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Crime and Corruption Commission
QUEENSLAND

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An investigation into allegations relating to the former Public Trustee of Queensland

Investigation Report

October 2020



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October 2020

The Honourable Curtis Pitt MP
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Speaker

In accordance with section 69(1)(b) of the *Crime and Corruption Act 2001*, as directed by the Parliamentary Crime and Corruption Committee, the Crime and Corruption Commission hereby furnishes to you its report –

An investigation into allegations relating to the former Public Trustee of Queensland.

Yours sincerely

A J MacSporran QC
Chairperson

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Foreword

Chief Executives of public sector departments and agencies in Queensland undoubtedly occupy powerful, highly regarded positions in this State. They play a significant role in its administration and governance, and have been entrusted on behalf of the community with considerable autonomy to lead the public bodies for which they are responsible.

Their behaviour matters, and so the standards expected of them are high. The community expects its Chief Executives to be able to fulfil their roles without requiring close supervision or oversight. It expects them to ensure that their organisation is properly governed and embraces an ethical culture. The community trusts that they will do their utmost to serve the people of Queensland. Their staff and those who aspire to hold similar roles look to them to set an example.

Clearly, there is a weight of expectation on Chief Executives. Because the tone of any organisation is set from the top, selecting the right Chief Executive for an agency is extremely important. Someone chosen for this role must be an ethical and inspiring leader, not just a manager.

While Chief Executives are of course expected to achieve important organisational objectives, they are also expected to demonstrate the necessary qualities of public sector leadership, driving and modelling a culture of integrity. The ramifications of failing to do so can be dire – it can lead to operational dysfunction, destroy staff morale, particularly amongst those who may be subjected to an inappropriate exercise of power, and induce community cynicism about the importance of public service.

The Queensland Public Service Commission has made its expectations clear. Its Chief Executive Performance Objectives¹ contain, under “Organisational Leadership and Culture”, the statement:

Leaders drive a culture of integrity by championing the highest standards of ethical behaviour.

There is no excuse for any Chief Executive to fail in their obligation to act with integrity or to fail to perform their role to the standard the community expects. I acknowledge that independent authorities, such as the Public Trust Office discussed in this report, may not have mechanisms of governance or Ministerial oversight identical to those of larger government departments. But that in no way justifies any lack of rigour in the oversight of that agency’s operations or its chief executive’s conduct.

Where senior public servants and public officials who hold positions of trust behave in a way that does not meet the standard expected of them, they should be held accountable for those behaviours. One way to achieve this is to inform the people of Queensland of instances where standards have undoubtedly and repeatedly not been met.

This is such a case.

I urge all Ministers and senior public sector employees, as well as members of the public, to read this report.

A J MacSporran QC

Chairperson

¹ Accessible via <https://www.forgov.qld.gov.au/ceo-performance-agreements>

1 – Introduction

The complaint

1. In June 2018, the CCC received correspondence from an anonymous discloser. The lengthy document alleged that “Peter Carne Public Trustee has been involved in corrupt conduct and maladministration”. Within the document, the author claimed they were a Public Trust Office (PTO) employee but was not prepared to identify themselves for fear of reprisal from Mr Carne. The correspondence included some official internal PTO documents. The discloser claimed the allegations in the document formed a public interest disclosure.²
2. In August 2018, the CCC received further correspondence from the same anonymous discloser that contained some additional information.

The decision to investigate

3. In September 2018, the CCC finalised its assessment of the initial complaints and decided to investigate the allegations against Mr Carne.

The CCC’s jurisdiction – “corrupt conduct”

4. The CCC has the responsibility to investigate matters that may involve corrupt conduct by anyone who holds an appointment in a unit of public administration in Queensland. A person holds or held an appointment in a unit of public administration if they hold or held any office, place or position in that unit, whether the appointment is by way of election or selection.³
5. “Corrupt conduct” is defined in section 15 of the *Crime and Corruption Act 2001* (the CC Act). In order to be corrupt conduct, it must be conduct which, if proved, would be a criminal offence, or a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.⁴
6. Mr Carne is a person subject to the corrupt conduct jurisdiction of the CCC.

Decision as to whether to issue a public report

7. In relation to corruption, the CC Act sets out the roles, responsibilities and functions of the CCC, which include:
 - to continuously improve the integrity of, and to reduce the incidence of corruption in, the public sector: s. 4(1)(b)
 - helping to prevent corruption (s. 23) by, amongst other things, reporting on the ways to prevent corruption: s. 24(i)
 - to raise standards of integrity and conduct in units of public administration: s. 33(1)(a), and
 - to investigate and otherwise deal with conduct liable to allow, encourage or cause corrupt conduct: s. 33(2)(a)(i).

² Public Interest Disclosure Act 2010 (Qld), s 11.

³ CC Act, s. 21.

⁴ CC Act, ss 15(1)(c), 15(2)(c).



