

# 03

*corruption*

This year our work with the public sector focused on misuse of confidential information, excessive use of force against members of the public by police officers, and probity in the local government sector.

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# About our work in corruption

The major components of the CCC’s corruption function, and its oversight of the public sector, are:

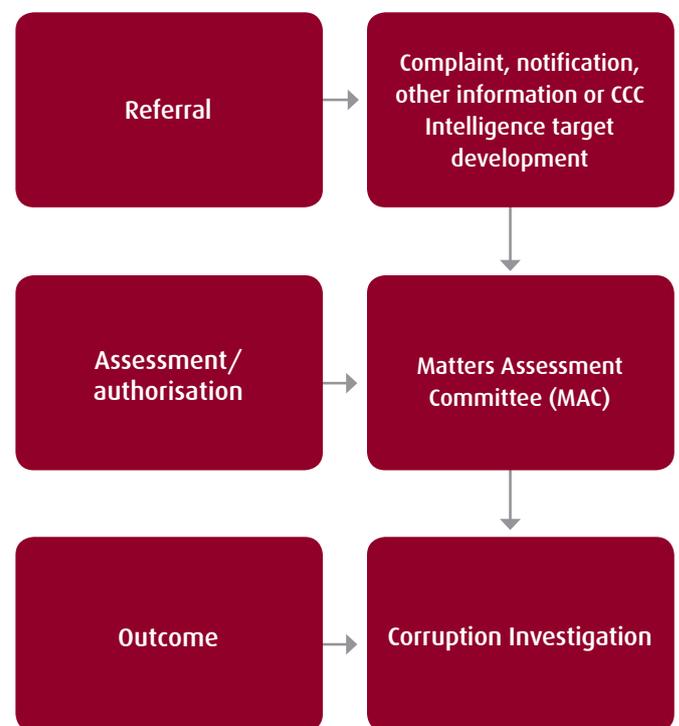
- receiving and assessing allegations of corruption
- monitoring, through reviews and audits, how agencies manage allegations
- building the capacity of agencies to prevent and deal with corruption (capacity-building) and
- conducting investigations.

This year our work with the public sector focused on misuse of confidential information in agencies and councils, excessive use of force by police officers against members of the public, and probity and transparency in the local government sector, particularly in the lead-up to elections in March 2016.

On 5 May 2016, the *Crime and Corruption Amendment Act 2016* came into force, removing the requirement for complaints about corrupt conduct to be made by statutory declaration.

The definition of “corrupt conduct” is currently under review by the government, with a view to widening the definition to ensure the CCC has the appropriate jurisdiction to address public sector corruption. Public submissions on the issue closed on 29 March 2016.

Figure 5. How corruption matters progress to a CCC investigation



# Complaints received and assessed

Complaints and allegations are the principal starting point for most CCC investigations, but they can also be a significant indicator of emerging corruption issues across the public sector. Allegations of corruption can be made directly to the CCC by members of the public or referred to us by agencies. Information is also obtained through routine audits by the CCC, Crime Stoppers, and by referral from legal proceedings, the Coroner or a public inquiry.

In 2015–16, the CCC received 2674 complaints, involving 6736 separate allegations of corruption (one complaint may consist of a number of allegations). Of these complaints, 64 per cent related to police, and 36 per cent related to public sector agencies (including local government). Overall, complaints increased by 12 per cent compared with last year. This increase may be attributed to factors such as increased media attention on the excessive use of force by police and the local government elections.

**Table 6.** Complaints received 2013–16

Year	No. of complaints	No. of allegations
2015–16	2674	6736
2014–15	2347	5326
2013–14	3881	8688

## Assessment of allegations: by category and priority

The CCC assesses a complaint under a categorisation and prioritisation model designed to identify allegations of serious and/or systemic corruption.

Only complaints categorised as High (suspected serious and/or systemic corruption) will be investigated by the CCC. These include matters that:

- could be considered important to the Queensland community (for example, because of the status of the subject officer or the high value of an alleged fraud)
- require an immediate response from the CCC (for example, to secure at-risk evidence or attend the scene of the death or serious injury of a person in police custody)
- are considered to be high-impact and high-priority for the public sector, as the concerns go to central issues of management of the government or a particular agency, or
- have been identified by the CCC as involving serious and/or systemic corrupt conduct (for example, criminal offences against the executive and legislative power, involving corruption and abuse of office and relating to the administration of justice, or conduct of a police officer relating to certain offences under the *Drugs Misuse Act 1986*).

All matters categorised as High are then assessed to determine the best course of action to take. We will consider whether the material supports the High categorisation, whether the matter is one which we have power to investigate (is within jurisdiction), and whether there is sufficient evidence to warrant an investigation.

The following examples are assessments undertaken by the CCC, after which a decision was made not to conduct an investigation.

