

# Promote high standards of integrity and reduce misconduct in the public sector

## Our performance in 2008–09

We report first on our priorities and challenges in improving integrity in the public sector, our key achievements and our results against performance indicators. We then detail our performance across our Misconduct function, including specific activities with the public sector and the Queensland Police Service. The chapter concludes with our outlook for 2009–10.

### Priorities and challenges

As described in our *Strategic Plan 2008–12*, in 2008–09 we placed specific emphasis on the following.

#### Building the capacity of the QPS to more effectively deal with police misconduct

The CMC is conscious of the public's concern about police dealing with complaints about police. However, the CMC is strongly of the view that external complaint management will not lead to positive cultural or systemic change within the QPS. Until police managers and supervisors take responsibility for the ethical behaviour of their officers, misconduct will continue to be perceived as the CMC's problem and standards will not improve.

For this reason, the CMC continues to identify and make recommendations to address issues impacting on the capacity of the QPS to deal with misconduct within its ranks. For more detail, see pages 33–35.

#### Building the capacity of the public sector to prevent and deal with misconduct

The aim of the CMC is to increase integrity in the Queensland public sector and to ensure that any complaint which involves, or may involve, misconduct is dealt with appropriately. The Commission remains strongly convinced that responsibility for continuously raising standards of conduct, and reducing the incidence of misconduct, must not rest solely with monitoring bodies such as the CMC, but must be part of the core business of public sector agencies themselves, including the QPS.

The focus of the CMC's capacity-building role has been to enhance the capabilities of public sector managers. In particular, the CMC commenced in the latter part of the year planning for its major strategic project for 2009–13 to progress the further devolution of responsibility for misconduct to public sector managers. For more detail, see page 28.

### Key achievements

- Following a complex misconduct investigation by the CMC, former Queensland Government minister Gordon Nuttall and Queensland businessmen Kenneth Talbot and Harold Warner Shand were committed to stand trial in relation to the payment of almost \$360 000 to Mr Nuttall, which payments are alleged to be secret commissions. For more detail, see page 32.
- Based on CMC recommendations, the Queensland Government introduced a Queensland Contact with Lobbyists Code to deliver greater accountability standards for former ministers, parliamentary secretaries, ministerial staff and senior public servants; and a new Criminal Code offence of misconduct in public office. For more detail, see page 31.
- Over the course of Operation Capri, our investigation involving multiple allegations of misconduct by a number of police officers in connection with the use and management of prison informants, some 25 police officers were referred to the QPS for disciplinary action. For more detail, see page 35.
- We finalised preparations to host the biennial Australian Public Sector Anti-Corruption Conference in Brisbane in July 2009, a significant opportunity for Australian and international public officials to learn about contemporary anti-corruption trends and strategies. For more detail, see page 30.

## Results against performance indicators

The data provided in Table 3 enable our performance for 2008–09 to be reviewed in the context of our major targets and estimates for this year, our results over the previous four years, and our expected performance for 2009–10. Data for other details of our performance are provided in Table 4.

- As shown in Table 3, the numbers of misconduct matters assessed and misconduct-related projects completed this year exceeded both our estimates for this year and our results over the last two years.
- Table 3 also shows that 94 per cent of matters were assessed within four weeks, higher than any of the four previous years.
- In 2008–09, we finalised<sup>1</sup> 80 misconduct investigations concerning allegations of serious instances of

corruption, misappropriation, and police and drugs: 52 (65 per cent) related to the QPS, 16 (20 per cent) to public sector agencies, and 7 (9 per cent) to local government (see Figure 8). Seventy-one per cent of these investigations were completed within 12 months.

- In relation to the 80 finalised matters, the CMC recommended a total of 70 charges against 36 people; a further nine charges were recommended as a result of other ongoing investigations (see Figures 9 and 10). The majority of the criminal charges are presently in the court system. Most of the disciplinary charges relate to QPS officers, and many of these charges are still proceeding through the disciplinary process.
- The number of investigations and percentage completed within 12 months reflect our increasing focus on more serious and complex matters, which is explained in more detail later in this chapter.

<sup>1</sup> 'Finalised' means that CMC involvement is effectively completed, although the matter may have been referred for prosecution or disciplinary action.

