

Improving Standards of Integrity in the Public Sector : the Queensland Experience

David Brereton*

ABSTRACT

In the late 1980s, an independent judicial inquiry exposed significant corruption in the Government and Police Service of the State of Queensland. This paper provides an overview of the steps which have since been taken in Queensland to address the problem of corruption and promote higher standards of public sector integrity. These initiatives include: establishment of a powerful independent body to investigate and prevent public sector corruption (the Criminal Justice Commission); the introduction of a Public Sector Ethics Act and a Whistleblowers Protection Act; the development of systems for protecting merit in the appointments and promotions process; and, most recently, the establishment of an Integrity Commissioner to advise politicians and senior bureaucrats on ethical issues. The final section of the paper assesses the effectiveness of these various initiatives and discusses the lessons which other political systems might draw from the Queensland experience.

* Ph. D & Director, Research and Prevention Division, Queensland Criminal Justice Commission, Brisbane, Queensland Australia.

Introduction

I am very grateful for the invitation to talk to the Conference about how the problem of public sector corruption has been addressed in Queensland, Australia¹⁾. Clearly, there are some important differences between Australia and the Republic of Korea : the two countries have different political systems, different cultural traditions and different histories. However, I hope that what I have to say will still be of interest. Our societies might diverge from each other in some important respects, but I am sure that there is much which we can learn from each other about why corruption occurs and what can be done to control it.

My paper commences with a brief overview of the Fitzgerald Inquiry, which was a major corruption inquiry conducted in Queensland in the late 1980s. After providing this historical background, I then describe some of the key reforms which have been implemented since the Inquiry and look at the impact which they have had on standards of behaviour in the Queensland public sector. Following that, I outline the likely future direction of anti-corruption initiatives in Queensland. Finally, I conclude by considering some of the more general lessons which might be drawn from the Queensland experience.

The Fitzgerald Inquiry

The Fitzgerald Commission of Inquiry, which ran from 1987 to 1989, is a watershed event in the recent political history of Queensland. The Inquiry, which focused on public sector corruption in the State, changed the way in which many Queenslanders viewed their government and the Police Service, altered the political complexion of the State and served as the stimulus to wide ranging institutional reform.

The Fitzgerald Inquiry was set up in May 1987 by the then National Party Government in response to persistent reports in the media that police were involved in protecting illegal prostitution and gambling in the south-east of the State²⁾. The Inquiry, which was chaired by Mr Justice Tony Fitzgerald, a Supreme Court judge, was initially planned to run for only a few weeks, but as sometimes happens with exercises of this kind, it soon

1) Queensland is the second largest State in Australia in terms of area, covering some 1.7 million square kilometres, and the third largest in terms of population, containing around 3.4 million people. The bulk of the population is concentrated in the south-east corner and in large provincial towns along the coast. The economy is based principally on mining, agriculture and tourism. There is a large public sector, with approximately 140,000 people employed in the State public service and a further 36,000 in local authorities. The Police Service contains around 8,000 sworn officers.

2) For more details on the background to the Inquiry, see P Dickie, *The Road to Fitzgerald and Beyond*, University of Queensland Press, Brisbane, 1989, and S. Prasser, R. Wear and J. Nethercote, *Corruption and Reform: The Fitzgerald Vision*, University of Queensland Press, Brisbane, 1990.

turned into a wide ranging investigation into corruption and maladministration in the Government as a whole.

The evidence which emerged from the Inquiry proved to be quite sensational. The most senior police officer in Queensland the Commissioner of Police was exposed as corrupt and was later tried and sentenced to a lengthy term of imprisonment. Other corrupt senior officers were also identified, principally in those sections of the Police Service responsible for the enforcement of gambling and vice laws. More generally, the Police Service was found by the Inquiry to be debilitated by misconduct, inefficiency, incompetence and deficient leadership' and dominated by a culture characterised by contempt for the criminal justice system, disdain for the law and rejection of its application to police, disregard for the truth, and abuse of authority'.³⁾

The Inquiry also called into serious question the integrity of several senior political figures in the state and identified numerous instances where politicians had interfered inappropriately in government processes to further their own or others economic interests. In the aftermath of the inquiry, several former Government Ministers were prosecuted and jailed for misuse of public funds and associated offences. Another senior Minister would most likely have been prosecuted for corruption, but died before action could be taken.

In addition to identifying individual instances of corrupt conduct, the final report of the Inquiry, released in July 1989, contained wide ranging recommendations aimed at improving the quality of public administration in Queensland. In broad terms these proposals entailed :

- comprehensive organisational reform of the Police Service
- creation of a body to be known as the Criminal Justice Commission (CJC) to investigate suspected official misconduct and monitor, review, initiate and coordinate reform of the administration of criminal justice in Queensland 'on an ongoing and permanent basis'
- establishment of an Electoral and Administrative Review Commission(EARC) to review the State's electoral and administrative laws and processes.