### Royalties for the Regions program

In December 2015, the Honourable Curtis Pitt MP asked the CCC to consider the QAO's report titled *Royalties for the Regions* to identify whether it contained information that may have indicated corrupt conduct on the part of Mr Jeff Seeney MP, the former Deputy Premier and Minister for State Development, Infrastructure and Planning.

## Identifying corruption risks in Queensland: highest risk activities, actors, agencies and sectors

The CCC is improving its capability to identify corruption risks. In July 2015, the CCC implemented a new corruption allegations framework that provides an opportunity to examine areas of high risk in more detail. The first tranche of data from the new framework was analysed and these findings will serve as a baseline to assess change over time. The CCC is also examining ways to better identify risk through information other than allegation data.

The CCC's jurisdiction in relation to parliamentarians is limited to conduct that would, if proved, be a criminal offence. In this case, the former minister's conduct described in the *Royalties for the Regions* report would not, if proved, constitute a criminal offence, and so was not within the CCC's jurisdiction.

### Approval of New Hope Acland Stage 3 mine expansion

After careful consideration of a large volume of material, the CCC determined that it would not investigate a complaint from the Lock The Gate Alliance relating to allegations that political donations and other gifts had influenced the decision to approve the New Hope Acland Stage 3 mine expansion and the Colton Coal mine project.

The assessment found insufficient evidence to support the allegations or to raise a reasonable suspicion of a criminal offence.

*For assessments relating to the local government sector, see page 51.*

## Referring complaints to the public sector

Of the 2674 complaints received by the CCC in 2015–16, 402 matters were categorised as High with 73 (18%) of those complaints retained for investigation. The balance were referred to the agency to deal with.

The CCC will refer complaints to agencies to be dealt with, where, for example, it considers that the agency should be made aware of the allegations, or that the agency has capacity to investigate the complaint, or another agency such as the QPS is actively investigating criminal offences.

Complaints may also be referred to agencies that have jurisdiction to deal with the matter under their own statutory framework, for example, the Queensland Audit Office, the Queensland Ombudsman, the Office of the Health Ombudsman or the Department of Infrastructure, Local Government and Planning (responsible for the investigation of councillor conduct which may come before the Local Government Remuneration and Discipline Tribunal).

For those matters dealt with by the agency, the CCC may:

- Require no further advice from the agency concerning the outcome of the matter (where the impact of the conduct is on a single individual or of a low value)
- Review the investigation while it is in progress
- Review the outcome once the matter has been finalised
- Where no further advice was sought by the CCC, conduct audits of how the matter was dealt with by the agency.

In 2015–16, of the total number of matters we assessed, we referred 230 matters categorised as High to public sector agencies for them to deal with (see Table 7). Of the complaints referred to agencies, 118 (29%) were subject to monitoring by the CCC. The remaining 112 were referred to agencies to deal with, subject to monitoring by way of audit, or no further advice was required.

Table 7 includes the number of serious complaints referred to agencies to deal with subject to CCC monitoring. In each of these matters the CCC assessed that the public interest was best served by a joint approach between the CCC (in its monitoring role), the QPS and the relevant agency to address the alleged criminal and disciplinary matters.

**Table 7.** Retention and referral of complaints 2015–16

Assessment category	CCC investigation	Agency investigation/action			CCC audits
		Monitoring		No further advice required from agency	
		Close monitoring	Outcome monitoring		
High	73 <sup>1</sup>	65	53	112	561 <sup>2</sup>
Medium	0	29	47	484	
Low	0	0	0	1307	

1. This includes nine matters that the CCC initially referred to another agency to deal with subject to a review and the CCC subsequently assumed responsibility for the investigation.

2. This includes matters that may not have been initially referred to the CCC prior to the matter being dealt with by the agency. A number of units of public administration are authorised to deal with low-level allegations of corrupt conduct without reporting them to the CCC.

## Complaints referred to agencies for resolution

- In October 2015 the CCC received an allegation from an agency that one of its employees had forged a signature to purchase an iPad for personal use. The fraud was identified due to a banking error. The employee then tried to obtain and destroy CCTV footage implicating her in the fraud. A criminal investigation by the QPS identified that the employee had lied about her education and professional qualifications during numerous government selection processes. The employee was charged with seven fraud-related offences including forgery, convicted and sentenced to 12 months imprisonment, with a non-parole period of four months.
- An agency employee allegedly misused funds to the value of \$130,000 and removed two boxes of bank documents to hinder any investigation into her activities. The employee pleaded guilty to fraudulently obtaining property in the amount of \$93,213 and to dishonestly obtaining funds totalling \$38,140, and was sentenced to four and a half years imprisonment. The QPS investigator considered there was evidence to suggest that the actions, or inaction, of two other senior officers had enabled the activity to continue for a prolonged period (2009–14) without being detected. The agency’s disciplinary investigation found that both other officers failed to observe the requirements of the Financial Management Guidelines. In relation to those officers, one had already resigned and no further action was taken, and the other was cautioned in relation to her conduct with no formal disciplinary action taken.