**Table 3. Performance 2004–05 to 2008–09, and estimated 2009–10**

Key performance indicators <sup>a</sup>	2004–05	2005–06	2006–07	2007–08	2008–09		2009–10 (estimate)
					(target or estimate)	(actual)	
Matters assessed	4419	3924	3565	3678	3800	3922	3800
Matters investigated	109	110	107	93	90	80	80
Percentage of matters assessed within four weeks	90	93	92	85	85	94	85
Percentage of investigated matters finalised within 12 months	77	68	76	76	80	71	80
Research, intelligence, capacity-building, prevention and monitoring projects undertaken	32	31	33	41	26	42	26
Expenses to achieve strategic goal 'To promote high standards of integrity and reduce misconduct in the public sector'	\$18.8m	\$20.2m	\$20.0m	\$20.5m	\$23.0m	\$23.5m	\$23.9m

a All indicators are Service Delivery Statement measures.

**Table 4. Use of CMC powers for investigating misconduct, 2004–05 to 2008–09**

Description	2004–05	2005–06	2006–07	2007–08	2008–09
Use of powers:					
Power to enter	6	15	3	0	0
Notices to discover information	158	223	198	139	80
Notices to attend hearing	39	71	121	54	44
Search warrant applications	17	22	24	4	8
Surveillance warrant applications	0	0	0	0	0

## Misconduct: key activity areas

Our misconduct output comprises:

- a complaints-handling process
- a monitoring regime
- investigations into serious misconduct
- a concerted program of capacity-building, prevention and research activities.

The CMC is charged with improving integrity and reducing misconduct in Queensland public agencies, and all its misconduct-related activities are directed to these purposes. Through its complaints handling and monitoring activities the CMC ensures that public sector managers take responsibility, in appropriate cases, for the conduct of their staff and also holds agencies accountable for the decisions that they make. Through its prevention function and capacity-building role, the CMC supports public sector agencies by enhancing their capacity to prevent and deal with misconduct. As part of our investigation process, we make recommendations for structural and procedural reform within agencies to address any identified systemic issues.

### Complaints to the CMC

Complaints about possible misconduct come to the CMC from a number of sources, including the general public and public sector agencies.

The following provides a brief overview of the complaints made to us in 2008–09, followed by more detailed information about complaints relating to, respectively, the public sector and the police service.

### Overall number of complaints

This year we received 3873 complaints, compared with 3724 in 2007–08. Figure 4 provides an overview of the numbers of complaints received between 2001–02 and 2008–09. The long-term trend clearly shows an increase. There may be multiple reasons for this, but likely factors include increased awareness of the complaints process by both public agency staff and the general public.

### Range of allegations

Figure 5 gives a general breakdown of allegations<sup>2</sup> received, by the type of agency they related to. The largest proportion (58 per cent) related to police.

Figures 6 and 7 illustrate the sources of complaints against the police, public sector and local government respectively.

Of the complaints against police in 2008–09, 58 per cent were made direct to the CMC by members of the public; 41 per cent were referred to us by the QPS (and 26 per cent of these were made by members of the public direct to the QPS).

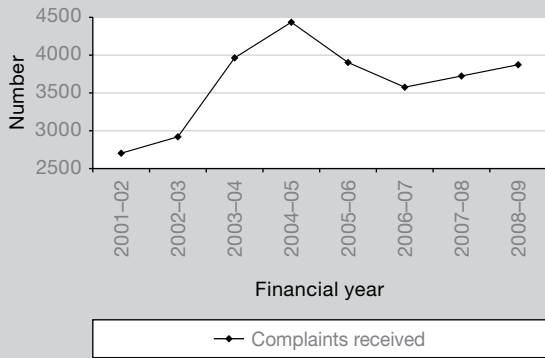
In contrast, only 23 per cent of complaints about public sector agencies (excluding local government) were made direct to the CMC by the general public in 2008–09; 76 per cent were referred to us by the agencies themselves (and 21 per cent of these were made by members of the public direct to the agency).

In terms of local government, excluding Indigenous councils, 35 per cent of complaints received in 2008–09 were made direct to the CMC by members of the public; 64 per cent were referred to us by the CEOs of local councils (and 18 per cent of these were made by the public direct to the councils). For Indigenous councils, 52 per cent of complaints in 2008–09 were made direct to the CMC by members of the public; 45 per cent were referred to us by the CEOs (and 6 per cent of these were made by the public direct to the councils).

