

# Oversight of the public sector

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# Our oversight function

In addition to investigating allegations of corrupt conduct, the major components of the CCC's oversight role are:

- receiving and assessing complaints of corruption
- monitoring, through reviews and audits, how agencies manage allegations.

In July 2014, the Crime and Corruption Act (CC Act) introduced significant changes to the CCC's jurisdiction in regard to allegations of public sector corruption. These changes included a narrower definition of corrupt conduct, the requirement for a statutory declaration to accompany a complaint, and the establishment of a higher threshold for public agency reporting.



In response to the new legislation, in 2014–15 the CCC issued *Corruption in focus*, providing revised guidelines for public sector agencies on how to deal with corrupt conduct.

See <[www.ccc.qld.gov.au/publications](http://www.ccc.qld.gov.au/publications)> for CCC publications.

## Complaints received

In 2014–15, the CCC received 2347 complaints, involving 5326 separate allegations of corruption (one complaint may consist of a number of allegations). Of these complaints, 66 per cent related to police, and 34 per cent related to public sector agencies (including local government).

Overall, complaints show a decline of 40 per cent compared with last year. This decrease was most marked in relation to public sector complaints. They decreased by 48 per cent, whereas complaints about police only dropped by 18 per cent.

The significant decrease in public sector complaints is likely to be due to amendments to the CC Act as noted above. By contrast, while the change to the definition of corrupt conduct similarly affected police, there were no changes to the jurisdiction relating to complaints of police misconduct.

The CCC is examining this marked reduction in public sector complaints through a complaint audit (see the adjacent box).

See <[www.ccc.qld.gov.au/corruption/results](http://www.ccc.qld.gov.au/corruption/results)> for complaints data.

## Our monitoring role

The CCC has a statutory obligation to monitor the way in which public agencies, including the QPS, deal with matters of suspected corrupt conduct referred or reported to them. This is done through various mechanisms, including overseeing investigations, reviewing interim and finalised investigation reports, and undertaking agency audits.

Some mechanisms have been modified or discontinued by the amendments to the CC Act. For example, we now assess the quality of an agency's integrity framework through the audit program.

This year, CCC reviews identified deficiencies in the handling of corrupt conduct by both public sector agencies and the QPS — particularly in regard to the interviewing of witnesses and the adequacy of inquiries. Lack of timeliness in providing reports to the CCC was also a persistent problem. In most cases, there was no reasonable or apparent explanation for the delays in finalising inquiries and reporting the matter to the CCC.

Inappropriate use of information was another common theme identified during the CCC's oversight of investigations conducted by other agencies. See the second public sector case study on the next page.

### Our corruption audit program

The CCC conducts audits to assess:

- the appropriateness of an agency's systems, policies and procedures for dealing with complaints about corruption
- whether an agency has dealt with complaints about corruption according to the requirements of the CC Act and other relevant standards (e.g. the *Corruption in focus* guidelines mentioned above)
- how effectively an agency, or group of agencies, responds to classes of complaints or corruption risk identified by the CCC.

This year, the CCC took the opportunity created by the legislative amendments to evaluate its existing audit program to ensure that its audits have a robust methodology, are focused on high risk, and are conducted in cooperation with agencies. The CCC is also focused on achieving greater coverage of the public sector.

Following the introduction of this new audit framework in 2014–15, the CCC has commenced two audits to review:

- whether public sector agencies are complying with new requirements for dealing with corrupt conduct (sections 15(1), 38 and 40 of the CC Act)
- how agencies have responded to incidents involving inappropriate access to, and disclosure of, confidential information by public sector officers (including the QPS).

# Departments and agencies

## Monitoring

As already noted, monitoring by the CCC identified deficiencies in how public sector agencies handled matters of suspected corrupt conduct. These included poor interviewing skills and a failure to appropriately test the evidence of witnesses. In some cases, these failures led to flawed conclusions that were not supported by the evidence.