## Using audits as a monitoring tool

This year, the CCC took the opportunity created by legislative amendments to evaluate and improve its existing audit program.

Following the introduction of a new audit framework, the CCC undertook audits to review:

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

Reports of these audits have now been released. The two full audit reports were circulated to agencies to assist them improve their systems, and a short public version of the audit report relating to information access and disclosure was also prepared (see “Key focus areas”, pages 48–49.) Audit reports are generally sent to an agency’s CEO to act on our findings or recommendations. However, as of 2016 in the interest of transparency and public accountability, the CCC intends to publish more of the outcomes of its audits. Our audit plan for 2016–17 can be found on our website at <http://www.ccc.qld.gov.au/corruption/information-for-the-public-sector/audit-plan/>

The CCC aims to deliver a high-quality audit program, based on the following four principles, to promote public confidence

High-risk focus	High-value	Robust audit methodology	Coverage
CCC audits target high-risk issues, agencies or sectors, examining emerging, entrenched, systemic or otherwise significant threats.	They provide advice on appropriate intervention and remedial strategies in a way that is likely to improve how agencies deal with complaints about corruption.	They apply best practice audit methodology and are characterised by open communication and constructive feedback and advice.	The CCC audit plan spans a range of agencies, sectors and audit types within the parameters of a risk-based approach to audit planning.

## Capacity-building

In this reporting year, a focus of our work has been reminding people in significant leadership roles that their conduct is critical to the integrity of our public institutions and to making our public sector corruption-resistant.

### *Promoting integrity leadership and anti-corruption*

Following the conviction and sentencing in December 2015 of a former Director-General for the criminal charge of abuse of office as a result of a CCC investigation (see page 46), the CCC Chairperson wrote to every Director-General and Chief Executive Officer in Queensland public sector departments and agencies reminding them of the importance of setting a very high benchmark for transparent and ethical behaviour in their organisations.

To reinforce that message, during this reporting period the Chairperson and other senior officers met with and gave presentations on leadership and public sector integrity to a number of agencies and organisations including the Office of the Coordinator-General, the State Library of Queensland, and the Queensland Ambulance Service.

### *The Australian Public Sector Anti-Corruption Conference (APSACC)*

From 17 to 19 November 2015, the CCC, together with the New South Wales Independent Commission against Corruption and the Western Australia Corruption and Crime Commission, co-hosted the 2015 Australian Public Sector Anti-Corruption Conference (APSACC), a biennial conference that focused on emerging corruption trends, the latest anti-corruption strategies and corruption investigation techniques. The conference, which featured Australian and international speakers from organisations such as TRACE International Inc (USA), International Anti-corruption Academy (Austria) and Moorebank Intermodal Company Ltd (Australia), was attended by 499 Australian and international delegates. The next conference is scheduled for 2017.

### *International anti-corruption day – 9 December 2015*

On International Anti-Corruption Day, the CCC reminded the public as well as CEOs and Directors-General of the actions that they could all take to promote justice and anti-corruption efforts. Key messages included the importance of reporting incidents of corruption, and the need to enact and strictly enforce anti-corruption policies within agencies.



# Investigations

The CCC conducts independent investigations to identify and respond to the most serious and systemic cases of corrupt conduct affecting Queensland units of public administration (which includes departments and agencies, the QPS and councils).

While an investigation necessarily focuses on particular conduct, the CCC also examines the context and culture that gave rise to the incident, the procedures and policies that encouraged or hindered the conduct, and the likelihood of its recurrence. Investigations may also serve the purpose of:

- clearing a person's name or restoring public confidence in a public sector activity or agency or the police
- identifying systemic weaknesses or a failure of internal controls in agencies that make them more vulnerable to corruption
- disciplinary action being taken.

The CCC can refer matters to a CEO (or senior executive) to consider disciplinary action or in some cases commence proceedings in the Queensland Civil and Administrative Tribunal (QCAT).

## Investigation outcomes 2015–16

**Table 9.** Significant investigation outcomes

Significant outcome	Use of force	Confidential information	Fraud	Corruption and favouritism	Other	Total
Recommendations for criminal charges:	2	88	16	19	0	125 involving 14 people
• Charges laid	2	86	16	0	0	104
• Charges outstanding	0	0	0	19	0	19
• Did not progress	0	2	0	0	0	2
Recommendations for disciplinary action	8	5	14	5	31	63 involving 26 people
Procedural recommendations	1	2	10	10	50	73

**Table 8.** Use of investigative powers

Description	Number
Notices to attend hearing	17
Notices to produce	-
Search warrants	11
Notices to discover information	128
Hearing days	5
Witnesses attending	4

### Case studies

#### Two men ordered back to Queensland to face fraud charges

In July 2015 the Public Trustee of Queensland (PTQ) reported that a procurement officer had received free gifts of interstate travel and accommodation for awarding contracts to interstate contractors for PTQ works. These mostly related to maintenance of PTQ-owned properties, and not to management of PTQ clients' monies. It was also alleged that the staff member released significant amounts of corporate information, including budget estimates of a competitor, to two of the contractors in order to give them a commercial advantage, and provided confidential information about a property restrained by the CCC to an external party not related to PTQ or the confiscation action. The staff member subsequently resigned from the PTQ.