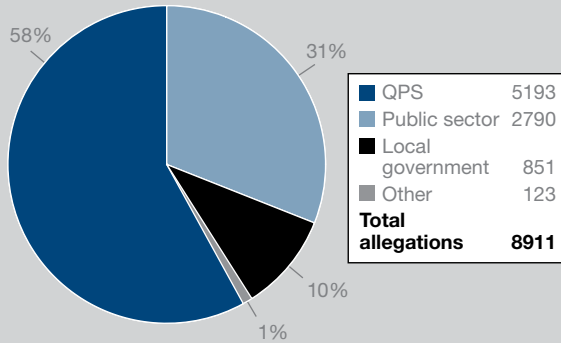
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<sup>2</sup> A complaint may consist of one or more allegations.

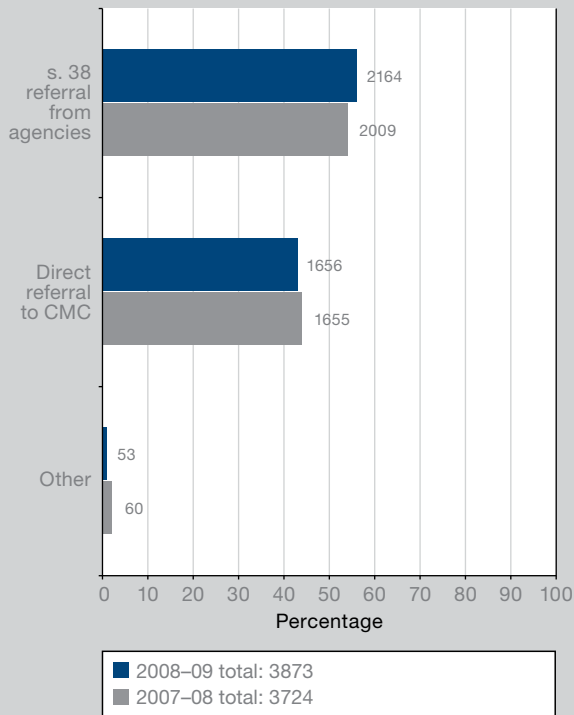
**Figure 4. Complaints received between 2001-02 and 2008-09**



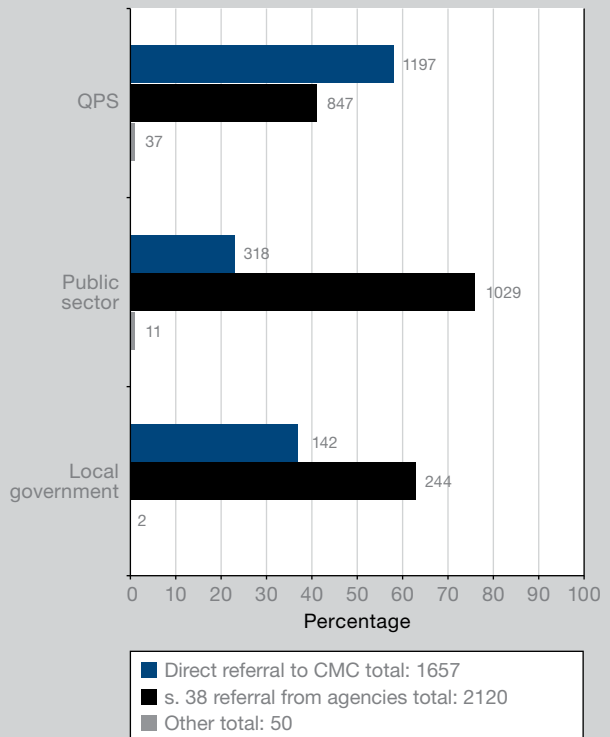
**Figure 5. Allegations by agency for 2008-09**



**Figure 6. Sources of complaints (by year)**



**Figure 7. Sources of complaints (by sector) for 2008-09**



Note: These figures do not include a small number of complaints received by the CMC concerning other individuals and agencies under the CMC's jurisdiction. If a complaint contains allegations concerning more than one 'sector', it is only counted once against the sector which is the subject of the most serious allegation.

## Monitoring the public sector

A key function of the CMC is monitoring how public agencies deal with complaints of misconduct referred to them by the CMC. This is both to maintain public confidence through holding agencies accountable for the manner in which they deal with the complaints, and to help agencies improve their overall capability and systems by identifying any deficiencies and recommending strategies to address these.