8. The CCC also has an overriding responsibility to promote public confidence in the integrity of units of public administration: s. 34(d).
9. The CCC does not publish reports on every matter it assesses or investigates. In this case, the CCC has sought a direction from the Parliamentary Crime and Corruption Committee under section 69(1)(b) that the report, which sets out a summary of the evidence obtained during its investigation into the allegations against Mr Carne, be given to the Speaker for publication.
10. With reference to contributing to the discharge of its roles, responsibilities and functions, in seeking this direction from the Parliamentary Crime and Corruption Committee, the CCC considers that the following matters are relevant to the decision as to whether to give it.
11. At the relevant times, Mr Carne held the position of Public Trustee of Queensland (PT), was the Chief Executive of the PTO and was accountable for its leadership.
12. The PT reports to the Attorney-General and the Minister for Justice (A-G) who, as outlined later in this report, is responsible for many other functions and government appointments. The PT is geographically and structurally separated from the A-G. As the PT, Mr Carne had very little supervision and had a great deal of autonomy and responsibility in his role.
13. The public have a right to expect that senior public servants and public officials who hold positions of trust will act with the utmost integrity and behave to the highest standards.
14. Senior public servants and public officials who do not demonstrate the highest levels of integrity should be held accountable for their behaviours. In those situations, the CCC is able to do this in a number of ways, including:
 - a. referring matters to a prosecuting authority for criminal action;⁵
 - b. referring matters to the chief executive officer of a unit of public administration for the purposes of taking disciplinary action;⁶
 - c. applying to QCAT for a finding of corrupt conduct and an order for a sanction provided for in section 219I of the CC Act;⁷ and/or
 - d. publically reporting on its investigations.⁸
15. Under the CC Act, the CCC must act independently, impartially and fairly, having regard to the purposes of the CC Act and the importance of protecting the public interest.⁹ The CCC must also act in accordance with the *Human Rights Act 2019* (the HR Act) and must not act or make a decision in a way that is not compatible with human rights or, in making a decision, fail to give proper consideration to a human right relevant to a decision.¹⁰

5 CC Act s. 49(2)(a).

6 CC Act s. 49(2)(f).

7 CC Act ss. 50 and 219I.

8 CC Act ss. 64 and 69.

9 CC Act s. 57.

10 HR Act s. 58.



16. The CCC acknowledges the publication of this report is likely to engage human rights in relation to equal protection of the law without discrimination,¹¹ taking part in public life¹² and privacy and reputation¹³. Having regard to the clear statutory basis and reasons for the publication of this report, together with the measures adopted to ensure fairness with respect to the content of the report,¹⁴ the CCC considers the decision to publish the report is compatible with human rights in that it limits human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.¹⁵

Procedural fairness process

17. As mentioned above, the CCC has a statutory duty to act independently, impartially and fairly, in the public interest, having regard to the purposes of the CC Act, and in accordance with the HR Act.
18. Accordingly, for the purpose of procedural fairness, the CCC gave the draft report to Mr Carne's legal representatives and invited him to make submissions prior to the CCC determining the final form of the report. Mr Carne was able to provide a confidential or non-confidential submission. The CCC indicated to him that a non-confidential submission may be annexed to the final report, while a confidential submission would be noted as received but not attached to the final report.
19. Mr Carne, through his lawyer, has denied the allegations against him.
20. Mr Carne's lawyer has also provided a number of medical reports outlining why Mr Carne has been unable to respond to the allegations against him.

Caution regarding the drawing of adverse inferences

21. A number of people and organisations are referred to in this report. In all instances, those people and organisations cooperated with the investigation. No adverse inferences should be drawn about those people and organisations, unless the report specifically attributes wrongdoing to the person. It should also be noted that there have otherwise been no court findings in relation to the allegations discussed in this report.

11 HR Act ss. 15(3) and (4).

12 HR Act s. 23.

13 HR Act s. 25.

14 Including revealing the identity of relevant persons only when it is necessary to understand and/or give context to the report; the procedural fairness process and the inclusion of the content set out under the heading "Caution regarding the drawing of adverse inferences".

15 HR Act s. 8(b).



2 – Background

The Public Trustee

22. The PTO is a statutory authority that reports to the Queensland Parliament through the A-G. The PTO is a self-funded entity, as it receives no Government funding. The Queensland PTO is the only jurisdiction to have this arrangement. Equivalent offices in other states and territories receive government funding.
23. The PTO is headed by the PT, who is its Chief Executive and is accountable for its leadership. The PT is appointed by the Governor-in-Council under section 9(3) of the *Public Trustee Act 1978* (PT Act)¹⁶. The PT reports to the A-G.
24. A PT is appointed for a term of no longer than five years.¹⁷ Entitlements, including remuneration and allowances, are decided by the Governor-in-Council as part of the appointment process.¹⁸
25. Section 9(6) of the PT Act provides that the Governor-in-Council may remove a PT from office if the PT:
 - a. is found guilty of an indictable offence or an offence against the PT Act; or
 - b. engages in misbehaviour; or
 - c. becomes incapable of performing the duties of the PT because of physical or mental incapacity; or
 - d. is incompetent; or
 - e. contravened subsection 7 (providing written notice about financial and business interests); or
 - f. without the Minister's leave and without reasonable excuse, was absent for 14 consecutive days or 28 days in a year.

Role description

26. Prior to the advertising of the PT position in 2015, a new role description was developed in conjunction with the Public Service Commission. That newly created role description identified the position's requirements, including an overview of the roles and responsibilities, along with the values and key capabilities expected of someone appointed to perform the role. Among other capabilities and responsibilities, the role called for the successful applicant to:
 - provide visionary values-based leadership
 - model professional and ethical behaviour
 - have the ability to build a constructive organisational culture, and
 - drive the effective, efficient and appropriate use of resources.
27. The role description also outlined that a PT held legislative responsibilities that included modelling ethical behaviour and integrity as required under the *Public Sector Ethics Act 1994* (PSE Act). The PTO is a prescribed public service agency and is bound by the provisions of the PSE Act.¹⁹

¹⁶ PT Act, s. 9(3).

¹⁷ PT Act, s. 9(1).

¹⁸ PT Act, s. 9(4).

¹⁹ *Public Sector Ethics Regulation 2010* s. 2 and Schedule – Entities prescribed as public service agencies.

