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14 October 2022

Joint Select Committee on
National Anti-Corruption Commission Legislation
PO Box 6021
Parliament House
Canberra ACT 2600
By email: NACC@aph.gov.au

Dear Committee Secretariat,

Re: Academy of the Social Sciences in Australia's submission on the National Anti-Corruption Commission Bills 2022

The Academy of the Social Sciences in Australia (the Academy) welcomes the opportunity to provide a submission to the inquiry into the National Anti-Corruption Commission Bills 2022 (the Bills).

The Academy is an independent, not-for-profit organisation that draws on the expertise of its over 750 elected Fellows to provide practical, evidence-based advice to governments, businesses, and the community on important social policy issues. This submission builds on discussion from the Academy's 2018 Annual Symposium: [*Regenerating Trust and Integrity in Australia's Institutions*](#) which is directly relevant to the work of the Committee.

Summary

The Academy strongly supports the establishment of a National Anti-Corruption Commission (NACC) as a central pillar of a national integrity framework. With many Australians losing confidence in the key democratic institutions that underpin our civil society, reforms are critical to improve trust and transparency in our federal government system.

The Commission design elements such as its broad jurisdiction, independence, powers to make public reports and findings and strong investigative powers (including public hearings) embody the leading practice principles required to establish an effective and robust institution. In addition, the Academy makes the following four key recommendations aimed at strengthening the NACC and our broader integrity system.

1. Clearly defining *corrupt conduct*

The Academy welcomes the broad scope of corruption that can be investigated by the NACC, including all serious or systemic corruption issues. Exposing corruption and holding corrupt persons to account can only happen if what constitutes corruption is understood and section 2(1)(8) of the Bill outlines a definition of *corrupt conduct*. While the Academy recognises defining corruption is fraught, and there is no one standard definition, a clear, plain English description is critical to reduce or eliminate confusion. The Academy recommends the draft definition be amended to make distinctions between:

- ethical breaches (illicit) and criminal acts (illegal). Not all corruption is necessarily criminal and the definition should encompass the principle of all unauthorized trading of entrusted authority, including both breaches in the ethical standards that the community expects to be upheld, as well as criminal acts.
- social and economic corruption. The former includes various forms of favouritism (e.g. cronyism; nepotism; revolving doors), while the latter includes bribery, abuse of official allowances, and embezzlement.

While it would be inappropriate to try to set out all possible types of corruption in the Bill, specific concepts of lobbying, the revolving door, conflict of interest, policy capture and political party financing should be outlined as they can cause considerable confusion as to whether or not they constitute corruption.

Recommendation 1: Amend the definition of corrupt conduct to include distinctions between ethical breaches and criminal acts, and social and economic corruption

2. Focus on prevention

A national framework designed to pursue integrity is about more than identifying, investigating, and punishing corrupt conduct. The NACC is the 'last line of defence' in a system of broader action that should prioritise education and robust structures to prevent corruption from happening in the first place and to inform all persons of their responsibilities in ensuring such prevention.

The Academy welcomes the inclusion of clear functions for the NACC to drive education and prevention and notes the broader avenues to prevent fraud and corruption in the Commonwealth public sector, such as the Commonwealth Fraud Control and Protective Security Policy Frameworks. However, strengthening ethical culture within the public sector through education and training will be crucial to the success of the NACC and the overall framework.

The social sciences have and continue to be active in improving Australia's integrity framework and can assist in the broader understanding of corruption. Academy Fellows [Professor Adam Graycar](#), [Professor Emeritus Leslie Holmes](#) and [Professor Andrew Goldsmith](#) have published widely on matters related to corruption (see attached – publications available upon request) and have provided training to public servants and public officials globally, including at the International Anti-Corruption Academy in

Vienna. The Academy would welcome the opportunity to deliver seminars and training sessions on various aspects of corruption to public officials.

Recommendation 2: *Include an increased focus on education in the Bill which prioritises corruption prevention and the responsibilities of all in such prevention.*

3. Protection for whistleblowers and persons providing information

Appropriate protection of whistleblowers, referred to as *disclosers* in the Bills, remains a major gap in the national integrity framework. The Academy welcomes the inclusion of measures which complement existing protections under the *Public Interest Disclosure Act 2013* such as criminal offences for reprisal action that causes detriment to whistleblowers and immunity from criminal, administrative and civil liability. While the Government has publicly stated their intention to strengthen the *Public Interest Disclosure Act 2013*, more information should be outlined at this stage regarding the issue of anonymity - particularly in the age of increasingly sophisticated hacking and the rapidity with which information can be transmitted publicly – to reduce whistle-blower hesitancy in making an allegation or reporting a suspicion.

