

About the CMC

The Crime and Misconduct Commission (CMC) strives to protect Queenslanders from major crime and to promote a trustworthy public sector.

Overview of the CMC

The CMC is an independent specialist agency set up to fight major crime and enhance public sector integrity in Queensland. Established under the *Crime and Misconduct Act 2001* (Crime and Misconduct Act), the organisation came into existence on 1 January 2002.

The CMC's active presence in our public life is a reassurance to Queenslanders that there is a vigilant independent body striving to ensure our public institutions are ethical and accountable, our police honest and efficient, our children safe, and our communities as free as possible from corruption and organised crime.

Our structure and accountability

The CMC is headed by a five-member Commission comprising the Chairperson (currently Mr Robert Needham), who is also the chief executive officer (CEO), and four part-time Commissioners who represent the community. Decisions made by the Commission are put into effect by the Executive Committee.

While independent of the government of the day, the CMC is fully accountable to the people of Queensland through the Parliamentary Crime and Misconduct Committee (PCMC), a bipartisan committee that monitors and reviews our activities and deals with complaints against us. The Committee's three-yearly review of the CMC was conducted in late 2008. For more detail, see page 50.

The CMC incorporates a breadth of professional expertise and experience. The Crime and Misconduct Act mandates that the membership of the five-member Commission represent a depth of legal experience, demonstrated interest in civil liberties, and expertise in public sector management and review, criminology, sociology or relevant research, and that at least one member is a woman.

A similar range of expertise is represented in our staff. About 300 people work at the CMC, including lawyers, investigators, sworn police officers, social scientists, financial investigators, intelligence analysts, information technology and surveillance specialists, administrators and support officers.

Figure 1 outlines the CMC's internal structure and its external accountability relationships. More information about our structure and governance can be found on pages 42–51.

The CMC Commission — as at 30 June 2009



Chairperson
Robert Needham



Commissioner
Dr David Gow



Commissioner
Ann Gummow



Commissioner
Judith Bell



Commissioner
Philip Nase

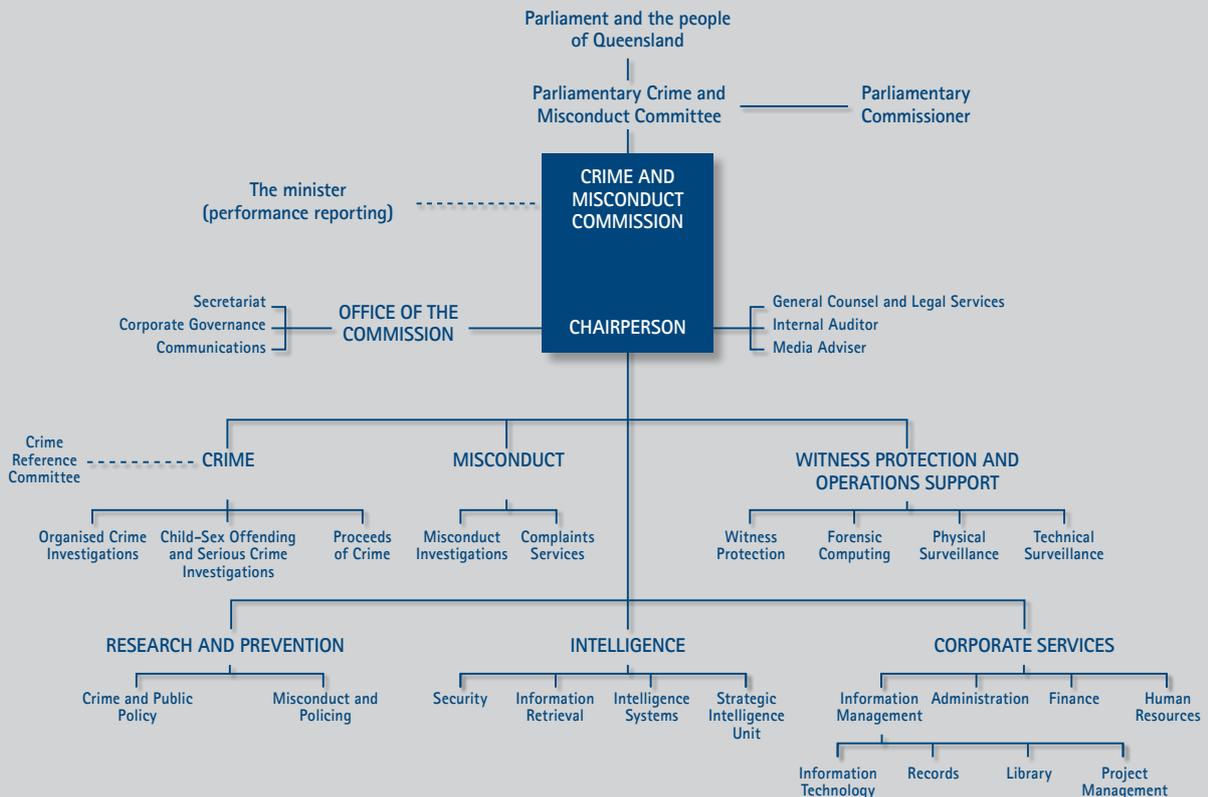
The Parliamentary Crime and Misconduct Committee – as at 30 June 2009