Code of Conduct

28. The Public Service Code of Conduct governs how Queensland public servants are to conduct themselves. It requires all employees, including Chief Executives, to uphold the Code and demonstrate the principles and values contained both in the Code and in the PSE Act.
29. The Code of Conduct calls on Chief Executives to:
 - promote an organisational culture that values high ethical standards and behaviour, and
 - openly demonstrate a conscious commitment to ethics by communicating the importance of ethical decision-making in the workplace and promoting ethical behaviour in day-to-day actions.
30. The standards for conduct within the Code of Conduct include a requirement that employees commit to the highest ethical standards, manage conflicts of interest and demonstrate a high standard of workplace behaviour and personal conduct.

Peter Carne appointed as Public Trustee

31. On 18 March 2016, the A-G wrote to Mr Carne advising him that he was the successful applicant for the PT position. That correspondence included the remuneration, and the terms and conditions of his employment that were contained in a schedule titled "Remuneration and conditions of appointment of the Public Trustee".
32. This was his second term as PT, as he had previously held the position from 2009 to 2014. After his first term concluded in 2014, the position had remained vacant until re-advertised in 2015.
33. Prior to his first tenure as PT, Mr Carne had had a long career as a legal practitioner in Queensland, which had commenced with his admission as a solicitor in 1976. His work history included:

1980–1997	Managing Partner – Goss Downey Carne Lawyers
1994–1997	Commissioner – Queensland Legal Aid Commission
1997–2005	Managing Partner – Carne Reidy Herd Lawyers
1997–1999	Chairman – Queensland Law Society (Professional Standards Committee)
1999–2000	President – Queensland Law Society
2005–2009	Chief Executive Officer – Queensland Law Society.
34. Mr Carne had also been appointed to several board roles, including as a director of Tarong Energy (1999–2007) and as a non-executive director of Australia Post (2009–2015).



3 – Outline of evidence

The allegations

35. The CCC found a number of the allegations lacked supporting evidence or could not be substantiated, so no further action was taken in relation to those allegations, and they will not be discussed in this report.
36. The allegations that became the subject of the CCC's investigation fell into the following categories:
 - The misuse of official PTO resources by Mr Carne for his personal benefit
 - Breaches of the terms and conditions of Mr Carne's appointment as PT
 - A failure by Mr Carne to declare or manage conflict of interests
 - Mr Carne engaging in inappropriate, unprofessional and/or unlawful workplace behaviour, and
 - Academic misconduct.

The CCC's investigation

37. The CCC's investigation included interviewing 42 witnesses.
38. A large amount of documentation was also obtained and analysed, including documents from the PTO, other Queensland Government agencies and the Queensland University of Technology (QUT).

Misuse of official PTO resources for personal benefit

39. The CCC's investigation obtained evidence supporting allegations that Mr Carne had used PTO resources for his own personal use, including:
 - An instance in March 2019 when Mr Carne used a PTO utility vehicle to move approximately 40 boxes from his home to his office. PTO staff assisted him carrying the boxes up to his office and Mr Carne later disposed of the contents into confidential PTO disposal bins, which were later emptied at the expense of the PTO.
 - Mr Carne using the PTO offices for private secondary employment without approval from the A-G (see "Secondary employment – McCarthy Mentoring" below).
 - Mr Carne directing staff to assist him with his assignments for his university studies (see "Academic misconduct" below).
40. As the Chief Executive of the PTO, the PT is bound by the ethics values contained in the *Public Service Ethics Act 1994*, including ensuring public resources are used in an effective and accountable way.²⁰

²⁰ *Public Sector Ethics Act 1994*, s. 9.



41. The proper use of official resources by public sector employees, and the corruption risks associated with their misuse, has previously been highlighted by the CCC:

Official resources are those paid for and owned by a public sector organisation. They may be assets, services or consumables, and can be either tangible (e.g. stationery, equipment or public housing) or intangible (e.g. information, Internet access or employee time). These resources are intended to help employees carry out tasks associated with their work and provide efficient service to the community. They are not provided for the personal benefit of employees.

Using official resources appropriately is fundamental to public sector employees' legal and ethical obligations to act in the public interest, as mandated in the Public Sector Ethics Act 1994. Under the principles of "promoting the public good" and "accountability and transparency", employees are required to use and manage public resources effectively, efficiently and economically. Appropriate use of official resources is also a requirement in the Code of Conduct for the Queensland Public Service. Poor management or misuse of official resources is a breach of public trust, and may result in disciplinary action or prosecution.²¹

42. Witnesses interviewed by the CCC provided evidence that supported the allegations (referred to above) that Mr Carne had not used public resources in an efficient and accountable way.
43. On 28 May 2019, the CCC decided to refer these matters to the A-G to consider whether this constituted "misbehaviour" and whether disciplinary action was warranted against Mr Carne.

Breaches of terms and conditions of appointment as Public Trustee

44. The investigation considered allegations that Mr Carne had breached some of the terms and conditions of his appointment as PT.
45. Mr Carne's appointment as PT was governed by the "Remuneration and conditions of appointment of the Public Trustee". This relevantly provided Mr Carne's total remuneration package of \$357,795 per annum and various conditions of employment, including that he was required to:
- Discharge the responsibilities of the PT under the PT Act
 - Conform to such hours of work and other work arrangements as may from time to time have been required by the Minister (the A-G), including him being recalled from leave if necessary
 - Devote substantially the whole of his time and attention, during the hours determined, to discharging the responsibilities of the PT
 - As soon as practicable, report to the Minister the reason for his non-attendance at work or performance of his duties, and
 - Seek the Minister's approval for recreation and long service leave.

2016 Executive studies

46. In July 2016, shortly after his re-appointment as PT, Mr Carne enrolled in an Executive Graduate Certificate in Business – Leadership through Coaching and Mentoring university course (the LCAM course). At the start of the course, Mr Carne sought approval in writing from the A-G for him to undertake the 12-month part-time course and for the PTO to pay the \$17,712 course fees. This approval was granted.