Recommendation 3: *Clearly outline how whistleblower protections will be strengthened, particularly how anonymity will be maintained*

4. Rigidity of penalties

Noting that sentencing policy and penalties are fraught, the possible penalties outlined in the Bills are rigid, and do not allow for varying circumstances. To specify that a penalty is 2- or 5-years imprisonment would appear to leave no room for judicial discretion. The Academy recommends amending the description to a *maximum* penalty would be preferable.

Recommendation 4: *Amend penalties to a maximum number of years imprisonment*

The Academy and its Fellows with expertise in relevant areas would welcome the opportunity to provide more information, or to present evidence at a hearing. Should you have any queries please contact Andrea Verdich (Policy Manager) on 0438 218 352 or andrea.verdich@socialsciences.org.au .

Yours sincerely,



Dr Chris Hatherly
CEO

Adam Graycar: recent publications on corruption and integrity

A full list of my publications (approx. 300 items) is available on request.

BOOKS

1. **Graycar, Adam** (2020) *Handbook on Corruption, Ethics and Integrity in Public Administration* (editor and co-author), Cheltenham UK, Edward Elgar
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2. **Graycar, Adam** & Prenzler, T. (2013). *Understanding and Preventing Corruption* New York & Basingstoke, Palgrave Macmillan.
3. **Graycar, Adam** & Smith, R.G. (2011). *Global Handbook on Research and Practice in Corruption*, (editor and co-author), Cheltenham UK, Edward Elgar.

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<https://doi.org/10.1080/25741292.2022.2113461>
5. Yan Yifei, & **Graycar, Adam**. (2020) "Exploring corruption in fisheries." *Natural Resources Forum*. 2020;Vol 44: 176-190
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8. Zhang, Yahong, Jancsics, David, & **Graycar, Adam** (2019), "PAR Symposium on Understanding and Reducing Public Corruption" *Public Administration Review* vol. 79 (4): 519-522
<https://doi.org/10.1111/puar.13086>
9. Praino, Rodrigo & **Graycar, Adam** (2018) "Does corruption follow opportunity?: a study of the US Congress" *Public Integrity* Vol 20: 478-496
<http://dx.doi.org/10.1080/10999922.2017.1402169>
10. **Graycar, Adam** (2018) "Corruption in public administration - review" *Public Administration Review* Vol 78 (2): 325 -328
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12. **Graycar, Adam** & Masters, Adam (2018) "Preventing malfeasance in low corruption environments" *Journal of Financial Crime* Vol 25 (1): 170-186
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27. **Graycar, Adam** & Villa, D. (July 2011), The Loss of Governance Capacity through Corruption, *Governance: An International Journal of Policy, Administration, and Institutions*, Vol 24 (3): 419 - 438
28. **Graycar, Adam** (2011), Corruption: Global initiatives build on local best practice, *Public Administration Today*, Vol 13 (January): 11 - 13