Initial investigations suggested that the staff member had fraudulently gained employment at PTQ (using false references and qualifications), and that he had a previous relationship with the interstate contractors. An investigation resulted in fraud charges being laid against the former public servant and a director of a Sydney-based construction company.

#### Academic sentenced following investigation into research fraud at the University of Queensland

As a result of a CCC investigation begun in 2013 Professor Bruce Murdoch, who was previously the Director of the Centre for Neurogenic Communication Disorders Research (focused on research related to Parkinson's Disease) at the University of Queensland, pleaded guilty to two charges of fraud, seven charges of attempted fraud (in excess of \$30 000), six charges of falsifying an official record and charges of forgery and uttering. He was sentenced in the Brisbane Magistrates Court to a period of two years imprisonment, wholly suspended for four years, with a conviction recorded.

Professor Murdoch and another researcher (who has been charged but is yet to be dealt with) were the subjects of a complaint to the CCC in June 2013 about the submission to a prestigious international medical journal of an academic paper that was allegedly based on false research data. The data and related findings formed the basis of a number of grant applications and funding to the Centre from several charities.

Her Honour Magistrate Previterra in sentencing Professor Murdoch noted, amongst other things:

- the very rare nature of the conduct and offences with no other similar cases prosecuted in Australia and
- the false hope of a cure that the research had raised for sufferers of Parkinson's Disease and their families.

This CCC investigation has raised the profile of academic research fraud in the community and the University sector, highlighting the corruption risks associated with academic research in an environment where the reliance on private sector and charity funding is widespread. It is also a precedent

for other such prosecutions across Australia and internationally.

#### Former Director-General sentenced for abuse of office

In December 2015, following a CCC investigation, a former Director-General pleaded guilty in the Brisbane District Court to the criminal charge of Abuse of Office in relation to the employment of a family member in her department. Ms Julie Grantham, formerly Director-General of Education Queensland, was sentenced to six months imprisonment, wholly suspended, and ordered to repay \$17,000 to the Queensland Government. Another person is currently before the courts as a result of the investigation.

*Information on investigations into unauthorised access to information, excessive use of force by police, and the local government sector can be found under "Key focus areas 2015-16" on pages 48 to 54.*

# Key focus areas

*2015-16*

# Misuse of information

Queensland's public sector agencies handle a variety of sensitive and confidential information. Unauthorised access to or disclosure (misuse) of information by a public servant is not only an invasion of privacy and a breach of trust, it is potentially a criminal offence.

A review by the CCC of complaints from 2009–14 identified misuse of information as one of the major corruption issues facing the Queensland public sector.

Our analysis confirms that complaints about misuse of confidential information continue to be among the four or five most common types of allegations made to the CCC. In this financial year alone, 483 such allegations have been received. As a percentage of all allegations of corrupt conduct received by the CCC, they have grown from 7 per cent in 2014–15 to 11.5 per cent in 2015–16.

In 2015–16 the CCC dealt with the issue of confidential information through audit, investigations and a public report. The table below details the number of complaints, allegations and investigations relating to the misuse of information over a three-year period.

**Table 10.** Misuse of information matters 2013–16

Year	No. of complaints	No. of allegations	No. of CCC/CMC investigations
2015–16	438	713	22
2014–15	292	375	10
2013–14	424	598	17

## Audit findings

At the conclusion of our audit into agency handling of incidents involving misuse of confidential information by public sector officers, the CCC found that agencies need to improve the way they dealt with such complaints. Furthermore, agencies were not regarding misuse of confidential information seriously enough or properly understanding the risks such conduct involves for the individuals concerned or their agencies. The key findings from the audit were included in the public report (see next page).

## Investigations into information access and disclosure

Since 1 July 2015 the CCC has finalised 17 investigations relating to misuse of confidential information, resulting in 86 criminal charges and five disciplinary recommendations. The following case studies demonstrate the problem.

- A police officer pleaded guilty to 50 offences of computer hacking. He was fined \$8000 and had a conviction recorded. The officer regularly used the QPS database to ensure that the people from whom he was buying drugs for personal use were not under investigation. The officer also had been regularly accessing various telephone dating services at work and then using the QPS database to access personal information about the individuals identified on the dating services.
- A public servant was sentenced to 18 months imprisonment immediately suspended, with a conviction recorded, for obtaining details from her employer's database about a client's property valuation and building inspection reports. This information was used to inform decisions she and her husband were making about their personal property purchases. She had no work-related reason to access the information and had therefore gained an improper advantage. This conduct was aggravated by her deliberate concealment of her access to the records. The sentencing judge described her actions as a gross breach of her position of trust.

