



Recognising and upholding excellence in local government

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1 February 2020

Committee Secretary  
Economics and Governance Committee  
Parliament House  
George Street  
Brisbane Qld 4000

Email: [egc@parliament.qld.gov.au](mailto:egc@parliament.qld.gov.au)

Dear Secretary

**Subject: CCC proposals for serious offences**

OSCAR (Organisation of Sunshine Coast Association of Residents) is the peak body representing resident and community organisations on the Sunshine Coast. We are a non-partisan and not-for-profit incorporated association.

Please find our responses to these provisions on the following pages. These responses reflect the ***Call for further submissions: Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019*** as per your email of 26 January 2020.

OSCAR wishes the committee well in its deliberations.

Yours sincerely

A handwritten signature in black ink that reads "Melva E Hobson".

Melva Hobson PSM  
President

Email [mail@oscar.org.au](mailto:mail@oscar.org.au) (NB our preferred form of communication)

While initially consulted on the content of the Bill, the CCC has advised the committee that after having the opportunity to review the provisions in greater detail, it has concluded the proposed amendments “do not, as they currently stand ... achieve the purposes of the CCC's recommendations”, calling for the requirements for proof of dishonest intent be removed from the offences, and other accompanying amendments (hearing transcript, p 57). The CCC explained:

*The various disclosure obligations under the relevant legislation should have the common purpose of ensuring that the Premier, the cabinet, the parliament, the local government and, in many circumstances, the public are aware of the relevant private interest to enable accountability and ensure duties are performed in the public interest. The CCC considers effective enforcement of these obligations requires offence provisions which sanction the failure to disclose relevant interests when the person knew or ought to have known of the relevant interest. Offence provisions drafted to this effect will effectively implement the CCC's recommendations.*

*... the CCC does not support the bill's proposal to limit prosecutions for noncompliance with disclosure obligations to only matters for which a dishonest intent is able to be proved. The offence should also prescribe the failure to disclose relevant interests when the person knew or ought to have known of the relevant interest. A strict liability offence is required because otherwise the laws are ineffective in preventing corruption and would negatively contribute to perceptions in democratic decision-making processes (hearing transcript, p 57).*

The CCC has also advised that it considers that offences relating to the contravention of conflict of interest and register of interest requirements should apply to all members of the Queensland Parliament (hearing transcript, p 61).The committee wishes to invite further input from stakeholders regarding the CCC's proposal to introduce strict liability offences for these serious offences, and to extend their application to all State Members of Parliament, in addition to Ministers and councillors (and councillor advisors).

Original Recommendation	Changes requested as per commentary	OSCAR response
<p><b>Recommendation 3:</b></p> <p><i>Parliament create a criminal offence for occasions when a member of Cabinet does not declare a conflict that does, or may conflict, with their ability to discharge their responsibilities.</i></p> <p><i>Creating a criminal offence will strengthen the framework and obligations on Ministers to ensure disclosure and management of actual, potential or perceived conflicts of interest occurs. Failure to do so could, in certain circumstances, be considered corrupt conduct, as defined in the Crime and Corruption Act 2001.</i></p>	<p><i>The CCC considers effective enforcement of these obligations requires offence provisions which sanction the failure to disclose relevant interests when the person knew or ought to have known of the relevant interest. Offence provisions drafted to this effect will effectively implement the CCC's recommendations.</i></p>	<p><b>Strongly agree with the CCC suggested changes.</b></p> <p>OSCAR suggests that the same penalties apply to Local Government. Apart from Brisbane City, most local governments as a whole perform the role of a Cabinet so should be held to the same standards as State Cabinet. Similarly but in a different context the same penalties should apply to Shadow Cabinet members.</p> <p>Unfortunately over recent years trust in government at all levels has been eroded by the actions of a few. In local government that trust has been betrayed not only by individuals both elected and public sector officials but by Councils as a whole, Mayors and councillors resulting in a number of dismissals and charges being laid.</p>
<p><b>Recommendation 4:</b></p> <p><i>That Parliament create a criminal offence to apply when a member of Cabinet fails to comply</i></p>	<p><i>The CCC does not support the bill's proposal to limit prosecutions for noncompliance with disclosure</i></p>	<p><b>Strongly agree with the CCC suggested changes.</b></p> <p>If a politician, be it at State or LG level does not familiarise themselves re the rules, then they do not deserve to occupy</p>

Original Recommendation	Changes requested as per commentary	OSCAR response
<p><i>with the requirements of the Register of Members' Interests, and the Register of Members' Related Persons Interests by not informing the Clerk of Parliament, in the approved form, of the particulars of an interest or the change to an interest within one month after the interest arises or the change happens. A suitable penalty should apply, including possible removal from office, if it is found that the Member's lack of compliance was intentional.</i></p>	<p><i>obligations to only matters for which a dishonest intent is able to be proved. The offence should also prescribe the failure to disclose relevant interests when the person knew or ought to have known of the relevant interest. A strict liability offence is required because otherwise the laws are ineffective in preventing corruption and would negatively contribute to perceptions in democratic decision-making processes (hearing transcript, p 57).</i></p>	<p>the position.</p> <p>It should be part of the induction process for new and continuing councillors.</p> <p>OSCAR believes that it is irrelevant as to whether the politician at State or LG has a dishonest intent. The issue is the declaration must be made regardless of the intent. It is about integrity.</p> <p>Unfortunately some people will only comply if there is a possible and meaningful penalty</p>
	<p><i>The CCC has also advised that it considers that offences relating to the contravention of conflict of interest and register of interest requirements <b>should apply to all members of the Queensland Parliament</b></i></p>	<p><b>Strongly agree with CCC recommendations.</b></p> <p>Much of the reform process being undertaken by the Government is about consistency. It is therefore logical that the rules and penalties apply across the Parliament.</p>
	<p><i>The committee wishes to invite further input from stakeholders regarding the CCC's proposal to introduce strict liability offences for these serious offences, <b>and to extend their application to all State Members of Parliament, in addition to Ministers and councillors (and councillor advisors).</b></i></p>	<p><b>Strongly agree with CCC suggested inclusions.</b></p> <p>Again as much of the current reform agenda is about consistency then the application of these penalties should extend to all state Members of Parliament and include councillors and councillor advisers.</p> <p>OSCAR reiterates that where a Mayor or Councillor has a political adviser, the political adviser should be excluded from any discussions in relation to any matter where there is a declared Conflict of Interest or Prescribed COI by the Respective Mayor or councillor for whom he/she is adviser.</p>