We use three types of monitoring tools:

- **Reviews** examine how an agency has dealt with individual complaints from the perspectives of integrity and compliance. In assessing integrity we consider, among other things, whether the way in which the matter was dealt with was thorough, fair and impartial and supported by the evidence. We assess public sector agencies' compliance against the standards outlined in *Facing the facts*, our guide to dealing with suspected official misconduct in the Queensland public sector. The QPS has its own set of standards, similar to those contained in *Facing the facts* and approved by the CMC, against which we assess their complaints.
- **Audits** examine how an agency has dealt with **classes of complaints** – for example, reprisals against whistleblowers – as well their compliance with standards and legislative obligations, their timeliness, etc.
- **Quality assurance reviews** examine the overall integrity framework of an agency including its policies, code of conduct, and systems for complaints and records management. The CMC has developed a QA model which we use to assess an agency's integrity framework for compliance with its obligations and responsibilities under the Crime and Misconduct Act to prevent and deal with misconduct.

In 2008–09, the CMC undertook reviews of 264 individual complaints, of which 130 were dealt with by the QPS and 134 by other public sector agencies. In 87 per cent of the reviews, the CMC was totally satisfied with compliance and integrity. In the remaining 13 per cent of matters we made recommendations to address the issues that raised concern. (See pages 28 and 33 for further discussion about these matters.)

Six audits (four of public sector agencies' complaints and two of QPS complaints) and three quality assurance reviews were conducted in the year.

## Misconduct investigations

We concentrate our efforts on matters such as major fraud within government agencies, police corruption and sensitive political matters (see Figure 14). As part of the investigation process, we focus on identifying agencies' systemic or procedural weaknesses and develop recommendations to help them prevent recurrences.

A successful conclusion to a CMC investigation may be the bringing of criminal charges or, just as importantly, the clearing of a person's name or the restoring of public confidence in a public sector activity or agency, a politician or the police.

In our pursuit of corruption and other serious misconduct, we use specialised resources in intelligence, financial analysis and forensic computing as well as proactive and covert investigative techniques.

We can also use our powers, including the power to compel people to attend investigative hearings. Table 4 shows the number of times such powers were exercised in 2008–09 and in the preceding four years.

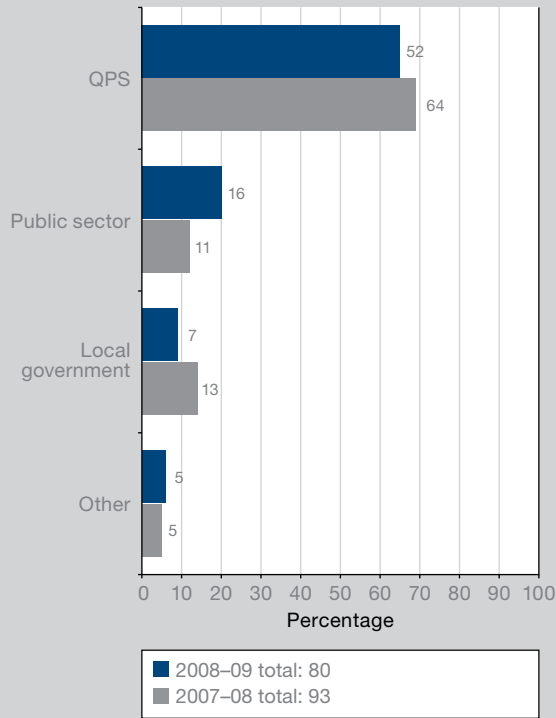
We increasingly conduct investigations cooperatively with agencies in order to build their capacity to investigate and deal with potential misconduct matters. This may involve providing agencies with investigators to conduct interviews and financial investigators to obtain documents from third parties using our 'notice to discover information' powers. It could also include an officer from the agency being embedded in the CMC's multidisciplinary team.

The CMC cannot make findings in an investigation. We refer any evidence of criminal conduct or misconduct to the relevant prosecuting or employing authority for appropriate action. In some cases it may take several years for the outcome of charges to be finalised in court or in disciplinary tribunals.

