice from the hearing to the Select Committee on an Independent Integrity Commission.

Should you wish to discuss any of these answers further you can contact me at brooke.muscat@cpsu.org.au, or on (02) 6220 9643.

Yours sincerely

Brooke Muscat-Bentley
ACT Regional Secretary



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CPSU Answers on Notice to the Inquiry into the establishment of an independent integrity commission for the ACT

In our submission we said we preferred private hearings unless the circumstances were extraordinary, what exactly would those extraordinary circumstances be?

A public interest test should be devised to determine the extraordinary circumstances in the public interest that warrant public hearings. The test must ensure it will not affect the personal safety or reputation of an individual. Victoria's IBAC does a public interest test which it determines. The relevant part of the IBAC legislation that makes private hearings the default setting are below:

117 Examinations generally to be held in private

(1) Subject to subsection (2), an examination is not open to the public unless the IBAC considers on reasonable grounds—

(a) there are exceptional circumstances; and

(b) it is in the public interest to hold a public examination; and

(c) a public examination can be held without causing unreasonable damage to a person's reputation, safety or wellbeing.

(2) The IBAC must not hold an examination in public if the examination may disclose particulars likely to lead to the identification of a person who has made an assessable disclosure.

(3) However, the IBAC may hold an examination in public if the information that may be disclosed is information to which section 53(2)(a), (c) or (d) of the Protected Disclosure Act 2012 applies.

(4) For the purposes of subsection (1)(b), the factors the IBAC may take into account in determining whether or not it is in the public interest to hold a public examination include, but are not limited to—

(a) whether the corrupt conduct or the police personnel conduct being investigated is related to an individual and was an isolated incident or systemic in nature;

(b) the benefit of exposing to the public, and making it aware of, corrupt conduct or police personnel misconduct;

(c) in the case of police personnel conduct investigations, the seriousness of the matter being investigated.

(5) Not less than 7 days before a public examination is held, the IBAC must—

(a) inform the Victorian Inspectorate that the IBAC intends to hold the public examination; and

(b) provide a written report to the Victorian Inspectorate giving the reasons the IBAC decided to hold a public examination in accordance with subsection (1).

6) A judicial officer is not required to attend a public examination but may consent to doing so.

Source: <http://www.ibac.vic.gov.au/docs/default-source/unpublished-docs/ibac-act-2011.pdf?sfvrsn=4.pdf?sfvrsn=4>

CPSU Answers on Notice to the Inquiry into the establishment of an independent integrity commission for the ACT

What protections would we like included for whistle blowers?

The CPSU notes that the ACT has a Public Interest Disclosure Act and that should form the starting point of protections for whistle blowers.

All information should be treated confidentially and complaints made to the Integrity Commission should be protected from defamation proceedings.

Furthermore, there should be legislative protections for whistleblowers to ensure it is a criminal offence to threaten or use, cause, inflict or procure violence, punishment, damage, loss or disadvantage to anyone who has given the Integrity Commission information or assisted it in other ways or to dismiss or disadvantage anyone in their employment because they have assisted the Integrity Commission.

We said we would like not just ACT Government and its Public Service to be included under this commission but also any labour hire companies that work with the Government, how far would we like to extend that? Would we include any NGOs that might have a funding arrangement with the Government?

An ACT Integrity Commission should be able to "follow the dollar" to scrutinise organisations that have a funding arrangement with the Government or provide a service to the Government.

Should ACT Policing be covered by this?

As ACT Police are covered by ACLEI, we believe it is unnecessary for them to be covered by the Integrity Commission. The CPSU notes that in NSW, police are not covered by ICAC but by the Law Enforcement Conduct Commission.

Where is our line on duplication and overlap for those who might be covered by more than integrity process?

The CPSU believes there should be an independent process of reviewing existing integrity processes to determine what gaps currently exist and to avoid duplicating existing processes which may cause confusion.