In an effort to minimise the political damage caused by the release of the report, the Government of the day announced almost immediately that it had accepted all of the key proposals contained in the report. Not long afterwards, a State election was held and the incumbents were comprehensively defeated, ending a long period of conservative domination of Queensland politics.

3) Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct , Report Mr G.E. Fitzgerald (Commissioner) Brisbane, 1989, p. 200.

Evolution of an Integrity Infrastructure in Queensland

In this section of the paper, I focus on describing some of the key elements of the 'integrity infrastructure' which has been developed in Queensland in the decade since the Fitzgerald Inquiry reported. I also make some observations about the impact and effectiveness of these various measures. By 'integrity infrastructure' I mean the framework of institutions, laws, policies and processes which exist to curb improper behaviour and promote ethical conduct in the public sector.

Some of the reforms which I will be discussing were implemented directly or indirectly in response to recommendations of the Inquiry, but other, more recent initiatives (such as the establishment of an Integrity Commissioner) have taken their inspiration from other sources. Not all of the reforms which have been introduced have been unique to Queensland. New South Wales and Western Australia, for example, have also established anti-corruption commissions and at both federal and state level in Australia the broad issue of public sector ethics has assumed greater prominence in recent years. However, Queensland has arguably done more than any other Australian jurisdiction to build up an 'integrity infrastructure' and is now recognised as a pacesetter for reform in this area.

Establishment of the Criminal Justice Commission, 1989

Probably the single most important legislative reform to come out of the Fitzgerald Inquiry was the 1989 Criminal Justice Act which established the CJC.

The CJC is an independent statutory body with wide ranging investigative powers which is empowered to investigate alleged improper behaviour by police officers, state and local politicians, state government employees and officers employed in State-run correctional facilities. In addition, it has a broad mandate to monitor and initiate reform of the Police Service and of the administration of criminal justice generally.

The CJC's investigative jurisdiction is restricted to suspected official misconduct by public officials working in the State public sector: it does not cover employees of the Federal Government, or those working in the non-government or business sector.⁴⁾ 'Official misconduct' is defined by the Criminal Justice Act as behaviour that could lead to criminal prosecution or dismissal. It encompasses:

- carrying out duties or powers of office in a dishonest way or in a way that lacks impartiality

4) In this respect, the CJC differs from some other anti-corruption bodies, such as the Hong Kong Independent Commission Against Corruption (ICAC). The CJC can only investigate the activities of a person or organisation from the private sector where they have been a party to a corrupt transaction with a public official.

- breaches of trust
- breaches of confidentiality.⁵⁾

Many instances of official misconduct handled by the CJC are criminal acts, but some corrupt behaviours fall outside the scope of the criminal law: for example, improperly influencing a personnel selection decision or failing to act with impartiality.

Most cases of suspected misconduct come to the attention of the CJC as a result of a complaint from a member of the public or a report from the suspect officer's employing organisation. However, the CJC also possesses and on occasions utilises the power to initiate investigations on its own motion⁶⁾.

When an investigation produces evidence of a possible criminal act or omission, the standard practice of the CJC is to refer the matter to the Director of Public Prosecutions who determines whether the matter should proceed. The Office of the Director is also responsible for conducting any subsequent criminal prosecution. Where the CJC considers that disciplinary rather than criminal action should be taken it can either refer the matter back to the relevant public sector agency to deal with through its internal disciplinary processes, or initiate an action in a Misconduct Tribunal. These tribunals are quasi-judicial bodies which have power to dismiss public officials and impose other sanctions such as fines or demotions.

The Criminal Justice Act gives very substantial investigative powers to the CJC including to:

- compel people to attend public or private hearings and answer questions (although self-incriminating evidence cannot be used against a person in subsequent court proceedings)
- obtain financial records from banks and other financial institutions
- enter and search public premises without a warrant and private premises with a warrant
- with the approval of a Supreme Court judge, install listening devices.

Some of these powers, most notably the hearing power, are not available to the Queensland police officers.

The CJC employs more than 250 staff and currently has an annual operating budget of around A\$23 million. Well in excess of half of these staff are employed in roles associated with processing complaints and conducting investigations. However, the Commission also maintains a substantial Research and Prevention Division of some 30 officers. The functions of this Division include monitoring the progress of reform in the Police Service, overseeing the criminal justice system generally, and working with

5) In the case of police, the CJC's jurisdiction extends to 'misconduct', which covers a wider range of improper behaviour. However, the distinction between misconduct' and official misconduct' is not of great relevance for present purposes.

public sector bodies to promote ethical conduct and minimise corruption risks. In recent years, the Commission has given increasing emphasis to this preventive role, as will be discussed in more detail below.