²¹ CCC Corruption Prevention Advisory: Use of official resources (2017).



47. In January 2018, following his successful completion of the LCAM course, Mr Carne commenced an Executive Master of Business Administration (EMBA) course at QUT. At the start of that course, Mr Carne again sought approval in writing from the A-G for his undertaking the course and for the PTO to pay the \$68,112 course fees. This approval was also granted.

LCAM trip to USA

48. Mr Carne's LCAM course commenced in July 2016. As part of the course, students had an opportunity to attend an optional study tour to the USA. The tour departed Australia on 9 September 2016.
49. The CCC obtained evidence that between 9 and 28 September 2016 Mr Carne was absent from his workplace and was overseas in the USA without having sought the prior approval of the A-G, and without having completed an appropriate internal PTO leave application process. This absence related to Mr Carne's involvement in the LCAM course.
50. PTO records and emails showed that Mr Carne was planning to attend the study tour to the USA as early as 3 August 2016. Records showed he booked his air travel in mid-August 2016. At the time, Mr Carne had only just re-commenced his PTO employment and had not accrued sufficient recreation leave to cover the intended period of absence.
51. Mr Carne's PTO leave application for this absence was obtained by the CCC. The application was completed in Mr Carne's name and dated 8 September, the day before the study tour group was due to leave Australia. The type of leave recorded for the first two weeks of leave was "study leave", followed by two days of "recreation leave". The CCC investigation concluded that at the time he signed the leave application, Mr Carne knew, or ought to have known, that:
- he was not entitled to study leave, and
 - his entitlement to any leave was subject to the approval of the Minister.
52. The 8 September 2016 leave application was "approved" by a PTO employee who was relieving in a subordinate position to Mr Carne and who did not have the delegated authority to approve Mr Carne's leave.
53. The CCC investigation showed Mr Carne was absent from his workplace for a total of 20 consecutive days on full pay and without his Minister's knowledge or approval. Because the leave application had been incorrectly classified, approved and then processed as study leave, this period of absence was not deducted from Mr Carne's personal recreation leave balance.
54. This issue was later brought to Mr Carne's attention by a PTO staff member following an internal audit which showed he was not entitled to study leave. He subsequently corrected his leave application so the period of leave was deducted from his recreation leave balance.
55. The CCC investigation established that, although the study tour officially ended on 21 September 2016, Mr Carne remained in the USA and did not return to Australia until 28 September 2016.

EMBA course absences

56. In January 2018, Mr Carne commenced his EMBA course. Evidence obtained by the CCC showed that between 12 January 2018 and 17 May 2019, Mr Carne was absent from his PT role on numerous occasions while attending whole-of-day on-site sessions at university. It was found that he had not sought approval from his Minister, nor reported those absences to her. No leave applications were ever created or lodged with the PTO for those absences.
57. These matters were also referred to the A-G to consider whether they constituted "misbehaviour" and justified disciplinary action against Mr Carne.



Failure to declare or manage conflicts of interest

58. An allegation against Mr Carne was that he failed to declare and manage a conflict of interest when he appointed a friend to a paid position on the PTO's Audit and Risk Management Committee.
59. As the PT, Mr Carne was a statutory office holder. Section 72D of the *Integrity Act 2009* obliges statutory office holders to disclose conflicts of interest to their relevant Minister.

s72D - Conflicts of interest

(1) If a statutory office holder has an interest that conflicts or may conflict with the discharge of the holder's responsibilities, the holder—

(a) must disclose the nature of the interest and conflict to the relevant Minister as soon as practicable after the relevant facts come to the holder's knowledge; and

(b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the relevant Minister.

(2) The relevant Minister may direct a statutory office holder to resolve a conflict or possible conflict between an interest of the holder and the holder's responsibilities.

60. Section 10 of the Integrity Act defines a conflict of Interest:

10 Meaning of conflict of interest issue and references to interest or conflict of interest

(1) A conflict of interest issue, involving a person, is an issue about a conflict or possible conflict between a personal interest of the person and the person's official responsibilities.

(2) A reference to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law, and, in relation to an interest, the definition in the Acts Interpretation Act 1954, schedule 1 does not apply.

61. The CCC investigation identified that in March 2017 Mr Carne appointed a person to a paid three-year position on the PTO Audit and Risk Management Committee. The investigation identified that Mr Carne and the committee member had a pre-existing friendship.
62. While there was no allegation or evidence that the committee member was not a suitably qualified appointment to the committee, there was also no evidence of Mr Carne declaring or managing this conflict of interest.
63. The CCC decided to refer this matter to the A-G to consider whether it constituted "misbehaviour" and justified disciplinary action against Mr Carne.