As well as failing to interview all relevant witnesses, some agencies failed to electronically record interviews so the interview techniques could be assessed by the CCC. Some of these problems are illustrated in the case studies on this page.



### Agency reconsiders findings in sexual assault allegation

In 2014, the CCC was notified that an officer of a public service department had allegedly engaged in serious criminal conduct in the course of their duties. As an initial QPS investigation did not substantiate criminal conduct, the matter was subsequently referred to the agency to deal with, subject to CCC monitoring.

The CCC determined to exercise its monitoring role because an identical allegation had been previously made against the officer. In that case, the investigation had resulted in a criminal charge, for which the officer was subsequently acquitted. A disciplinary investigation at the time had also concluded that there was insufficient evidence to substantiate the alleged conduct.

With regard to the new allegation of sexual assault, the agency's investigation concluded that there was insufficient evidence to take disciplinary action. The CCC subsequently reviewed the available evidence, including information from the earlier investigation, and noted similarities in the evidence. On that basis, the CCC requested that the agency reconsider its finding.

The agency sought legal advice, which confirmed that, given the clear parallels between the two complaints, it could consider evidence from the earlier complaint when making a decision on the current matter. The agency has subsequently concluded that there was sufficient evidence to refer the matter for disciplinary action.

## Unauthorised disclosure of information

The CCC has identified the unauthorised disclosure of information as a primary high-risk area for public sector agencies.



### Review of agency investigation

In 2014, the CCC received notification that an officer of a public sector department had allegedly accessed and disclosed confidential information about a client to another party. That person was not only a client of the department but a member of the same family as the client whose information had been unlawfully disclosed.

The matter was referred to the agency to deal with. Given the nature of the work undertaken by the agency, and the potential for future harm should the safety of a client be compromised, it was subject to CCC monitoring.

The agency investigated the matter and concluded that the information was sufficient to suggest that client information had been accessed without a legitimate reason but insufficient to conclude that the information was deliberately disclosed to an unauthorised person. The agency provided managerial guidance to the officer, reminding them of their obligations under the agency's code of conduct.

When the CCC reviewed the agency's reports, it found that the agency had failed to interview all relevant witnesses and had not adequately evaluated specific evidence. At the direction of the CCC, the agency obtained further evidence, which demonstrated that the officer had intentionally disclosed client information to the family member. This refuted the officer's claims, and also suggested that the officer had knowingly provided false information during the investigation.

The CCC has since asked the agency to reconsider its sanction against the officer.

# Queensland Police Service

## Monitoring

The CCC has an oversight role in monitoring the QPS's investigation of serious incidents involving police. This includes agreeing on the initial investigative steps to be taken by the QPS, overseeing an investigation while it is taking place, and reviewing interim or final reports as an investigation progresses and before any disciplinary or other action is taken.

This year a total of 87 police matters were the subject of individual close scrutiny through a case review. Through these reviews the CCC identified a range of issues, particularly unexplained delays in finalising investigations and poor-quality reporting. There were also instances where the QPS had declined to undertake inquiries as directed by the CCC. In some cases, based on the available evidence, the CCC disagreed with the conclusions reached by the QPS.

## Audit of police discharge of firearms

In 2012–13, following an increased number of incidents between 1 October 2011 and 30 June 2012, the CMC conducted an audit of police discharge of their firearms. A report focusing on incidents of police shooting at moving vehicles was sent to the QPS in June 2013. It contained eight recommendations to reduce or mitigate the use of firearms in circumstances that increase the risk of serious injury to the vehicle driver and innocent bystanders.

In July 2014, the QPS advised the CCC that it had implemented a number of changes focused on providing firearm training and updating policies about the discharge of firearms at moving motor vehicles. While these are positive steps, the CCC believes that further vigilance is required to adequately manage risks associated with lethal force options and public safety.