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29. **Graycar, Adam**, Macintyre Stuart, & Joyce Ashlee (2023) (forthcoming) “Corruption in procurement in Australia” Chapter 3 in Sope Williams-Elegbe and Jessica Tillipman (editors) *Routledge Handbook of Public Procurement Corruption*
30. **Graycar, Adam** (2020) “Corruption and public administration” in Adam Graycar (ed) *Handbook on Corruption, Ethics and Integrity in Public Administration*, Cheltenham UK, Edward Elgar, Chapter 1, pp 1-8 <http://dx.10.4337/9781789900910>
31. **Graycar, Adam** (2020) “Public service and corruption” in Sullivan H., Dickinson H., Henderson H. (eds) *The Palgrave Handbook of the Public Servant* London, Palgrave Springer ISBN 978-3-030-03008-7
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32. **Graycar, Adam** (2019), "Getting to the heart of integrity" in Gjalts de Graaf (ed) *It is all about integrity, stupid*. The Hague, Eleven International Publishing, pp 105 – 111. [ISBN 978-94-6236-951-1](https://doi.org/10.1017/cbo9780511762116.028)
33. **Graycar, Adam** and Catherine Cochrane (2019) "Approaches to Combatting Corruption: Global Best Practices" in Carole I. Jurkiewicz (ed) *Corruption And Ethics Management: Translating Theory Into Action* (3rd edition) New York, Rowman & Littlefield, pp. 194-202 [ISBN-13: 978-1538117408](https://doi.org/10.1017/cbo9780511762116.028)
34. **Graycar, Adam** & Hicks, D.C (2019), Money Laundering, in Natarajan, M. (ed), *International and Transnational Crime and Justice* (2nd edition), Cambridge UK, Cambridge University Press, Chapter 13, pp. 80 – 85
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41. Monaghan Olivia & **Graycar Adam** (2015) "Building Integrity in Public Sector Operations Lawton, A., van der Wal, Z & Huberts, L (eds) *Ethics in Public Policy and Management: A global research companion* Routledge, New York and Oxford, Chapter 6, pp. 87-108
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44. **Graycar, Adam** & Hicks, D.C (2011), *Money Laundering*, in Natarajan, M. (ed), *International Crime and Justice*, Cambridge UK, Cambridge University Press, Chapter 22, pp. 171 - 177
45. **Graycar, Adam** (2011), *Corruption*, in Natarajan, M. (ed), *International Crime and Justice*, Cambridge UK, Cambridge University Press, Chapter 28, pp. 215 - 222
46. **Graycar, Adam** (2011), *International Cooperation to Combat Money Laundering*, in Natarajan, M. (ed), *International Crime and Justice*, Cambridge UK, Cambridge University Press, Chapter 59, pp. 445 – 452
47. **Graycar, Adam** (2011) “Corruption and control” in Cristina de Abreu (ed) *A Economia Da Corrupção Nas Sociedades Desenvolvidas Contemporâneas (The Economics Of Corruption In Contemporary Developed Societies)* Publidisa – Publicaciones Digitales, S.A Porto, Portugal, pp137 – 150
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51. Brown, A.J, **Graycar, Adam**, Kelly, Kym Coghill, Ken, Prenzler, Tim Ransley, Janet (2019) *A National Integrity Commission – Options for Australia*. ARC Linkage project publication 1, Griffith University
[https://www.griffith.edu.au/ data/assets/pdf file/0029/518249/FULL-Griffith-University-A-National-Integrity-Commission-Options-for-Australia-Sep2018.pdf](https://www.griffith.edu.au/data/assets/pdf_file/0029/518249/FULL-Griffith-University-A-National-Integrity-Commission-Options-for-Australia-Sep2018.pdf)
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54. **Graycar, Adam** & Kelly, Kym (2014) Research paper: a review of integrity frameworks in Victorian public sector agencies
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55. **Graycar, Adam** (2013) *Corruption In Victoria Research Project On Perceptions And Practices* Research report to Victorian Independent Broad-based Anti Corruption Commission, Canberra December 2013, 431pp
56. **Graycar, Adam** (2013) *Perceptions of corruption in Victoria research paper* September 2013 download from: http://www.ibac.vic.gov.au/docs/default-source/research-documents/ibac_perceptions_of_corruption_in_victoria_research_paper_v3_20131108.pdf?sfvrsn=6
57. McAllister, Ian, Pietsch Juliet & **Graycar, Adam** *Perceptions of corruption and ethical conduct*, ANUPoll Canberra, October 2012, 28pp
https://politicsir.cass.anu.edu.au/sites/default/files/docs/2012-10-26_ANUpoll_ethics_corruption.pdf_0_1.pdf

In addition there have been numerous op columns and commentary pieces in in many countries. These are available on request.

**Leslie Holmes' Publications on or relating to Corruption and Organised Crime
(n.b. items marked 'forthcoming' have been written and submitted, and are available
on request)**