Inappropriate, unprofessional and/or unlawful workplace behaviour

64. During the investigation, numerous witnesses made allegations about Mr Carne's work-related personal behaviour. This included behaviour that may have amounted to:
- "misbehaviour" within the PT Act
 - sexual harassment under section 119 of the *Anti-Discrimination Act 1991* (Qld);
 - breaches of the Code of Conduct, and/or
 - workplace bullying under section 272 of the *Industrial Relations Act 2016* (Qld).
65. The CCC interviewed numerous PTO staff members about Mr Carne's workplace behaviour. Comments from witnesses to his behaviour in the workplace included:
- *"A passionate person and he brings his emotions out quickly ..."*
 - *"I'm afraid of him..."*
 - *"I knew if he was upset to stay out of his way..."*
 - *"I've heard him swearing and screaming down the phone..."*
 - *"He doesn't contain his behaviour..."*
 - *"Not measured as a leader..."*
 - *"Yelling is unacceptable and inappropriate for a CEO..."*
 - *"He hasn't evolved – huge difference between the Public Trustee of Queensland and a private law firm..."*
66. PTO staff also highlighted the impact the additional study had on Mr Carne's behaviour and on his running of the office. Several witnesses commented about those impacts, with typical comments including:
- *"My concerns are there seems to be a lack of direction and focus at the PT at the moment, and I attribute that to being distracted, bogged down ... in there with ... the university studies that he's undertaking, and what appears to be the constant nature of handing in assessments, assignments, exams ... so my concern is that there's too many distracting factors that Peter's ... contending with at the moment, that he's not putting enough time and attention on some of the issues that are happening in at work..."*
 - *"There's great ... concern that Peter is spending all his time studying. So he's not only going to uni, he spends almost his entire time at the moment doing assignments ..."*
 - *"He is compromising the proper functioning of the office..."*
 - *"He blocks off his entire day and says 'I'm doing my assignment today' ..."*
 - *"If something's not going well with his assignment, he tends to get agitated, ... aggressive, shouty, slamming doors, ... and it's all about getting this assignment done. 'I've got to get this assignment done!' The day the assignments are due it's pretty much all-day-long..."*



— *“People are on edge all the time, sort of just waiting to see if he comes out of his office, if he’s going to come out calmly or if he’s going to come out a bit like a, you know, lunatic, carrying on, screaming, shouting, completely irrational ...”*

67. Witnesses also told the CCC that Mr Carne had made inappropriate comments of a sexist or sexual nature. This included Mr Carne making comments about the sexual orientation of employees and comments of a sexual nature directed towards or about female employees of the PTO. A witness told the CCC:

“Because he behaves even worse when he’s affected by alcohol. The sexual stuff comes out a lot.”

68. The CCC decided to refer this evidence to the A-G for consideration of disciplinary proceedings.

Use of corporate credit card and consumption of alcohol

69. Several PTO employees alleged that Mr Carne often went to lunches during business hours, often on a Friday. Witnesses told of several occasions where Mr Carne had returned to the office affected by alcohol. On occasions, some lunches had been charged to a PTO corporate credit card.

70. Witnesses also provided information about Mr Carne attending and consuming excessive amounts of alcohol at work-related social functions.

71. There was witness evidence alleging that, on occasions, his lunchtime alcohol consumption had resulted in his afternoon meetings having to be cancelled or postponed.

72. One example cited had occurred on 29 March 2017. Mr Carne attended a meeting to discuss the PTO’s Business Continuity Plan in preparation for an expected cyclone. This meeting had been adjourned and scheduled to reconvene later (approximately 4pm) that afternoon. PTO records confirm that Mr Carne then attended a lunch engagement at the Port Office Hotel. At around 4pm, Mr Carne returned to the PTO workplace and according to witnesses appeared to be affected by alcohol.

73. Witnesses state he made comments to the effect of:

“Well, I’m drunk, and I’ve just got caught in the rain, so what’s going on? Where’s the cyclone?”

74. He proceeded to put his arm around a staff member and said words to the effect:

“But we have to sing happy birthday to [...] first, because it’s her birthday.”

75. This is alleged to have occurred in front of up to a dozen people who had reconvened in Mr Carne’s office for the continuation of the Business Continuity Plan meeting.

76. There was also witness evidence of alcohol occasionally being consumed in Mr Carne’s office. Witness comments included:

— *“On at least two occasions I had to ask Mr Carne’s ESO to cancel meetings as he had attended luncheons and other events and appeared to be affected by alcohol ...”*

— *“Mr Carne kept a breathalyser in his back office to ensure that he was under the limit before driving home ...”*

— *“He would return from lunches a bit more happy and vocal ...”*



- “[he was] a little bit more upbeat or jovial in his mannerisms ... not as sharp um as he would be otherwise ... not really concentrating ...”
 - “...sometimes excitable and/or louder ...”
 - “You could smell it and hear it – a slight slurring of the voice and an over-exaggerated vibrancy and bonhomie ...”
 - “Whilst he didn’t stumble or slur, he had a much more blasé attitude and would make inappropriate comments ...”
 - “he would return from lunch looking flushed and would be outwardly jovial ...”.
77. Mr Carne’s work diary and corporate credit card records showed some lunches were charged to a PTO credit card and that alcohol was purchased. The “Remuneration and conditions of appointment of the Public Trustee” governing Mr Carne’s employment did not provide an entitlement for him to use corporate credit cards for personal use.
78. In relation to hospitality expenditure, the PTO’s gifts and benefits policy²² provided:
- “Expenditure for hospitality must be considered only where it is considered essential to facilitate the conduct of official business through persons who are able to do so, either by advice or because of their vocation or business needs.”*
- “Official hospitality should not be a substitute for business meetings which would ordinarily be conducted in the workplace.”*
- “Outlays should be modest, and costs incurred must be less than the benefits obtained.”*
79. Mr Carne had a private membership at the Brisbane Club, which was within walking distance of his office. The CCC obtained evidence that some lunches, either at the Brisbane Club or other nearby premises, were paid for on Mr Carne’s corporate card. PTO records showed there was little or no detail recorded as to the purpose of the lunches.
80. The CCC did not review all PTO corporate credit card records, but those that were reviewed confirmed that alcohol had been purchased during some lunches.
81. One example related to a lunch at the Customs House restaurant on 9 January 2017. Records and invoices detailed that Mr Carne had lunch with a person from a Brisbane law firm. The \$164 invoice was for two cups of coffee, a bottle of sparkling water, a \$60 bottle of wine and two main course meals. There was nothing located that indicated the purpose of this business lunch.
82. The CCC decided to refer this evidence to the A-G for consideration of disciplinary proceedings.