A substantial number of police are seconded to work at the CJC in investigative roles and associated functions, but virtually all of the key positions in the organisation are occupied by civilians. The Chairperson, who is the Chief Executive of the Commission, is a senior lawyer. The CJC is answerable to the legislature, through an all-party Parliamentary Committee, but is not subject to direct governmental or ministerial control. The Chairperson and the Commissioners(who effectively operate as a Board of Directors) are appointed for fixed terms through a process which is intended to ensure that their nomination has bi-partisan support.

Since it became operative in May 1999, the CJC has handled around 22,000 complaints, and recommended disciplinary or criminal charges against several hundred individuals. Around 70 per cent of the matters dealt with relate to police, with State Government employees and the local government sector accounting for most of the remainder.

Assessing how effective the CJC has been in discharging its functions as an anti-corruption body is an extremely difficult task. While the statistics on the volume of work handled and the number of persons charged are impressive, these data do not, of themselves, indicate whether the CJC has been effective in reducing the incidence of serious misconduct in the public sector. Most corruption is hidden from public view and much of it is consensual(meaning that both parties to the transaction generally have an interest in keeping it secret). This makes it very difficult to determine whether an apparent absence of serious cases of corruption indicates that a system is relatively 'clean', or whether it simply shows that those who are engaged in such behaviour have become better at concealing it. Conversely, an increase in cases of reported corruption may indicate either that standards of behaviour are declining or that it has become harder to conceal corrupt practices. A further complicating factor from the point of view of evaluation is that it is not possible to disentangle the impact of the establishment of the CJC from the effects of the other important legal and institutional reforms which have been implemented in Queensland over the last decade.

Even though a methodologically rigorous evaluation of the effectiveness of the CJC may not be possible at this stage, there are several indicators which, read together, provide strong circumstantial evidence that the organisation has helped to bring about a significant improvement in standards of conduct in the Queensland public sector over the last decade.

- Although significant corrupt acts by individuals continue to come to the attention of the CJC, most of these cases involve lower ranked officials and persons acting

in isolation or in very small networks. CJC investigations over the last decade have not produced any evidence of higher level systemic corruption in the Police Service or elsewhere in the public sector. Some critics of the CJC have suggested that it has failed to uncover such corruption because it does not know where to look, but given the range of investigative resources available to the CJC, and the vigour with which it has pursued some matters (such as allegations of police involvement in drug trafficking), this criticism would appear to have little basis.

- The CJC has developed several measures for monitoring cultural and attitudinal change over time in the Queensland Police Service. These measures included complaints statistics, regular ethics surveys of rank and file police officers, public attitude surveys and surveys of people who have been arrested by police. Overall, the data show that the incidence of police misuse of powers has reduced and the willingness of police to report misconduct by fellow officers has increased. In addition, recent surveys indicate that operational police perceive that there is a high probability that serious forms of misconduct, such as pilfering drug exhibits and fabricating evidence against suspects, will be detected. This is an indication that the CJC is acting as an effective deterrent in these areas.⁶⁾
- Although it may not be possible to measure the incidence of corruption directly, we are in a better it is possible to monitor the measures being taken by public sector agencies to address corruption risk factors. In the case of the Police Service, progress has been made in a number of areas: recruit selection processes have been tightened, additional organisational resources have been devoted to enhancing ethical standards, tighter controls have been imposed on the handling of drugs and other confiscated goods, greater use is being made of risk management techniques, and so on. In several instances, these actions have been taken directly or indirectly in response to pressure applied by the CJC. The picture is more variable in other parts of the public sector, but the overall trend has generally been in the right direction.
- According to a public opinion survey conducted by the CJC in mid 1999, very few members of the public had any direct knowledge of serious improper behaviour by public sector employees in Queensland in the preceding five years. Out of a sample of 1500 people, only one person (0.1%) claimed to know of a state or public official taking a bribe. Overall, only about 1% of respondents reported any knowledge of possible illegal behaviour. It might be argued that members of the public would not necessarily be aware of the extent of improper behaviour which occurs in the public sector, but if such behaviour was widespread we would expect these proportions

6) See CJC, *Integrity in the Queensland Police Service: Implementation and Impact of the Fitzgerald Inquiry Reforms*, GOPRINT, Brisbane, 1997; CJC, *Ethics Surveys of First Year Constables: Summary of Findings 1995-98*, CJC, Brisbane 1999.

reporting some knowledge of it to be significantly higher.