- Criminal charges were laid against a police officer for disclosing information received from an informant to a known drug dealer. The information disclosed related to the offender's involvement in drug trafficking. The police officer had not disclosed his association with the offender as required by QPS policy.
- Following a CCC investigation into allegations that a police officer had compromised a law enforcement operation by knowingly providing operationally sensitive information to a family member of the target, a police officer was served with a Notice to Appear on a charge of s92A of the Criminal Code (Misconduct in Public Office), and alternatively s408E of the Criminal Code (Computer Hacking).
- CCC recommended that there were sufficient grounds for the Commissioner of Police to consider taking disciplinary action against a Detective Senior Sergeant for conducting a total of 109 unauthorised searches of the QPS database.

## CCC report reminds agencies not to take risks with information entrusted to them

The CCC prepared a short public report on the corruption risks involved with unauthorised access to and disclosure of confidential information. It brought together audit findings, allegation data and investigation outcomes to present a comprehensive picture of the risks that agencies and members of the public run when their data is not properly secured or adequately protected. It was also designed to raise awareness of the consequences Queensland's public sector employees face if they access a person's private information without a proper authorisation or purpose.

The report was sent to all Directors-General and CEOs to remind them of their obligations regarding confidential information. It was launched during Privacy Week in May 2016, to reinforce the messages of the Office of the Information Commissioner.

The report can be found at <http://www.ccc.qld.gov.au/research-and-publications/publications/ccc/confidential-information-paper.doc>.

A follow-up guide for agencies is currently being developed and will be published in the next financial year.



# Ensuring public confidence in local government

The local government sector controls assets worth \$100 billion, employs 38,000 people, and with a \$13 billion annual spend constitutes one-third of the Queensland economy.\* As the sector has such a significant impact on the Queensland economy and community, the public must have confidence in the integrity of decision-making at the local government level.

Throughout this financial year the CCC has consistently engaged with the local government sector, undertaken investigations, made recommendations for legislative reform and procedural improvement, and urged greater attention to the standards of conduct expected of elected officials. This latter issue was particularly important in the lead-up to the local government elections on 19 March 2016.

The table below details the number of complaints, allegations and investigations relating to local government over a three-year period.

\* Figures cited are from a joint CCC-Local Government Association of Queensland press conference statement, 8 February 2016.

## CCC report on local government recommends reform

The CCC's report *Transparency and accountability in local government* was tabled in State Parliament in December 2015. The report arose out of an investigation relating to allegations against the Mayor of Ipswich. While the investigation found no conduct that warranted any action against the Mayor, it identified options for legislative reform to improve the compliance and reporting framework for local government officials, especially in the treatment of campaign funds or other gifts and benefits.

In the CCC's view, the legislative framework for local governments could be improved to assist elected officials with their reporting obligations, while the introduction of more contemporaneous reporting would result in greater transparency and public confidence. A key recommendation was that the Government consider amending disclosure requirements so that candidates disclose donations at the time of their receipt (at present donations can be declared up to 15 weeks after the election). The report and its recommendations were mentioned widely in the lead-up to the local government elections.

On 21 July 2016 the Government accepted the recommendations of the report.

A copy of the report is available at: <<http://www.ccc.qld.gov.au/publications>>

**Table 11.** Local government matters 2013–16

Year	No. of complaints	No. of allegations	No. of CCC/CMC investigations
2015–16	237	653	8
2014–15	196	421	9
2013–14	355	966	13



## Assessment and investigations

The CCC undertook a number of complex, high-profile assessments and investigations of alleged corrupt conduct in the local government sector.

### Assessment of allegations from Whitsunday Ratepayers Association

On 7 March 2016, the CCC received correspondence from the Whitsunday Ratepayers Association (WRA) that contained a number of allegations of corrupt conduct relating to the Deputy Mayor. In the case of elected officials, the CCC is limited to investigating allegations of corrupt conduct that involve the commission of a criminal offence. The information provided by the WRA did not raise a reasonable suspicion of corrupt conduct or identify any possible criminal offence, and did not warrant investigation.

### Assessment of allegations relating to the Brisbane City Council

In March 2016, just prior to the local government elections, the CCC assessed information and allegations relating to the conduct of Brisbane Lord Mayor Councillor Graham Quirk and the Civic Cabinet (the Brisbane City Council Establishment and Coordination Committee), in connection with the proposed sale of land at Nundah to a company associated with a Liberal National Party (LNP) donor, Mr Boon Tan.

A key issue was whether the Cabinet's endorsement of Mr Tan's offer constituted a conflict of interest and, if so, whether such a conflict would constitute a criminal offence. The CCC's assessment found that the conduct of the Lord Mayor and the Civic Cabinet did not warrant investigation.

However, the assessment highlighted that the allegations may have been avoided by open and transparent declarations of all known interests in or related to the matter for decision. This includes the declaration of any known political donations, whether or not the declaration is required by law.

As the allegations had been reported in the media, and had the potential to adversely impact the public standing of the Lord Mayor on the eve of an election, the CCC issued a public statement to ensure that the central issues and outcomes were explained.