Secondary employment – McCarthy Mentoring

83. As previously noted, in 2016 Mr Carne was approved to undertake the LCAM course to be paid for by the PTO.

22 Part 8.4, PTO Gifts and Benefits Policy and Procedure.

84. As part of the approval correspondence, Mr. Carne advised:

The course is aligned to my professional development intentions as it delivers competencies for leaders who are using or are intending to use coaching and mentoring approaches to develop the full capacity of their staff. This will provide learning outcomes for my aim to coach and mentor my Executive team, which I consider is a key responsibility and deliverable for me. As the Public Trustee of Queensland I am currently implementing an organisational wide leadership program which is aimed at developing the capability and competency of my staff ensuring that good people management practices and succession planning is embedded into the future of the organisation.

85. In June 2018, Mr Carne updated his Public Service Commission Declaration of Interests register to record that he had commenced as an Executive Coach with McCarthy Mentoring. A copy of that Variation of Declaration of Interests was completed 29 June 2018 was forwarded to the A-G on 1 July 2018.
86. Between June and October 2018, Mr Carne conducted executive coaching for which he received payment. The CCC's inquiries show those sessions were arranged through the company McCarthy Mentoring. The coaching sessions were held at 5pm in Mr Carne's PTO office.
87. For one client, Mr Carne invoiced McCarthy Mentoring \$6,000, consisting of six two-hour coaching sessions, equating to \$500 per hour.
88. The CCC investigation showed no evidence of Mr Carne seeking the approval of the A-G to use the PTO offices for private secondary employment.
89. The CCC decided to refer the evidence obtained in relation to this allegation to the A-G to consider disciplinary action.

Academic misconduct

90. The EMBA course that Mr Carne was approved to undertake consisted of a number of core study units. Many of the assessments were assignment-based. A number of the units related to finance, financial analysis, and economics. The PTO office included staff members with finance, accounting and/or economics qualifications.
91. During the investigation, the CCC interviewed those staff members and reviewed emails and documents relevant to Mr Carne's EMBA course.
92. The investigation showed that Mr Carne, on numerous occasions, had obtained general assistance from PTO staff with his university course, including:
- typing and formatting his assignments from dictated audio/voice recordings
 - teaching him how to use his Surface Pro laptop computer, and
 - teaching him how to use Excel software in connection with his study and preparing assignments.
93. Other evidence showed that, in relation to at least two specific course assignments, Mr Carne had directly approached PTO staff to obtain assistance.
94. The first instance related to an assignment submitted by Mr Carne in relation to EMBA unit GSZ404 – Accounting for Decision Making. The second related to an assignment submitted in relation to unit GSN413 – Financial Management.



95. The evidence suggested that the assistance Mr Carne received from PTO staff amounted to a breach of the QUT Student Code of Conduct, including:
- *using, reproducing or adapting the work or ideas of another person without due acknowledgment*
 - *representing the work of another person as the student's own work*²³.
96. The CCC decided to refer these matters to QUT to consider whether action against Mr Carne was warranted.

23 QUT Manual of Policy and Procedures, E/2.1 QUT Student Code of Conduct, clause 2.1.4 Student Misconduct, paragraphs (a)(iii) and a(iv), (available at: https://www.mopp.qut.edu.au/E/E_02_01.jsp).



4 – Referrals to other agencies and outcomes

Referral to the A-G – “Misbehaviour”

97. As stated earlier in this report, on 28 May 2019, the CCC disseminated to the A-G supporting evidence relating to the allegations outlined above pursuant to sections 49(2)(f) and 60 (2) of the CC Act. The CCC referred the material to the A-G to consider disciplinary action against Mr Carne and whether he had engaged in “misbehaviour” in accordance with section 9(6) of the PT Act.
98. On 12 June 2019, the A-G advised the CCC that disciplinary action against Mr Carne was to proceed.
99. By letter dated 13 June 2019, the A-G advised Mr Carne that the Governor-in-Council had approved the suspension of Mr Carne’s appointment as PT pending the outcome of a “show cause” process.
100. On 14 June 2019, Mr Carne was suspended from duty and an acting PT was appointed.
101. On 10 July 2019, Crown Law advised the CCC that the A-G had instructed them to prepare a show cause notice in relation to Mr Carne. They requested additional information from the CCC, which was subsequently provided, including material supporting allegations of academic misconduct.
102. In November 2019, the A-G issued to Mr Carne a show cause letter in respect of 11 allegations of alleged misbehaviour under the PT Act, which largely corresponded to the issues the CCC had referred to the A-G.
103. The show cause stated:
 - Whilst the A-G had not formed a final view as to the veracity of the allegations, she had formed the preliminary view that each of the allegations suggested misbehaviour
 - The A-G would refrain from making any decision as to whether to recommend to the Governor-in-Council that Mr Carne be permanently removed from the role of PT until he had had an opportunity to make submissions concerning the allegations, and
 - Any submission he wished to make was to reach her by close of business on Monday 13 January 2020.
104. Multiple extensions were granted to extend the time to respond to the show cause notice, with Mr Carne’s final response to the show cause notice being due on 31 July 2020.
105. On Friday, 31 July 2020, Mr Carne advised the A-G in writing of his resignation as PT, effective immediately.
106. Crown Law, on behalf of the A-G, acknowledged receipt of Mr Carne’s resignation and confirmed that the show cause process involving Mr Carne was at an end, with no further action to be taken.
107. Mr Carne never responded to the issues raised in the show cause notice.