The high profile nature of the CJC's work — particularly the fact that it investigates politicians — has made it a controversial organisation. Despite being the subject of frequent—and sometimes virulent political attacks, the organisation enjoys broad public support.⁷⁾ Even some of its strongest critics acknowledge that Queensland would have been a different place but for the establishment of the CJC. On this basis, there are grounds for optimism that the CJC is coming to be accepted as part of the ongoing institutional fabric of public life in Queensland.

Public Sector Ethics Act 1994

The Public Sector Ethics Act, which was passed in 1994, spells out specific ethics principles as the basis of good public administration in Queensland, and defines the framework for all state public sector agencies in Queensland to develop a Code of Conduct. The Act, which is administered by the Office of Public Service Commissioner, is modelled on proposals initially developed by the Electoral and Administrative Review Commission (EARC) which had been established pursuant to a recommendation of the Fitzgerald Inquiry.⁸⁾

The Public Sector Ethics Act declares five 'ethics principles' as the basis of good administration

- respect for the law and system of government
- respect for persons
- integrity
- diligence
- economy and efficiency.

All government agencies and departments, including local authorities, are required to develop and promulgate codes which reflect these basic principles. There is also a requirement on agencies to ensure that their employees receive appropriate education and training about public sector ethics.

The Act envisages codes of conduct as serving two broad purposes: one is to provide positive guidance to employees as to what standards of behaviour are expected of them; the other is to establish a framework whereby agencies can take disciplinary action against their employees if they purposely breach the code.

7) The 1999 survey found that 90 per cent of Queenslanders had heard of the CJC. Of these respondents, 90 per cent agreed that the Commission was a good thing for Queensland and just under 90 per cent considered that it was very or fairly important that the CJC be independent of government.

8) Unlike the CJC, which was established as a permanent body, the EARC legislation contained a 'sunset clause'. It ceased operations in 1994.

There are no sanctions for non-compliance with the Act, which may help to explain why many agencies were initially slow to address the requirements of the legislation. However, the CJC's monitoring indicates that all government departments and a large proportion of local authorities now have a Code of Conduct in place and have undertaken at least some training.

At this stage, there has not been a proper evaluation undertaken of the effectiveness or impact of the Act. It is stating the obvious, however, to observe formal adoption of a Code of Conduct will not necessarily ensure that people behave ethically. For such documents to be effective, they need to be reinforced continuously: in particular, senior management must, by their words and deeds, communicate to the rest of the organisation that they take the code seriously.

The impression which one obtains from many (although certainly not all) Queensland public sector agencies is that compliance with provisions of the Public Sector Ethics Act has, to date, been somewhat formalistic. Many agencies appear to consider that they have met the requirements of the Act once they have produced a code and run a short training session for staff: considerably fewer organisations have in place strategies for continually reinforcing the messages which codes of conduct are meant to communicate.

Although the Act appears to have had only a modest impact so far, it has still been a worthwhile initiative. Creating an ethical climate in an organisation is not something which can be achieved overnight, at the stroke of a pen. The benefit of the Act is not that it produces instant results, but that it provides a useful framework for bringing about change over the longer term.⁹⁾

By placing an obligation on organisations to provide ethical training to their staff, the Act has created an opportunity for ethical issues to be discussed on a regular basis within agencies. Initial training may have been rather rudimentary, but much good work has been done in Queensland and elsewhere in Australia over the last few years in developing innovative techniques and materials for delivering ethics training. (One of the leaders in this field has been the Queensland Office of the Public Service Commissioner and, in particular, Mr Howard Whitton, who was initially scheduled as the keynote speaker for this conference.)

Another way in which the Act has the potential to facilitate change over the longer term is by providing some assistance to people in public agencies who may find themselves in ethically difficult situations. Hopefully, it is at least a little easier for someone to resist pressure from a colleague or superior to act improperly if that person is able to point out that such action would be inconsistent with the agency's code

9) For a useful discussion about the uses and limitations of codes of conduct see N. Preston (ed).(1994). *Ethics for the Public Sector: Education and Training*. Federation Press, Sydney)

of conduct and the principles of the Public Sector Ethics Act.

Thirdly, an Act of this kind can provide a useful tool for external oversight bodies like the CJC to leverage change within agencies which have been identified as having significant integrity problems. For example, the Act has provided the CJC with an opportunity to work with agencies to develop and refine their Codes of Conduct, and to get involved in training in appropriate circumstances.