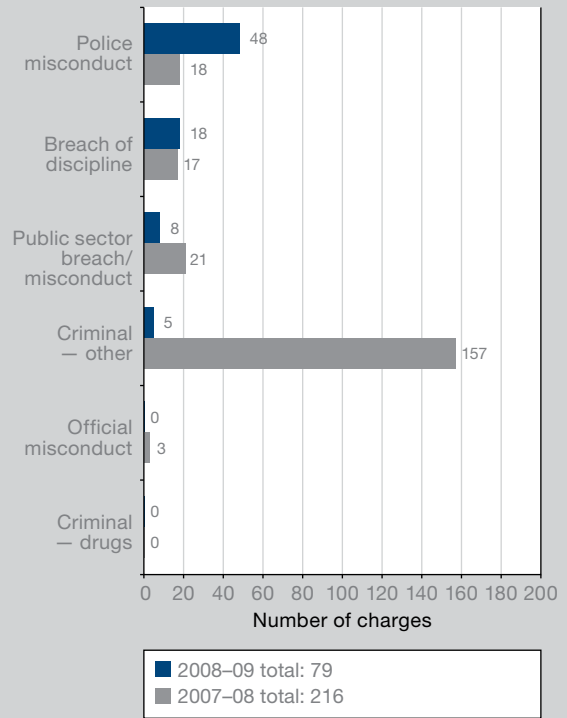
## Capacity building

To build agency capacity to prevent and deal with misconduct, we work in a variety of ways including direct outreach, undertaking joint ventures, working with Indigenous communities, developing relevant resources and conducting research.

**Figure 8. Number of finalised investigations**

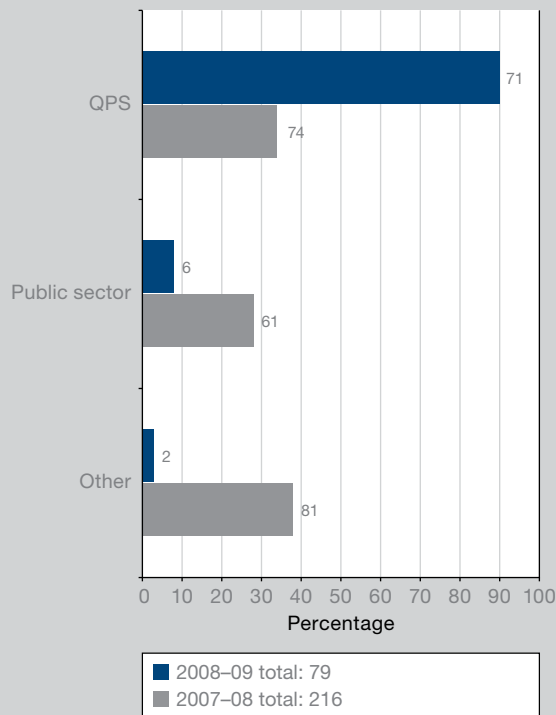


**Figure 9. Types of charges**



Note: The comparatively high 2007-08 figures resulted from multiple charges, arising out of complex investigations, being laid that year.

**Figure 10. Recommended charges by agency**



## The CMC's work with the Queensland public sector

This section outlines our work with the Queensland public sector (excluding the QPS). It provides information about complaints against public sector officials, monitoring the public sector, misconduct investigations, capacity building, and research into the public sector.

### Complaints against public sector officials

Misconduct allegations of official conduct (such as inappropriate exercise of powers), assault, misappropriation, corruption and favouritism, control of information and victimisation/harassment accounted for 72 per cent (70 per cent 2007–08) of the allegations against public sector officials (see Figure 11).

Of the misconduct complaints assessed in 2008–09 relating to public sector agencies (excluding the QPS), 76 per cent (64 per cent 2007–08) of the subject officers were from the large agencies – Health, Corrective Services, Education, Emergency Services and Child Safety. Twelve public sector agencies, including those mentioned, accounted for 92 per cent (84 per cent) of all subject officers for complaint matters assessed in 2008–09. This is no doubt indicative of the large scale of operations undertaken by these departments, their staff numbers, and the level and nature of their interaction with the public.

Given the local government sector's functions and the responsibilities of councillors and council employees,

not surprisingly, the significant allegation types relating to them are corruption and favouritism, official conduct and misuse of government resources, which make up 66 per cent of all allegations. The number of allegations of the first two types has remained virtually the same in the last two years, but there has been a significant increase in allegations concerning misuse of resources. The increase was largely due to one council pursuing the issue of inappropriate use of internet access and emails (see Figure 12).