Back row (left to right) Scott Emerson MP (Indooroopilly); Steve Wettenhall MP (Barron River); Mark Ryan MP (Morayfield); and Steve Dickson MP (Buderim).
 Front row (left to right) Deputy Chair, Jack Dempsey MP (Bundaberg); Chair, Paul Hoolihan MP (Keppel), and Betty Kiernan MP (Mt Isa).

More information on the PCMC and its activities can be found on page 50.

Figure 1. CMC's structure and accountability



Our operating environment

During 2008–09, the CMC focused on its core legislated responsibilities to operate an effective and productive organisation working to prevent and combat crime, promote a trustworthy public sector and protect witnesses.

The more particular priorities and challenges addressed throughout the year were outlined in our *Strategic Plan 2008–12*. These were presented with a one-year timeframe as these specific initiatives were being reconsidered as part of a major review of our strategic direction. The strategic review was conducted in the latter half of 2008. For more detail, see page 40.

Contribution to the Queensland Government's ambitions

The CMC's activities contribute to the government's ambition for a Queensland that is *Fair – Supporting safe and caring communities*, outlined in the government's document *Toward Q2, tomorrow's Queensland*, available at <www.towardQ2.qld.gov.au> (see Figure 2).

Major areas of activity

Preventing and combating crime

Our Crime staff work in partnership with the Queensland Police Service (QPS), the Office of the Director of Public Prosecutions and other law enforcement agencies to combat and prevent major crime, including organised crime, criminal paedophilia, serious crime and terrorism.

However, the CMC is not an alternative police service. We use our powers, expertise and resources to make a significant contribution to preventing and combating major crime. Our effectiveness is enhanced by our partnerships with other law enforcement agencies, especially the QPS.