Perhaps the main deficiency of the Act, as it stands, is that the obligation to develop a Code of Conduct does not apply to elected representatives. Some work has been undertaken on drafting a Code for Queensland parliamentarians, but these efforts have yet to produce a concrete outcome. Various propositions have been advanced as to why politicians are 'different'. For example, it has been claimed that it is up to the electorate to judge what is ethical and what is not, and that politicians are already subject a higher level of scrutiny through the media and Parliament than are public sector employees. However, none of these arguments seem very convincing. The failure to develop a code for politicians has meant that the most important decision-makers in the public sector are notionally able to operate according to less stringent standards than apply to the rest of that sector. This is not a good signal to send to public sector employees, or to the community in general.

Whistleblowers Protection Act 1994

The Whistleblowers Protection Act 1994 was introduced as companion legislation to the Public Sector Ethics Act. The Act, which is modelled broadly on American whistleblower legislation, provides protection for people who make public interest disclosures¹⁰⁾ to authorised public agencies. The rationale for introducing such legislation is that one of the most effective ways of reducing corruption and promoting good government is to create an environment in which public sector employees who are aware of improper behaviour are prepared to come forward and report.¹⁰⁾

The Act is intended to protect public officers who wish to make a disclosure about one or more of the following matters:

- suspected official misconduct by another officer
 - unlawful, unjust, arbitrary, oppressive or discriminatory actions
 - negligent or improper management which leads, or has the potential to lead, to a substantial waste of public funds
 - a substantial and specific danger to the environment or public health or safety.
- In addition, the Act defines a limited number of grounds on which a person who

10) A detailed description of the Act and its operation can be found in the CJC publication, *Exposing Corruption: A CJC Guide to Whistleblowing in Queensland*, CJC, Brisbane 1996.¹⁰⁾

is not a public officer may also make a protected public interest disclosure: for example, where the person is aware that a reprisal may have been taken against someone for making a public interest disclosure.

The Act only provides protection where the person making the disclosure has an honest belief which is formed on reasonable grounds. To be protected, the disclosure must have been made to the agency of which the person is a member or another public sector body, or to a the CJC, the Ombudsman, a Parliamentary Committee, the Queensland Anti-Discrimination Commission, or the Health Rights Commission. Importantly, the Act does not apply where a whistleblower has made his or her disclosure to the media or has otherwise gone public' (a feature of the legislation which has attracted some criticism).

The legal protections provided by the Act include :

- making it unlawful to take reprisals against a person who has made or may make a public interest disclosure
- giving the right to apply for a court injunction to prevent a reprisal being taken
- requiring public sector agencies to establish 'reasonable procedures' to protect their officers from reprisal
- giving employees various appeal rights, including to apply to the Public Service Commissioner for relocation
- giving a person who has suffered reprisals the right to initiate a civil claim for damages.

There is considerable debate in Queensland about whether the Whistleblowers Protection Act has been effective in promoting a more conducive environment for reporting misconduct and maladministration.¹¹⁾ According to a recent assessment of the Act :

There have been no prosecutions for reprisal under the Act. There have been no applications to the Public Service Commissioner for relocation to avoid reprisal, and there have only been a small number of fair treatment appeals to the Public Service Commissioner alleging reprisal action, none of which has been upheld. There have been no civil claims for damages resulting from reprisal action.¹²⁾

There also appear to have been only a relatively small number of public interest disclosures recorded since the Act was proclaimed.

11) An example of this debate is the Symposium on the Queensland Ethics Movement in the Australian Journal of Public Administration v.54, no. 4, December 1995.

12) P. Anderson 'The Whistleblowers Protection Act Five Years On', paper presented to a joint CJC-Office of Public Service Commissioner seminar on Managing for Integrity, Brisbane, October 1999.

One way of reading these findings is as evidence that : (a) there is very little misconduct and maladministration in Queensland for public sector employees to complain about : and (b) the Act is working well in deterring agencies from taking reprisals against employees who do make disclosures. The alternative, more pessimistic, view is that public sector employees have little knowledge of, or confidence in, the Act and are reluctant to take the risk of reporting.

Until we have had the opportunity to conduct systematic research in this area care should be taken about forming conclusions about the effectiveness or otherwise of the Act. However, there is considerable impressionistic data to suggest that the legislation may not be working as well as may have been anticipated when it was first introduced. While most government departments have adopted formal policies and procedures to encourage and manage the internal reporting of serious matters, knowledge of these procedures by agency staff would generally appear to be quite poor.¹³⁾ The level of practical support which agencies provide for internal 'whistleblowers' also appears fairly limited (although the Police Service has recently established an Internal Witness Support Program). In addition, it is still relatively common for 'whistleblowers' who have contacted the CJC to express fears about the consequences of reporting. This may say something about the psyche of such persons and the inherent stress involved in reporting on one's colleagues and superiors, but may also point to some deficiencies in the current system of protection.