Books – Author

1. *The End of Communist Power: Anti-Corruption Campaigns and Legitimation Crisis* (Hardback and Paperback) (Cambridge, New York and Melbourne: Polity Press, Oxford University Press, and Melbourne University Press, 1993), 358 pp. plus xx. (Chinese-language edition published by the National Institute for Compilation and Translation, Taipei, 1995, 345 pp.)
2. *Rotten States?: Corruption, Post-Communism and Neoliberalism* (Hardback and Paperback) (Durham, NC: Duke University Press, 2006), 419 pp. + xvi
3. *Corruption: A Very Short Introduction* (Paperback) (Oxford: Oxford University Press, 2015), 143 pp. + xxiv (Thai-language edition published by Openworld Publishing in 2017; German-language edition published by Reclam, February 2017; Simplified Chinese-language edition published by Yilin Press, 2019; Spanish-language edition published by Grano de Sal in 2019; Russian-language edition published by Delo in 2021; Complex Chinese-language edition to be published by Rive Gauche in 2023)
4. *Advanced Introduction to Organised Crime* (Hardback and Paperback) (Cheltenham: Elgar, 2016), xii + 170 pp.
5. *Comparing Police Corruption: Bulgaria, Germany, Russia and Singapore* (Abingdon: Routledge, 2022), xviii + 220 pp.

Books - Editor

6. *Terrorism, Organised Crime and Corruption: Networks and Linkages* (Cheltenham: Edward Elgar, 2007; paperback 2010), 302 pp. + xv
7. *Police Corruption: Essential Readings* (Cheltenham: Edward Elgar, 2014), 674pp. + xxxiii

Books - Co-editor

8. L. Holmes and W. Roszkowski (eds.), *Changing Rules: Poland's Political and Economic Transition in Comparative Perspective* (Paperback) (Warsaw: ISP PAN, 1997), 181 pp.

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9. 'Corruption in Post-Communist Countries, with Particular Reference to Poland' in Holmes and Roszkowski 1997 (see above, under Books – Co-editor): 121-76
10. 'Corruption and the Crisis of the Post-Communist State', *Crime, Law and Social Change*, 27 (3-4), 1997: 275-97

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12. 'Corruption in Europe', *Dialogue*, 18 (2), 1999: 19-25
13. 'Corruption, Weak States and Economic Rationalism in Central and Eastern Europe', Paper Presented at the Princeton University – Central European University Joint Conference on Corruption, Budapest, 29 October – 6 November 1999, 40 pp. in hard copy, available on web at www.transparency.org/iacc/9th_iacc/papers/day1/ws2/dnld/d1ws2_lholmes.pdf
14. 'Funktionen und Dysfunktionen der Korruption und Ihrer Bekaempfung in Mittel- und Osteuropa' in J. Borchert, S. Leitner u. K. Stolz (eds.), *Jahrbuch für Europa- und Nordamerika-Studien 3: Politische Korruption* (Opladen: Leske und Budrich, 2000): 117-44 (English language version, 'Functions and Dysfunctions of Corruption and its Reporting in Central and Eastern Europe' published in T. Lindsey and H. Dick [eds.], *Corruption in Asia: Rethinking the Good Governance Paradigm*, Federation Press, 2002: 50-70)
15. 'Corruption in the Baltic Countries, with Particular Reference to Lithuania', *Lithuanian Papers*, 14, 2000: 30-5
16. 'Crime, Corruption and Politics: International and Transnational Factors' in J. Zielonka and A. Pravda (eds.), *Democratic Consolidation in Eastern Europe: International and Transnational Factors*, Vol.2 (Oxford: Oxford University Press, 2001): 192-230
17. 'Political Corruption in Central and Eastern Europe' in M. Bull and J. Newell (eds.), *Corruption in Contemporary Politics* (London: Palgrave 2003): 193-206
18. 'Corruption and Democratisation: Problems of Legitimation in Russia and Other Post-Communist States', refereed paper presented at the 2003 Annual Conference of the Australasian Political Studies Association, 29 September – 1 October 2003, 28 pp. in original hard copy; available online at <http://www.utas.edu.au/government/APSA/RefereedPapers.html#Comparative>
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21. 'Networks and Linkages: Corruption, Organised Crime, Corporate Crime and Terrorism', Paper presented at the 12th International Anti-Corruption Conference (IACC), Guatemala City, November 2006, 18 pp.
22. 'Introduction', in Holmes 2007 (see above, under Books - Editor): 1-28

23. 'The Corruption – Organised Crime Nexus in Central and Eastern Europe', in Holmes 2007 (see above, under Books - Editor): 84-108
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26. 'Menschenhandel und Korruption in Mittel- und Osteuropa' ('Human Trafficking and Corruption in Central and Eastern Europe') in J. Nautz and B. Sauer (eds.), *Frauenhandel: Diskurse und Praktiken* (Göttingen: Vandenhoeck & Ruprecht Unipress, 2008): 65-79
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