Possible criminal charges

108. The CCC considered whether the misuse of official resources allegations could, if proven, amount to a criminal offence by Mr Carne against the *Criminal Code*, including:
- Section 92A – Misconduct in relation to public office, and/or
 - Section 408C – Fraud (dishonestly obtain a benefit).
109. Between June 2019 and April 2020, the CCC negotiated with Mr Carne’s legal representative about whether Mr Carne would agree to participate in an interview about the allegations. Mr Carne, through his lawyer, ultimately stated he was unable to be interviewed due to health reasons.
110. After consultation with the Office of the Director of Public Prosecutions, the CCC came to the view that, whilst there was a prima facie case that offences had been committed with respect to misuse of official resources, there were not reasonable prospects of securing a conviction. Accordingly, the CCC decided that Mr Carne would not be charged with any criminal offences.
111. The decision that Mr Carne would not be charged meant that his conduct was left to be dealt with by way of disciplinary action (i.e. the show cause process).
112. On 30 April 2020, the CCC wrote to Mr Carne’s legal representative and advised that the CCC had concluded its investigation and was not proposing to commence criminal proceedings against Mr Carne.

Referral to QUT – academic misconduct

113. Between July and October 2019, the CCC disseminated to QUT, pursuant to section 60(2) of the CC Act, evidence relating to the allegations of academic misconduct.
114. The evidence consisted of the witness statements, emails and related documents (including assignment drafts) that showed Mr Carne had sought and obtained assistance from PTO staff with some EMBA assignments.
115. On 14 January 2020, QUT advised the CCC that their Faculty Academic Misconduct Committee had substantiated two allegations of academic misconduct against Mr Carne.
116. The Committee decided Mr Carne engaged in conduct which tended to defeat or compromise the purposes of the assessment of academic work, including by him:
- Using, reproducing or adapting the work or ideas of another person without due acknowledgement
 - Representing the work of another person as being his own work
 - Otherwise breaching the University’s policy on academic integrity,²⁴ specifically, by collusion or collaborating with others where not authorised in the assessment requirements.
117. QUT advised that the Committee noted that the plagiarism fell in the large amount range (20–50% of the assessment item) and Mr Carne’s actions defeated the academic integrity and the learning outcomes of the assessments.
118. QUT advised the final penalties imposed by the university resulted in a reduction in Mr Carne’s overall grading in two of his EMBA subjects, but Mr Carne was still recorded as having successfully completed his EMBA course.

24 QUT Manual of Policy and Procedures, C/5.3 Academic Integrity (available at: https://www.mopp.qut.edu.au/C/C_05_03.jsp).



5 – Discussion and recommendations

119. As a result of its investigation of these allegations, the CCC has made a number of recommendations that take into account all information obtained during the investigation. They are discussed below.

Supervision of the Public Trustee

120. Mr Carne as PT and Chief Executive was the most senior person in the PTO. As a Governor-in-Council appointment, the PT reported directly to the Minister.

121. Mr Carne's "Remuneration and conditions of appointment of the Public Trustee" stipulated that:

The Public Trustee must enter into a Performance Agreement with the Minister responsible and subsequent Performance Agreements at 12 month intervals after that or such other times as may be required by the Minister. The Public Trustee's performance against the Performance Agreement will be assessed from time to time, as determined by the Minister. "Performance Agreement" means an annual performance agreement between the Public Trustee and the Minister, setting out the agreed objectives and performance standards for the discharge of the Public Trustee's functions and responsibilities, in a form determined from time to time by the Minister.

122. At an interview on 9 April 2019, the A-G advised that no performance agreements had been entered into between the Minister and Mr Carne since his March 2016 appointment.

123. During the interview the A-G said:

A process I am about to start with my Director-General is doing an audit of every one of my statutory bodies, what their obligations are under their employment arrangements, and going through and ensuring that those obligations are being met.

124. She also stated:

I'm not tracking every employment agreement for every statutory authority. I am responsible for over 300 significant appointments in my portfolio, and the onus is really on the individual to fulfil their employment obligations, but having said that, there is certainly a gap there that I want to address.

125. The A-G recently advised the CCC:

I can confirm that an audit across the Statutory Authorities of the DJAG was conducted in 2019. The audit examined: leave; status of employees; performance agreements; reporting arrangements; Annual Reporting; Quora requirements; methods of appointment. Although different arrangements exist depending on the relevant legislation, in consultation with the Public Service Commission, it was agreed that all new appointments at CEO level will require a performance agreement. Work is ongoing with the DJAG progressively identifying anomalies across the Statute books regarding these and other issues, to create more uniformity where appropriate.

126. The CCC recognises the significant logistical exercise that is required of the A-G to monitor the performance of the numerous statutory appointees under a range of statutory regimes.



The need for supervision of senior executives

127. Chief Executives of public sector agencies and some very senior public officials are given great autonomy as the leaders of their agencies. They are responsible for ensuring the organisation they lead adheres to the *Public Service Act* and the *Public Sector Ethics Act*.
128. Some Chief Executives are entrusted to lead their organisations with little or no oversight.
129. The actions of Mr Carne as outlined in this report could occur in a number of public sector agencies without detection or with little attention.
130. This matter, and other recent examples, demonstrate the need for supervision and oversight of Chief Executives of public bodies.
131. Recent instances of senior public officials and public sector Chief Executives being convicted of criminal offences during their tenure, and being found responsible for serious workplace misconduct, include:
 - the former CEO of the Queensland Museum and Chief Scientist, Suzanne Miller, who was sentenced on 1 May 2020 to a term of imprisonment after being convicted of fraud, and
 - the former Electoral Commissioner of Queensland, Walter van der Merwe, who was fined for drug possession in February 2018, and had other allegations of workplace misconduct substantiated against him.
132. Ministers who are responsible for appointing Chief Executives of public agencies (and their Departments) should ensure there are adequate measures in place to monitor the actions and performance of those Chief Executives.