In making these observations, it is not my intention to devalue the Whistleblowers Protection Act. The objectives which the Act seeks to further are admirable and, very importantly, the Act provides a platform from which further reform can be launched. However, the Act probably does need reviewing to see if it can be made more effective.

Office of Integrity Commissioner 1999

Late last year, the Queensland Parliament passed legislation to establish Australia's first Integrity Commissioner. The primary function of the Commissioner will be to provide confidential advice, on request, to politicians and senior public officials about conflict of interest issues.¹⁴⁾ Those officials who act consistently with the advice which they receive will be provided with immunity from any further action. The Integrity Commissioner will also be empowered to perform other functions, such as providing advice on request about general ethics and integrity issues to the Premier, and

13) *Ibid.*

14) Members of Parliament are already required to enter details about property and share holdings etc. on a pecuniary interests register.

contributing to public discussion about integrity issues.

The creation of this position is an innovative reform, particularly in the Australian context, which has the potential to enhance public confidence in the political process. We must now wait to see whether, in practice, politicians and others will be prepared to seek advice from the Integrity Commissioner and act consistently with it.

Some Other Relevant Developments

In outlining the development of an integrity infrastructure in Queensland I have so far focused on those measures which have been aimed most directly at reducing the incidence of corruption and raising the level of integrity in the public sector. However, there are some other developments which are also worthy of at least a brief reference.

Enhanced merit protection

One of the most insidious and damaging forms of corruption in the public sector is cronyism and favouritism in the selection and promotion process. In addition to the destructive effects which such practices can have on organisational morale, they contribute to the misuse of human resources and help perpetrate a culture in which the giving and receiving of 'favours' is the norm.

Since the late 1980s, various measures have been put in place in Queensland to provide for fairer and more transparent appointment and selection processes. These initiatives include the establishment of enhanced promotions appeals systems for the Police Service and the Public Service, and the introduction of the Equal Opportunity in Public Employment Act 1992.

The CJC still receives complaints about cronyism and favouritism in the appointment and promotion process. Some of these complaints are from people who are disgruntled simply because someone apart from themselves got the job, but other allegations have real substance. For example, a senior public servant was recently fined \$9,000 by a Misconduct Tribunal for having created a position solely in order to provide a job for the son of an acquaintance of the former Director-General of the Department. Episodes such as this indicate that there continue to be opportunities for and pressures on public officials to interfere with the proper operation of the appointment and promotions processes. On the other hand, the example also shows that it has become much more difficult to conceal the more flagrant breaches.

Perhaps the main deficiency of the current framework of merit protection is that the controls are weakest for the most senior positions in the public sector, such as Department Heads. These positions are filled on contract and appointments are not

subject to review, which potentially creates greater opportunities for cronyism and political favouritism to influence selection decisions at this level.

The Auditor - General

An important public sector reform in Queensland, which pre-dated the Fitzgerald Inquiry by a number of years was the passage of the Financial Administration and Audit Act 1977, which created the statutory office of Auditor-General. The Auditor-General's Office is responsible for certifying the accounts of all public sector entities. The Office also conducts performance management audits and undertakes special investigations 'where appropriate'. The Office is an important mechanism for maintaining standards of financial probity in the public sector. In recent years the scope of its activities has expanded considerably to also include a focus on broader issues of corporate governance and a greater emphasis on risk management practices.

The State Purchasing Policy

Purchasing of goods and services by government agencies is another obvious area of corruption risk, particularly as an increasing range of public services are now being contracted out to private providers. An important initiative which the State Government has taken to reduce these risks and provide for a 'level playing field' in the tendering and purchasing process has been the formulation of a detailed Purchasing Policy which it is mandatory for public sector agencies to follow. The policy generates complaints from the public and private sector alike for being cumbersome and over restrictive to apply, but there is little doubt that it has helped to make purchasing decisions more transparent than was previously the case.

Summary

In summary, a broad range of measures are now in place in Queensland to reduce the risk of corrupt behaviour and promote higher standards of integrity in the Queensland public sector. These measures have been designed to provide a more effective deterrent(through the establishment of the CJC) promote positive attitudinal change(through the Public Sector Act) encourage more people to report suspected misconduct (through the Whistleblowers Protection Act) and reduce the opportunities for people to act corruptly(such as by imposing tighter controls on the promotions and appointment process, expanding the role of the Auditor-General and promulgating a State Purchasing Policy). Some of these initiatives would appear to have been more successful than others, but collectively they indicate that a quite a comprehensive integrity infrastructure is now in place in the State.