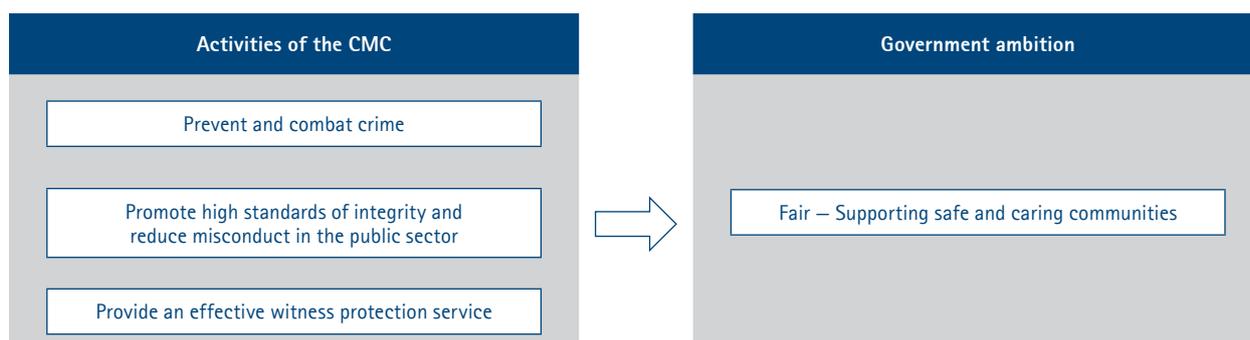
Our intelligence work helps us decide which crimes pose the most serious threat to Queensland, and our research and prevention function helps to inform our response to major crime and to develop preventive strategies. For performance in 2008–09, see pages 14–21.

About major crime

Under the Crime and Misconduct Act, major crime encompasses:

- **organised crime** – criminal activity undertaken with the purpose of gaining profit, power or influence, and involving offences punishable by not less than seven years' jail, two or more people, and planning and organisation or systematic and continuing activity
- **criminal paedophilia** – criminal activity involving sexual offences against children, or child pornography
- **serious crime** – criminal activity involving offences punishable by not less than 14 years' imprisonment (e.g. murder, arson)
- **terrorism** (added by an amendment to our Act in 2004).

Figure 2. How CMC activities contribute to the Queensland Government's ambitions



Promoting high standards of integrity and reducing misconduct in the public sector

Our misconduct jurisdiction includes all state government departments, the QPS, local governments, most public sector agencies and statutory bodies, universities, prisons, courts, tribunals and elected officials.

We receive and assess complaints about misconduct. While we refer most complaints to the relevant agencies for handling, we monitor how those agencies, including the QPS, deal with them. We investigate the most serious cases of misconduct or those that involve the public interest. In these ways we safeguard public confidence in the integrity of government agencies while encouraging agencies to take individual responsibility.

Our prevention activities help agencies reduce their risk of misconduct by improving their internal controls, accountability and integrity of operation. For performance in 2008–09, see pages 22–35.

About misconduct

Under the Crime and Misconduct Act, 'misconduct' means official misconduct or police misconduct.

- **Official misconduct** is conduct relating to the performance of public duties or exercise of powers that is dishonest or lacks impartiality, or involves a breach of the trust placed in a person by virtue of their position, or is a misuse of officially obtained information or material. To amount to official misconduct, the conduct must be a criminal offence or serious enough to justify dismissal. Official misconduct includes conduct by anyone who seeks to adversely affect the honest exercise of powers of an agency or person within an agency.
- **Police misconduct** (which relates only to police officers) is any conduct – other than official misconduct – that is disgraceful, improper or unbecoming a police officer, or demonstrates that person's unfitness to be or continue as an officer, or does not meet the standard of conduct that the community reasonably expects of a police officer.

Providing an effective witness protection service

The Witness Protection area protects people who are in danger as a result of assisting a law enforcement agency such as the QPS. They include victims of crime, innocent bystanders to a crime, and anyone who has information about criminal or corrupt activity. The CMC has responsibility for the protection of witnesses for all Queensland law enforcement agencies. For performance in 2008–09, see pages 36–39.

Engaging in public policy

In recent years, the CMC has been engaged with a fourth area of activity, involving projects with a significant criminal justice and public policy focus. For performance in 2008–09, see page 57.

Support activities

A wide range of support roles are vital to achieving results in our major areas of activity. These include the following.