A detailed account of this assessment is available on the website at <http://www.ccc.qld.gov.au/news-and-media/ccc-media-releases/ccc-statement-brisbane-city-council-allegations-15-march-2016>

### Investigation results in two men charged with defrauding council

A CCC investigation found evidence that, before resigning his position, a senior council employee inappropriately arranged a personal severance payment. The request was approved by an elected official within the Council on a Deed of Release which paid the officer \$500,000, an amount that significantly exceeded that to which he would have been entitled under the conditions of his employment contract. The officer then falsified the Council minutes and scheduled no further Council meetings until after his departure. In a rather complex set of events the officer also supported a separate ex gratia payment for another person which was ultimately not approved by Council.

Soon after, the senior officer commenced in another senior role for a beneficial enterprise associated with the Council. At that time he arranged to fraudulently make four payments worth a total of \$58,400 from the beneficial enterprise to, or for the benefit of, another person. The former council employee allegedly falsified documents to justify these payments. In April 2013 the former senior officer was sacked by the Board of the beneficial enterprise.

Following a comprehensive CCC investigation two men were charged with defrauding a local Council and a beneficial enterprise. Both persons have been committed for trial at dates yet to be set by the courts.

### Investigation into the Lockyer Valley Regional Council

In March 2016 the CCC finalised its investigation into corruption allegations against members of the Lockyer Valley Regional Council (LVRC) in connection with the Lockyer Valley Relocation Program, finding no evidence of corrupt conduct.

The context of the investigation was the Strengthening Grantham Project, a Council initiative directed at rebuilding the town of Grantham following the January 2011 floods. The policy allowed flood-affected properties within the Council area to be swapped for council-owned property at the new Grantham site. The CCC received a complaint alleging the LVRC had corruptly swapped vacant land at Mount Sylvia for blocks of land at the new Grantham site, outside of the eligibility guidelines for the Strengthening Grantham Project, in circumstances which benefitted associates of the late Mr Stephen Jones, who at the time was the Mayor.

On close examination of all the material, the CCC determined that all vacant land swapped by the alleged associates of the Mayor had been subject to an independent oversight process and there was no reasonable suspicion of corrupt conduct.

A detailed account of this investigation is available on the CCC website at <http://www.ccc.qld.gov.au/news-and-media/ccc-media-releases/ccc-finalises-lockyer-valley-regional-council-investigation-31-march-2016>.

### Investigation into obtaining allowances and other benefits in council

The CCC investigated a number of allegations concerning the CEO of an Indigenous shire council. These included that the CEO was:

- inappropriately claiming time off in lieu of salary (TOIL) and receiving lump sum payments (\$23,000 in September 2014 and \$20,000 in December 2014) despite his contract not allowing for TOIL
- claiming an away-from-home allowance of \$17,200 per year despite staying at his family home when he travelled and
- having an inappropriate relationship with another employee that benefitted them both financially, as their salary and consultant fees had increased substantially in the previous two years.

The investigation found that while there were no grounds for prosecution there were sufficient grounds for consideration of disciplinary action to be taken against the CEO.

A copy of the CCC's investigation report was given to the QAO to assist them with the completion of their 2015-16 financial audit. The CEO resigned in May 2016.

### 2016 local government elections: "Don't risk your campaign!"

In the lead-up to the local government elections in March 2016, the CCC, together with several partner agencies, ran a campaign promoting clean elections. The "Don't risk your campaign" message was directed to candidates to dissuade them from using the CCC as a tool to "legitimise" baseless allegations being made against their opposition.

The campaign used a video message from the Chairperson and targeted mail-outs to get its message across. The CCC partnered with the Local Government Association of Queensland, the Electoral Commission of Queensland and the Department of Local Government to use their social media channels and networks to reach the target audience.

In the wake of the campaign, the question of whether it is appropriate, fair or justified to broadcast the fact that a complaint has been made to the CCC will be the subject of a public forum to be held in the next financial year.

The behaviour and standards of conduct required of those who hold or aspire to hold public office will be an area of focus in the CCC's corruption prevention strategy.

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# Excessive use of force by Queensland police officers

This year the CCC has focused on the excessive use of force by Queensland police officers. Excessive use of force by a police officer against a member of the public constitutes a serious abuse of power. Incidents that result in such allegations are a matter of concern not only to the CCC and QPS but to the general community, civil libertarians and advocacy groups.

On 10 September 2015, the CCC Chairperson Mr Alan MacSporran QC announced that use of force would be a focus of his chairmanship. He also announced measures to strengthen the CCC’s oversight of allegations of excessive use of force including:

- increasing the number of investigations conducted by the CCC in relation to the excessive use of force
- increasing the number of serious matters closely monitored by the CCC in relation to the excessive use of force.

The CCC reviewed 32 matters that were under investigation by the QPS at that time, which involved allegations of excessive use of force. An additional 8 matters were commenced by the CCC as an investigation.