Future Directions and Challenges

As I have already indicated, it would appear that reasonably good progress has been made over the last decade in reducing the incidence of serious misconduct in the Queensland public sector and in identifying and reducing corruption risks. However, it is important that the degree of success is not overstated. Cases of significant misconduct continue to come to the attention of the CJC on a regular basis and there are new opportunities emerging all the time for public sector personnel to act improperly (the explosive growth in Internet access being an obvious recent example). In addition, while there has undoubtedly been significant progress over the last decade on some indicators, this improvement has often been from a fairly low base.

Looking to the future, the key issues are to :

- find a better balance between investigation and punishment on the one hand, and prevention on the other
- expand the capacity of individual agencies to deal with integrity and corruption prevention issues
- maintain broad community and political support for anti-corruption initiatives over the longer term.

Investigation and Prevention : Getting the Mix Right

One obvious way to reduce the incidence of corruption is to increase the probability that persons who act corruptly will be exposed and punished. Until relatively recently, this was the primary corruption control strategy employed by the CJC: the bulk of the organisation's resources were devoted to conducting investigations and success was measured primarily by the number of charges laid and convictions obtained. However, several factors have prompted the CJC to re-think the issue of the appropriate balance between investigation and prevention.

- Like other anti-corruption bodies, the CJC's experience has been that it is very difficult to satisfy the legal standard required to initiate a prosecution. Often the CJC has found itself in a position where there is considerable indirect evidence that a public official or police officer has acted improperly, but there is insufficient evidence to justify charging that person or removing him or her from office. In these situations, something else obviously needs to be done to prevent a recurrence of the behaviour.
- Investigations have been shown to be time consuming and resource intensive. Major inquiries can run to millions of dollars and even straightforward complaint investigations can cost many thousands of dollars. The demands of conducting these inquiries coupled with the fact that many have an inconclusive outcome has inevitably

focused greater attention on the issue of cost effectiveness. Increasingly, the view is emerging that it is a better use of resources to prevent the behaviour from occurring in the first place than it is to investigate the misconduct once it has occurred.

There is considerable evidence that an over-reliance on the threat of punishment and formal disciplinary processes to bring about behavioural change can be counter productive. An excessively punitive approach can lead to the development of an 'us versus them' culture in which public sector employees see senior management and external oversight bodies as the enemy. In such a climate, employees may be reluctant to report misconduct by their peers because of the perception that they will be treated too harshly. In addition, it can be very difficult in these circumstances to convey a positive message about the value of behaving ethically.

The CJC is endeavouring to address these issues by becoming more selective about the matters which it investigates, such that resources are concentrated on cases where serious official misconduct is alleged and there is a fair prospect of a 'result'.

The organisation is also seeking to maximise the number of investigations which lead to a preventive outcome and is seeking to devote more resources to strategic prevention activities (such as developing general advisory materials and kits for public sector managers).

Enhancing Agency Capacity and Accountability¹⁵⁾

Over the least decade in Queensland, a considerable amount of effort has been invested in getting the key elements of the integrity infrastructure in place at the whole of government level and in ensuring that those elements are functioning properly. One of the major challenges for the next decade will be to build an integrity infrastructure into individual agencies, so that they are able to self-regulate to a much greater extent than is the case at present.

This change in emphasis recognises, firstly, that centralised bodies like the CJC have only a limited capacity to enforce effective controls at the local level; and secondly, that agencies are more likely to do something to address a problem if they are given some ownership of it.

One way of building up the capacity of agencies to self-regulate is to require them to develop and adhere to a comprehensive corruption prevention strategy. As I have indicated, public sector agencies in Queensland are already required by legislation to

15) This discussion draws heavily upon a recent unpublished paper prepared by my colleague, John Boyd, entitled *'Corruption : What is it and what can be done about it ?'*.

provide ethics training for their staff and to develop policy and procedures for protecting people who make public interest disclosures. The CJC's view is that the obligations of agencies should be broadened to require the development and implementation of a comprehensive corruption prevention strategy. Elements of this strategy should include :

- regular agency-wide corruption risk assessments
- allocation of responsibility within the organisation for managing the strategy
- formulation of internal and external reporting procedures
- a comprehensive staff awareness program which focuses not only on ethical issues but on increasing the capacity of staff to identify corruption risks and instances of possible improper behaviour by their colleagues
- development of an internal investigative capacity
- dissemination of information to clients and the community, clearly setting out the agency's principles and procedures for dealing with corrupt behaviour.

Some of the larger Government departments in Queensland are making substantial progress in developing agency-specific corruption prevention strategies which address these issues, but resistance and apathy are still being encountered in some quarters.