### Monitoring: Results in 2008–09

Of 134 reviews (13 per cent of individual complaints referred to public sector agencies), we were satisfied with compliance and integrity in 90 per cent of the cases. In relation to the remaining complaints, some of the issues of concern were the failure to interview relevant witnesses, the investigation focus was too narrow and the report was not in the prescribed format with all accompanying source material.

This year the CMC also audited complaints dealt with by four large public sector agencies: the Department of Emergency Services, the Environmental Protection Agency, the Department of Justice and Attorney-General, and the Department of Employment and Industrial Relations. In the course of these audits, we reviewed 77 complaints. According to the audits, these agencies demonstrated significant compliance with all legislative obligations and standards.

### Further devolution in the public sector

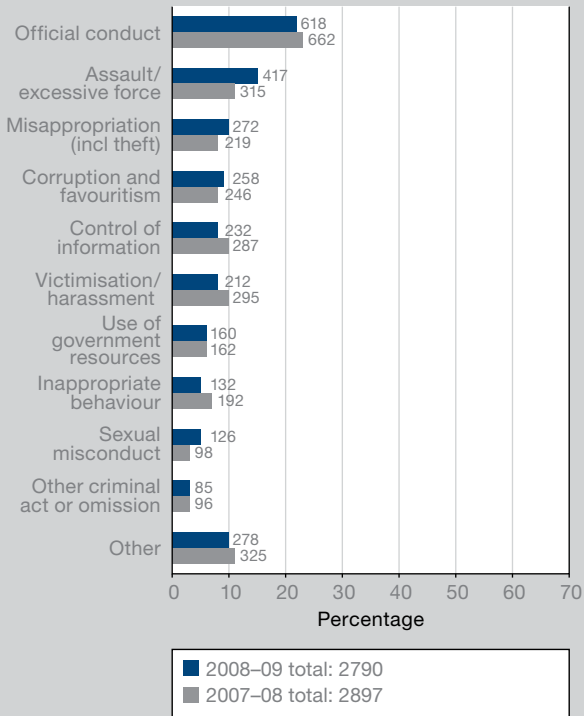
A strategic priority for 2009–13 is the further devolution to public sector agencies of the responsibility to deal with misconduct, subject to CMC oversight, and supported by the CMC's capacity-building and prevention roles.

Devolution is about strengthening public sector agencies' integrity, accountability and misconduct resistance. As long as an agency relies upon the ever-present oversight agency to deal with complaints, poor performance and misconduct will continue to be perceived as the oversight body's problem and standards will not improve. Only when an agency takes responsibility for its own culture of integrity, and extends that responsibility downwards from the senior management to line managers and individual employees, will it fully appreciate

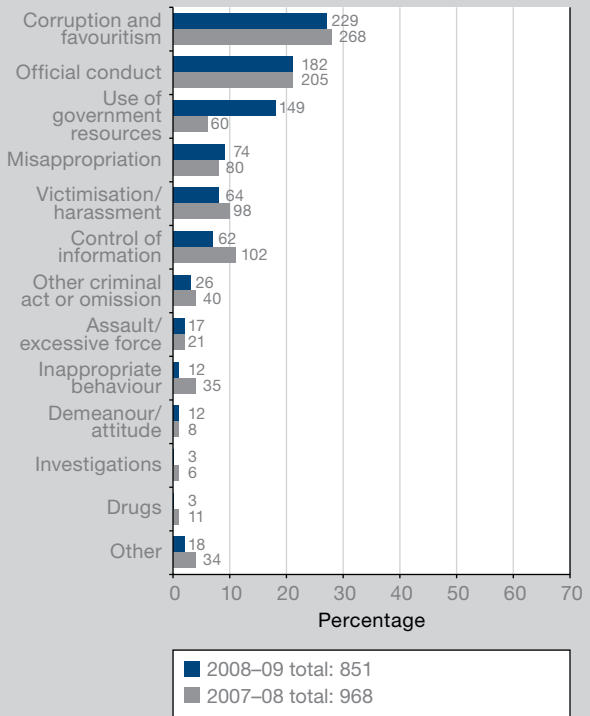
that ethical behaviour is integral to its operations. Managers must learn to see complaints about misconduct as an opportunity for them to address any inappropriate conduct by an employee and any systemic issues, control failures, policy and procedural deficiencies, poor workplace culture and standards, and client service issues.

