



Office of the Chief Commissioner

43295/68

5 April 2018

Ms Dora Oravec  
Committee Manager  
Committee on the Ombudsman, the Law Enforcement  
Conduct Commission and the Crime Commission  
Parliament of NSW  
6 Macquarie Street  
Sydney NSW 2000

Dear Ms Oravec,

This is a response to the additional questions received from members of the Committee following the public hearing on 12 March 2018.

**1. Have you been consulted on the proposed re-engineering of the Crime Commission?**

Although the LECC has important oversight responsibilities in respect of the Crime Commission, it was not consulted in any way concerning any proposal to reengineer the Crime Commission.

**2. (i) do you have a view of the CEO model proposed for the Crime Commission?**

**(ii) do you think the proposed CEO model will assist in the Crime Commission fighting serious crime?**

It is convenient to deal with both these questions together. I have not been made aware of the precise character of the proposed "CEO model" and it is therefore difficult to answer these questions in detail. When the proposal is made clear, I would be happy to provide a more detailed view.

For the time being it appears to be the case, at least, that it is not proposed to appoint a statutory Commissioner along the lines presently provided in *the Crime Commission Act 2012*. The fundamental difference between that model and the CEO model appears to me that the CEO need not have legal qualifications or, if legal qualifications be required, no extensive legal experience. In light of the extraordinary powers abrogating civil rights which may be exercised by the Crime Commission, this difference is a worrying development. I leave aside the point that an experienced legal practitioner will have had the responsibility over a

number of years for conducting cases including, in particular, the examination and cross-examination of witnesses. Such a person would also be expected to have a detailed understanding of the rules of procedural fairness.

It is, I suppose, possible that it is envisaged that a CEO, in order to be appointed, would need to have this experience but, if that is the case, it is difficult to understand why the title needs to be changed if the relevant responsibilities are to remain the same. The proposed title of CEO suggests that the Commission is to be in charge of a manager/bureaucrat. Such an individual is unlikely to be qualified to undertake investigations, let alone exercise highly intrusive compulsory powers. It seems obvious that the management of the Commission, though crucial, is for the purpose of the conduct of effective investigations and therefore is essentially supportive rather than directive.

For reasons which should not need to be explained, the Commission's functions must be completely independent of political control or influence. In the present set up, this independence is effectively established by the role of the Management Committee. Section 57 of the present Act empowers the Management Committee to "give directions and furnish guidelines to the Commission with respect to the exercise of its functions" and requires the Commission to comply with such directions or guidelines. Given the membership and role of the Management Committee it is clear that no political interference with the work of the Commission could occur.

The abolition of this arrangement, without replacement by a statutory guarantee of functional independence would be a retrograde and dangerous development.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'M F Adams', with a long horizontal flourish extending to the right.

The Hon M F Adams QC  
Chief Commissioner