Another priority is to ensure that senior managers are made more directly accountable for what happens in their agencies. Unfortunately, when corruption has been uncovered at the lower level of organisations, senior managers have often been able to evade responsibility by claiming that 'they did not know about it'. However pleading ignorance should not be an acceptable excuse. Managers cannot be expected to know of everything which is happening in their agencies, but they should be held accountable for failing to put proper anti-corruption controls in place, and for failing to move quickly to deal with problems when they are identified. This means that, ideally, performance indicators of all senior management positions should include evidence of fraud/corruption prevention plans, the application of risk management practices, and the number of preventable incidents of corruption.

More generally, it is becoming increasingly evident that senior managers have a critical role to play in setting the overall ethical tone of their organisations. What these managers say and do, and how they are perceived by their staff, is likely to be far more important in shaping the organisational climate than any formal policies and procedures which are issued. It is therefore essential that senior managers appreciate the role which they ought to play in providing ethical leadership, and that instances of unethical conduct at the senior level are dealt with severely.

Promoting ideas of management accountability, and ensuring that they applied in practice, will be an increasingly important focus of CJC corruption prevention activities over the coming years.

Maintaining Long Term Support

I am fairly confident that there will be no serious attempt made in the short to medium term to dismantle any elements of the Queensland integrity infrastructure (although some continued fine tuning is likely). However, there is a risk that over the longer term the level of support for anti-corruption initiatives might be eroded.

One possible danger is that political leaders and the community in general will become complacent about the issue, especially in the absence of any further major corruption scandals. This could lead to the emergence of a view that the problem of corruption has been 'fixed' and the resources devoted to its investigation and prevention could be put to better use.

The second and potentially more serious risk is that anti-corruption controls come to be seen as barriers to organisational efficiency and effectiveness, rather than as aids to good government. In Queensland, it is common for police and their union representatives to claim that the CJC has 'tied their hands' when it comes to dealing with criminals. There is no hard evidence that this is actually the case, but such claims can strike a responsive chord with sections of the public and the media, particularly in the context of rising concern about the problem of crime. Public servants likewise complain regularly about the 'excessive' level of control which has been imposed in respect to areas such as financial administration, purchasing practices and personnel management. Some of these complaints may be no more than self-interested pleading, but there is also now a respectable line of academic argument that too much of a focus on corruption control can have a deleterious effect on the morale of public sector employees and distort organisational decision-making processes.¹⁶⁾ Criticism also comes from the private sector, where concern is often expressed about the cost of doing business with the public sector.

In order to counter these attacks, the Queensland community and its political representatives will need to be regularly reminded of the benefits of having a strong integrity infrastructure in place. In addition, it is very important to respond constructively to the concerns which have been expressed about the impact of anti-corruption measures on organisational efficiency and effectiveness. In this respect, a major challenge for the next decade will be to develop corruption prevention strategies which are less intrusive and more 'organisation friendly'.

16) A. Anechiarico and B. Jacobs.(1996). *The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective*, The University of Chicago Press, Chicago.

Conclusion-What are Some of the Lessons to be Drawn from the Queensland Experience?

As I indicated at the outset of the paper, Australian and Korea differ significantly from each other in important respects: it should not be assumed that what works in the Australian context will work in the Korean context, or vice versa. However, I do think that there are some general lessons which are worth drawing from the Queensland experience.

First, if long term reductions are to be achieved in the level of public sector corruption, priority must be given to building an effective integrity infrastructure. High profile inquiries and trials can be effective in raising public awareness about the problem of corruption over the shorter term, but unless these inquiries are followed up by a program of institutional and organisational change, their impact will soon fade.

Second, the problem of corruption needs to be tackled at a number of different levels, using a range of strategies. Setting up a powerful investigative body will assist in deterring corrupt conduct and bringing the guilty to trial, but it will not of itself promote positive attitudinal change or reduce the opportunities for others to act corruptly in the future. Similarly, developing codes of conduct and undertaking ethical training may help to promote greater awareness of ethical issues in an organisation, but is unlikely to change the behaviour of those who have the motive —and opportunity— to act corruptly. An anti-corruption strategy, to be fully effective, must address all of these issues simultaneously, in an integrated fashion.

Third, it is essential that all government agencies and particularly their senior managers are made to take some responsibility for reducing corruption risks and improving ethical standards in their areas of responsibility. Specialist anti-corruption bodies have an important role to play, but they should not be expected to do all of the work. If senior managers fail to take corruption and its prevention seriously, they should be held accountable.

Finally it is very important that those who occupy senior positions in Government are prepared to provide ethical leadership. If political leaders give the impression that corruption is tolerated, or that conflicts of interest are considered unimportant, this will quickly undermine the effectiveness of any moves aimed at improving standards of behaviour in the public sector. Likewise, as I have already indicated, senior executives have a critical role to play in setting the 'tone at the top' of their organisations. In this area, as in so many others, the quality of leadership can make all the difference, both for good and for bad.