Of the 40 matters investigated and/or reviewed by a dedicated CCC team:

- 2 matters resulted in criminal charges
- 13 matters remain under CCC investigation
- 24 matters were referred back to/or continued to be dealt with by the QPS, either as a disciplinary matter or criminal prosecution
- 1 matter was finalised at the time of the CCC review and no further action was possible.

Aside from the matters that were subject to a CCC investigation the CCC continued to closely monitor 44 matters that were devolved to the QPS to deal with and which involved allegations of excessive use of force, compared with 15 matters in 2014–15.

This identified a number of major themes associated with these types of complaints and the way they are dealt with. These included:

- Continued reluctance to report incidents involving colleagues where excessive use of force has occurred
- Failure to seize and secure exhibits at the commencement of an investigation
- Failure to consider possible criminal offences, particularly where there was either no complaint or the complaint had been withdrawn
- Concerns about inconsistency in watch-house instructions, poor-quality CCTV footage and lack of consistency in camera placement, and the risk of deletion of video footage captured by body-worn cameras.

The CCC also identified the need to improve aspects of its own operations including retaining responsibility for investigating more serious assaults, and more closely monitoring matters referred back to the QPS to be dealt with.

The CCC is currently drafting a full report to the QPS outlining the above concerns and including a number of procedural recommendations for change.

The table below details the number of complaints, allegations and investigations relating to the use of force by QPS officers over a three-year period.

**Table 12.** Use of force by QPS officers

Year	No. of complaints	No. of allegations	No. of CCC/CMC investigations
2015–16	518	946	19
2014–15	552	968	0
2013–14	815	1488	2

### *Reviews and investigations*

#### **Magistrate critical of level of force used**

In 2014 an interaction between a police officer and a cyclist resulted in the latter falling backwards onto the pavement, and getting into a struggle with the police officer. The cyclist was charged with seven offences, including serious assault on police, public nuisance and two counts of obstructing police. The complaint was referred to the QPS, with the CCC retaining a close monitoring role.

In October 2015 the cyclist contacted the CCC and advised that all charges against him had been dismissed and the Magistrate had been critical of the force used by the police officer. The CCC assumed responsibility for the matter, with the officer's conduct being considered from a criminal and disciplinary perspective.

#### **Officer charged over assault in watch-house**

A female prisoner was in custody at the Caboolture watch-house when a police officer entered the cell to remove toilet paper that the prisoner had placed over the monitoring camera. An incident occurred and it was alleged the officer gouged the prisoner in the eye then allegedly cut the webbing between her fingers with the cell keys he was holding. While the matter was initially referred to the QPS to deal with, it was identified as one of several cases in which the CCC was unhappy with the QPS investigation. This matter involved a case of assault but was only dealt with by way of disciplinary action and the officer received a conditional suspended demotion for 12 months. The matter also involved allegations that numerous QPS officers failed to report the incident and that appropriate reporting mechanisms were not followed. The CCC reviewed the matter and later charged the officer with assault occasioning bodily harm.

#### **Assault in watch-house**

In August 2015 a police officer at the Richlands watch-house threw an object at a member of the public who was in custody at the time. The CCC also investigated the conduct of other police officers who were present when the assault occurred but did not report the conduct. On 8 April 2016 the officer appeared in the Brisbane Magistrates Court and pleaded guilty to one count of assault occasioning bodily harm. While no conviction was recorded he received a \$700 good behaviour bond and was ordered to pay \$400 compensation to the victim. The CCC recommended that the QPS consider commencing disciplinary action against the police officers who failed to report the conduct of the first officer in accordance with their statutory obligation.

#### **Assault on a resident of a care facility**

In 2015 police officers were called to a residential care facility to respond to concerns that a female child was intoxicated and causing a disturbance. During their attendance it is alleged that she was assaulted by one of the officers. The QPS investigated the allegations and imposed a sanction of dismissal, conditionally suspended for two years. The CCC determined that due to the girl's age, ethnicity and vulnerable social position it was in the public interest for the CCC to assume responsibility for the investigation and consider possible criminal charges. On 21 March 2016 an officer was served with a Notice to Appear on one charge of common assault.

#### **Use of force in Gold Coast incident**

In September 2015, the CCC received a complaint from a member of the public that police officers had used excessive force while arresting him on the Gold Coast in January 2015. The CCC considered all of the evidence available including statements from the complainant, other people present, police officers involved, and audio and video footage, including footage from the body-worn camera of one of the officers.

Complaints about excessive use of force were made about two interactions between the complainant and the police, however no criminal charges arising from this incident were brought against any officer. In the first interaction, the evidence showed that police only applied force after the complainant refused to stop interfering in the arrest of another person, despite police asking him several times to move away; in the second interaction, although the force was significant, the officer involved raised a legal defence to his actions. As there were no reasonable prospects of a successful criminal prosecution of the police officers involved, the CCC decided to take no criminal action against them.