Reluctance to report concerns about executive behaviour

133. This investigation highlighted the apparent reluctance by PTO staff to report concerns about Mr Carne's behaviour and why the complaints were eventually made anonymously. The CCC found a strong perception by PTO staff members that Mr Carne was very closely aligned to the government of the day in Queensland and that he was "untouchable".
134. This perception had several bases. Firstly, several witnesses said Mr Carne had told PTO staff he had in the past been in a relationship and had lived with a prominent Queensland Labor party figure for two years.
135. Secondly, it was a matter of public record that Mr Carne was a partner in the law firm Goss, Downey, Carne with the former Premier of Queensland, Mr Wayne Goss.
136. Finally, witnesses said Mr Carne had told PTO staff of his close association with important people in Queensland, including that:
 - he lunched with current members of the judiciary
 - he is a close associate of Mr Wayne Swan, the retired ALP Federal Treasurer, and
 - he is a past President of the Queensland Law Society.
137. Witnesses told the CCC that Mr Carne was capable of angry outbursts in the workplace and he had informed PTO staff of his previous litigation against his former partners, both private and professional.
138. The CCC investigation found that these perceptions created an impression that Mr Carne was "untouchable" and it would be "bold" for PTO staff members to report Mr Carne's behaviour to the A-G.



139. The investigation identified there was also an internal perception by some that the appointment of Mr Carne for his second tenure in 2016 had been politically motivated. This perception stems from comments Mr Carne made himself about being a target of the Liberal National Party (LNP) when he was not employed at the PTO in 2014 and 2015.
140. When the CCC spoke to a senior staff member of the PTO and queried why that person had not reported the behaviour of Mr Carne to the A-G, the person said it would be tantamount to "career suicide". The person said they would not go to the A-G as they believed they could only speak in general terms *"and that such concerns would not likely elicit any action and at best would be characterised as mischievous and at worst disingenuous"*.
141. The CCC has made several recommendations directly to the PTO aimed at removing obstacles for staff reporting concerns about behaviour by senior executives in future.

Recommendations to PTO

142. Following its investigation, on 23 April 2020 the CCC wrote to the PTO with a total of 19 recommendations designed to address the integrity, governance and cultural issues that it had identified. The recommendations are broadly summarised below.

Complaints, ethics and reporting (9 recommendations)

143. In relation to complaints, ethics and reporting, the CCC made nine recommendations, including that the PTO:
 - Review its ethical framework and complaints management system, and upskill its staff in those issues through a comprehensive training program covering:
 - Ethics, standards of conduct and the internal complaints system, and
 - Relevant legislation and public service standards (e.g. section 48A of the *Crime and Corruption Act 2001*, the *Public Interest Disclosure Act 2010*, and the Code of Conduct)
 - Address cultural issues and staff mistrust using a variety of formal and informal mechanisms designed to improve relationships between staff and the Executive Leadership Team (ELT)
 - Consider providing ELT members with training in board governance, and compliance and reporting obligations.

Corporate credit card

144. In relation to use of corporate credit cards, the CCC recommended that the PTO:
 - Review and implement governance and audit processes relating to corporate credit card usage and travel by senior managers.

Leave/leave applications

145. In relation to leave and leave applications, the CCC recommended that:
 - In order to prevent staff taking unauthorised, unapproved and/or wrongly classified leave, the PTO should review and implement a risk management process for the overseeing and approval of all leave applications, including those of senior staff.

PT/CEO external study (2 recommendations)

146. In relation to external study being undertaken by the PT, the CCC recommended that the PTO:
 - Develop policies, or update existing ones, relating to study to be undertaken by the PT. The policies should address issues such as a) whether legal advice is to be obtained and provided



to the A-G as part of the application/approval process, and b) the payment, funding and support for any study proposed by the PT.

Consumption of alcohol (4 recommendations)

147. The CCC investigation identified some unprofessional behaviours associated with the consumption of alcohol. The CCC recommended that the PTO:

- Develop policies, or update existing ones, relating to a) the consumption of alcohol by any PTO employee, including senior staff, either during work hours or at conferences and social functions, b) its purchase using PTO funds and c) its storage and/or consumption on PTO premises.

Code of Conduct/Behaviour

148. In relation to the standards of behaviour expected of PTO employees, the CCC recommended that the PTO:

- Review and update policy to address/outline the expected standards of behaviour by PTO employees while attending official PTO functions and conferences, and/or when representing the PTO.

Official Solicitor

149. Given the potential for a conflict of interest to occur involving the PTO's Official Solicitor, the CCC recommended that the PTO:

- Review the current situation where a PTO employee can simultaneously hold the dual roles of Official Solicitor and Deputy Public Trustee.

PTO response

150. On 14 July 2020, the PTO advised the CCC of its progress towards implementing the recommendations. A table was attached that contained updates showing full, or almost full, implementation of 17 of the 19 CCC recommendations. The PTO recently advised the CCC that the remaining recommendations are being implemented.

151. The PTO also advised the Public Trustee Strategic Plan 2020-2024 had been finalised, and that a newly established Ethics and Integrity Unit had been formed within PTO HR Services. According to the PTO this unit is:

proactively driving education and awareness campaigns to support PTO staff on a range of integrity topics. The leadership team at the Public Trustee continues to be committed in fostering a culture of integrity, customer first focus and continuous learning that empowers the workforce.

Other agency interest

152. During the CCC's investigation, the CCC became aware that another statutory authority is reviewing some practices of the PTO in relation to the fees and charges levied by the PT on clients for services provided. The CCC understands a public report will shortly be released by that authority about those issues.

153. The CCC understands that report will include a discussion about the impacts of the leadership style of senior management on the running of an organisation and the lack of transparency and accountability that can occur where there is absent or ineffective oversight.



Responses

To be inserted if necessary (after Procedural Fairness)

Mr Carne



Annexure 1:

(To be removed if not needed)





Crime and Corruption
Commission

QUEENSLAND

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