The CCC continues to monitor these types of incidents and will work closely with the police to ensure their officers maintain a balance between performing their duties and maintaining public safety.

## Review of how police officers are prosecuted for summary matters

A lack of timeliness in the QPS handling of disciplinary matters has meant that officers suspected of being involved in incidents such as minor traffic infringements or public nuisance were subject to disciplinary hearings but not prosecuted. Delays in dealing with disciplinary matters meant the limitation of 12 months for commencing such prosecutions had expired.

For example, the CCC was made aware of a police officer who, on receiving a traffic infringement notice, made a false declaration and statement during a disciplinary investigation. Although the matter was properly investigated and disciplinary action taken against the officer, it took 16 months to finalise. Summary proceedings could not therefore take place, resulting in the officer merely receiving a "caution" for the conduct.

When these concerns were conveyed to the QPS, the QPS acknowledged that summary action could be taken prior to disciplinary action being finalised.

## Oversight of police-related deaths and other significant police incidents

The CCC is informed of all police-related deaths as well as other significant events involving police. The CCC may elect to attend an incident if there is concern about the public interest (for example, where a police officer has discharged their firearm, regardless of whether there have been injuries or deaths).

This year the CCC responded to nine police incidents across the state, including police shootings, a car pursuit and self-harm by a civilian resulting in death. The CCC attended each incident to:

- provide independent oversight of the QPS investigative response
- assess the probity and sufficiency of the initial investigation
- determine, together with the State Coroner, if there was a likelihood of any police misconduct that would warrant the CCC's further involvement, including assuming control of an investigation if that was considered necessary.

Where the CCC has deemed further investigation is warranted, these matters have either been referred to the QPS or retained by us.

## Police discipline matters

The CCC may apply to the Queensland Civil and Administrative Tribunal (QCAT) for a review of certain decisions made by the QPS against its officers (where there is evidence of misconduct). Once QCAT decides a matter, it is open to the CCC or the other parties involved (that is, the QPS decision maker and the officer who is the subject of the disciplinary matter) to appeal the matter to QCAT in its appeal jurisdiction. A further right of appeal lies from the QCAT appeal jurisdiction to the Queensland Court of Appeal.

The CCC can file a review application in QCAT if it considers that it is in the public interest to do so. The purpose of such a review is to ensure that the prescribed officer's findings were justified and that any sanctions imposed were proportionate to the facts disclosed to the CCC. CCC reviews in QCAT can relate to findings on liability, the sanction, or both.

In 2014–15 the CCC examined 77 reviewable decisions and filed 2 new reviews in QCAT. In addition, the CCC was involved in the ongoing review or appeal of a further 4 police disciplinary matters in the QCAT, QCAT appeal and Queensland Court of Appeal jurisdictions.



## Challenge to the CCC's powers

The CCC's power to investigate an allegation of corruption against a police officer is currently subject to a challenge in the Supreme Court of Queensland. The officer has challenged the CCC's powers to investigate the allegation once the police service had decided to take managerial action, even though the CCC had not completed its monitoring of the way the QPS dealt with the allegation.

The original allegation relates to the officer failing to properly investigate a complaint of excessive force made against another QPS officer. The CMC had initially recommended a disciplinary hearing to investigate the matter, but the QPS resolved the allegation through an alternative disciplinary process. This resulted in a sanction of a fully suspended demotion on the condition that the officer did not commit any further misconduct in the 12 months following.

Following successful appeals in QCAT, the matter was returned to the QPS for reconsideration of more serious charges. The QPS subsequently advised that it would resolve the matter by way of managerial rather than disciplinary action. Following this, the CCC assumed responsibility for the investigation.

In March 2015 the officer applied to the Supreme Court for a declaration that the CCC has no power to investigate the matter, essentially on the ground that the matter had been dealt with by the QPS. The appeal was heard in April, with the decision reserved.

The CCC will provide an update on this matter in the next reporting period.