However, the conduct of a number of police officers who were involved in other interactions with the complainant were referred by the CCC to the QPS Ethical Standards Command for consideration of disciplinary action.

## *Research into police use of force*

Reflecting the CCC's focus on police use of force, research was directed at two high-risk areas: police use of force in watch-houses and police shooting at moving vehicles.

### **Use of force in watch-houses**

Several incidents of use of force in Queensland's watch-houses have been the subject of significant media attention and public concern. The concerns were that assaults on or injuries to people in custody were going unreported; that officer accounts of incidents were contradicted by CCTV footage; and that officers were not always providing appropriate after-care to people injured in custody. The CCC will examine the validity of these concerns and any related systemic issues. The project is expected to be finalised in the next reporting period.

### **Police shooting at moving vehicles**

The discharge of firearms at moving motor vehicles has obvious implications for public safety, and the CCC has been monitoring these incidents since 2012–13. Over this period, the CCC has made a number of recommendations to the QPS and in response the QPS has modified relevant policy and training. The CCC has also developed a research project to examine contributing factors in these incidents. One shooting occurred during the reporting period and is being examined. The CCC Research Committee approved an extension of the project until 31 December 2016 due to the limited data available for analysis.

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The use of force by police will continue to be a focus area for CCC in 2016–17. During this year the CCC has identified improvements that can be made to various systems, processes and policies, and these will be carried forward to next year. In addition, it has committed to major projects relating to use of force in its 2016–17 strategic and operational plans.

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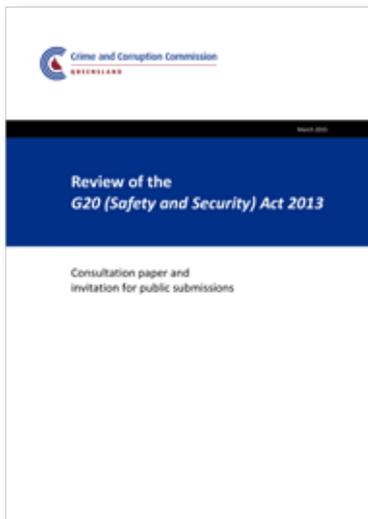
# Police oversight

## Review of the G20 Act

In November 2013, the *G20 (Safety and Security) Act 2013* came into effect, remaining in force during the duration of the G20 event in November 2014. Given that the G20 Act introduced a number of new and enhanced police powers, a joint QPS–CCC steering committee was established to review the Act’s operation and effectiveness.

The CCC invited public submissions on this topic and received responses from four stakeholder groups. On 30 September the CCC gave its report to the Commissioner of Police, with seven recommendations aimed at improving Queensland’s legislative framework underpinning the policing of future large-scale events.

The subsequent QPS report was brief and did not respond to the CCC’s findings or recommendations in any detail. The (then) Minister for Police, Fire and Emergency Services and Minister for Corrective Services tabled the QPS’s report on 13 November 2015. On 29 March 2016, the Chairperson wrote to the Commissioner of Police expressing his disappointment that the report provided by the QPS to the Minister did not give a full account of the issues identified, or adequately respond to the recommendations made in the CCC’s report.



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

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 are public interest concerns, 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 36 police incidents across the state, including 9 resulting in death. The CCC attended each incident to provide independent oversight of the QPS response and determine, together with the State Coroner, if there was a likelihood of any police misconduct that warranted the CCC’s further involvement, including assuming control of an investigation. Where the CCC considers that further investigation was 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 appellant jurisdiction. A further right of appeal lies from the QCAT appellant 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 QPS decision-maker’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 2015–16 the CCC examined 54 reviewable decisions and filed 4 new reviews in QCAT.

### **Court of Appeal decision enables CCC to assume responsibility for QPS investigation into corrupt conduct**

In June 2016 a longstanding and complex court matter was resolved by the Court of Appeal in favour of the CCC.

The appeal concerned the right of the CCC to assume responsibility for an investigation into a police officer who allegedly failed to investigate a complaint of official misconduct.

In short, the CCC took over a matter after the QPS took managerial action against the officer, Senior Sergeant Anthony Lee, rather than disciplinary action.

Sen. Sgt Lee argued that the CCC did not have power to take over the matter, as the QPS decision had brought it to an end.

The Court of Appeal disagreed, ruling that the CCC must be able to ensure that a complaint of corrupt conduct is dealt with appropriately.

The CCC will now make an application in QCAT alleging that the conduct of Sen. Sgt Lee is corrupt conduct and seeking an appropriate disciplinary sanction be imposed by QCAT.

### **Looking forward**

Building on the work undertaken this year, in 2016–17 we will use our investigations, intelligence and research, and hearings capabilities to:



Pursue police corruption involving excessive use of force and the improper release of confidential information



Collaborate with key stakeholders to reform the police complaints and discipline system



Implement a new corruption prevention strategy including engagement with agencies and the undertaking of corruption audits.