- CMC Intelligence staff collect, collate and analyse information and intelligence relevant to our Crime, Misconduct and Witness Protection responsibilities.
- Research and Prevention staff undertake research into crime and the criminal justice system, misconduct, policing and other policy and legislative issues. Prevention advice may also be provided directly to agencies.
- The Operations Support area coordinates the activities of police working in the CMC, and provides expertise in surveillance, technical services and forensic computing.
- The CMC's Legal Services unit provides independent and specialist legal services mostly related to the CMC's functions and powers, administrative or judicial review, and statutory compliance.
- Corporate services assist all areas of the CMC. They include providing a secretariat service to the Commission; managing corporate governance, human resources and information; and providing financial, administrative, communications and security services.
- The CMC's security services protect the Commission's staff, information, assets and corporate reputation through providing protective security measures (including 24/7 physical security), investigative capacity and an in-house vetting service.

How matters come to the CMC

Matters that are referred to the CMC for investigation or review vary greatly and come from a variety of sources. They range from allegations of misconduct by a public official, to areas of major crime referred by the Crime Reference Committee for investigation, to requests from the Attorney-General to research a public policy issue and provide recommendations for amending legislation. The following section explains how matters come to the main areas of the CMC.

Crime

The Crime Reference Committee (see membership on page 16) may refer major crime to the CMC for investigation on its own initiative, or at the request of the Commissioner of Police or the Assistant Commissioner, Crime. It refers major crime where a police investigation has not been, or is unlikely to be, effective using powers ordinarily available to police officers, and where it is in the public interest to do so.

In addition to specific referrals, the committee has granted several general referrals of major crime. This allows us to investigate particular incidents of organised crime, paedophilia and terrorist activity falling within the terms of a general referral.

Legislative validation of general referrals

Following a Supreme Court decision in March 2009 that questioned the validity of an investigation undertaken pursuant to a general referral, the Crime and Misconduct Act was amended in May 2009 to make it clear that particular incidents of major crime could be investigated under a general referral, and to validate all past investigations which had been conducted in this manner.

Some additional accountabilities were also introduced to enhance the Crime Reference Committee's ability to place limitations on the powers available to be used by the CMC during investigations.

Misconduct

Possible misconduct within the Queensland public sector can come to our attention through complaints from members of the public and from within public sector agencies, and through the CMC's own investigative and intelligence activities.

Chief executive officers (including directors-general) of public sector agencies and other public officials are obliged by law to notify us of suspected misconduct.

Witness protection

People who have assisted a law enforcement agency, and who are in danger as a result of having done so, may be eligible for inclusion in our witness protection program. An application for protection is normally submitted to the CMC on behalf of the witness by the relevant law enforcement agency.

Public policy

Our public policy projects may arise from investigations, be referred by our minister under section 52(1)(c) of the Crime and Misconduct Act, or be required by other legislation.

In recent years we have undertaken reviews into areas such as policing in Indigenous communities, prostitution, how the Queensland criminal justice system handles child sexual abuse, and police powers and responsibilities.

The CMC's powers

The Crime and Misconduct Act has given us powers to enable us to gather vital evidence and information in the fight against crime and misconduct. These include a range of search, surveillance and seizure powers as well as the power to conduct coercive hearings.

In the context of our crime investigations, the CMC can have people arrested and charged. In the context of our official Misconduct functions, we can refer a matter to a prosecuting authority with a view to criminal prosecution, or to the appropriate CEO to consider disciplinary action. The CMC can also bring charges of official misconduct in a Misconduct tribunal.

Powers under the *Police Powers and Responsibilities Act 2000* can also be used, depending on the operation. Table 2, page 15 and Table 4, page 23 show how we used our powers in crime and misconduct investigations.

Nevertheless, the CMC is not a court. It cannot find people guilty or not guilty, or discipline anyone. Nor can it investigate:

- private sector matters, unless they arise out of dealings with the public sector
- issues arising in other states or territories
- federal parliamentarians, departments or agencies
- state parliamentarians and local councillors, unless their conduct could amount to a criminal offence.

The hearings power

The CMC is the only Queensland law enforcement agency with the power to conduct coercive hearings – that is, to require witnesses to attend hearings and answer questions even where the answers tend to incriminate the witness. Such answers cannot, however, be used against them in civil or criminal proceedings unless witnesses give false answers, in which case they can be charged with perjury.

The hearings power is a potent investigative tool because it greatly enhances our ability to break through the 'wall of silence' that frequently characterises major crime and misconduct. At the same time, we are conscious of the need to use this power in a discerning way, taking into account the public interest on the one hand, and the rights of the individuals on the other.

About the CMC's powers

The CMC has power to:

- require a person to produce records or other things relevant to a CMC investigation
- enter a public sector agency, inspect any record or other thing in those premises, and seize or take copies of any record or thing that is relevant to a CMC investigation
- summons a person to attend a hearing to give evidence and produce such records or things as are referred to in the summons
- apply to a magistrate for a warrant to enter and search premises
- apply to a judge for a warrant to use surveillance devices.

Public inquiries

Complaints or issues brought to our attention sometimes involve wide-ranging allegations that have the potential to reduce public confidence in fundamental systems of public administration and government. Often, in these cases, there are numerous stakeholders who can provide important evidence and information on the conduct of individuals as well as insights into the processes adopted within the particular system.

The holding of public inquiries:

- allows a wider gathering of evidence and information on which to base findings and recommendations than may be possible during a normal investigation
- allows the public to be involved in the process of reform.

Oversight of our powers

We must apply to the Supreme Court before exercising some of our powers, and the Public Interest Monitor examines our applications for covert search warrants and surveillance warrants. More information about how our investigations and operations are overseen by external mechanisms is found on pages 50–51.

Future telecommunications interception powers

In May 2009, the Commonwealth and Queensland governments enacted legislation to enable the CMC to undertake lawful interception of telecommunications in the context of investigating criminal and misconduct offences. The final steps to declare the CMC as an interception agency will be completed in 2009–10.

Additional accountability obligations particular to Queensland have been put in place for the new power including roles for the Public Interest Monitor and the Parliamentary Crime and Misconduct Commissioner.

Support and advice from state agencies including the QPS, the Department of the Premier and Cabinet, the Department of Justice and Attorney-General, and other sources including the Commonwealth Attorney-General's Telecommunications and Surveillance Law Branch, the Australian Crime Commission and the Office of Police Integrity, Victoria, will enable the CMC to establish its capability to best practice. The contributions from these agencies are gratefully acknowledged.

During the year a multidisciplinary team undertook the initial preparation for implementing this capability in 2009–10, including consulting on legislative provisions, negotiating with government and telecommunications industry representatives, and installing infrastructure.

Collaborative partnerships

In combating major crime, we work closely with state, federal and international law enforcement agencies, participate in state and national law enforcement joint operations and forums, and share intelligence and operational resources. We also engage with other key agencies such as Queensland Corrective Services, and the Australian Transaction Report and Analysis Centre. Our witness protection role is dependent on the cooperation of other law enforcement agencies, especially the QPS.

To increase integrity in the public sector, we work with a wide range of agencies including state departments, local government agencies and universities, and agencies such as the Queensland Ombudsman, the Queensland Audit Office,

and the Office of the Public Service Commissioner as well as anti-corruption agencies and networks, including those in other states.

Our research area works with universities and other specialist research and funding bodies, public service departments, participants in the criminal justice system, and policy makers. It also seeks active collaboration with the Queensland public, who this year contributed to our research findings through their survey responses, submissions and consultations on a range of topics such as the integrity of police, the public sector and local government, and the effectiveness of police powers regarding off-road motorbike noise and move-on legislation.



How we are reporting

The following chapters report on our outputs this year in fighting major crime, promoting high standards of integrity in the public sector and protecting witnesses. We also report on our organisational effectiveness and our contribution to public policy.

We report against the priorities and challenges identified in our *Strategic Plan 2008–12*, and the performance measures and targets or estimates identified in our *Service Delivery Statement 2008–09*.

For greater transparency, we also include key Strategic Plan or other relevant performance indicators not represented in the Service Delivery Statement measures.