Four agencies have been selected to participate as 'early adopters' of a 'further devolution' model on the basis of their knowledge and experience; the nature of their integrity framework; their organisational philosophy of management responsibility; the complexity of the internal/external factors that will impact on devolution; their capacity to prevent and deal with misconduct; and their complaints profile. (To read about devolution in the QPS, see page 33.)

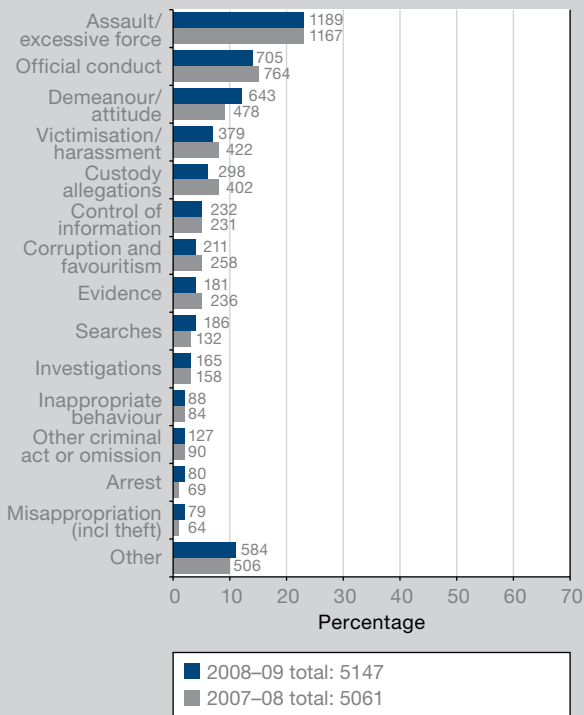
**Figure 11. Types of allegations – public sector**



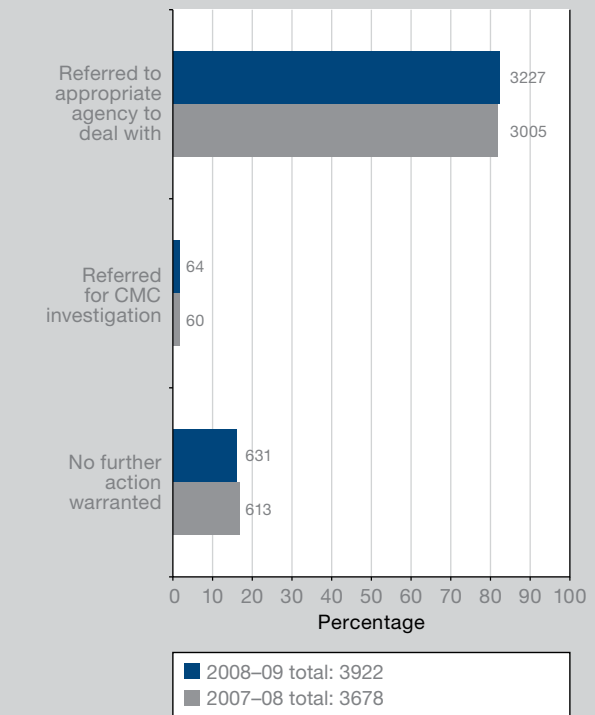
**Figure 12. Types of allegations – local government**



**Figure 13. Types of allegations – QPS**



**Figure 14. Assessment outcomes**





This year we conducted three quality assurance reviews. In the review of the Townsville City Council we noted the rigorous, well planned policy framework of the new merged Council that will build their capacity for integrity. In the review of the Gold Coast City Council we noted some cultural issues, but acknowledged that the CEO had introduced reforms that have moved the Council forward significantly. Our review report for Corrective Services noted a difficulty in identifying whistleblowers and activating relevant procedures but recognised that the department's capacity to act with integrity is of a high standard.

## Capacity building

### Direct outreach

- The Chairperson and the Director, Complaints Services, met with nine directors-general and CEOs of state agencies and councils. Such meetings allow them to discuss concerns identified from the CMC's complaints data and monitoring activities, emerging trends and issues, and the agencies' prevention and complaints management activities.
- In 2008–09, our program of regional visits involved trips to the Gold Coast, Cairns, Townsville, Thursday Island, Mount Isa and Doomadgee. We met with, and provided training and/or information sessions for, a variety of stakeholders within the public sector and local government. As a result we increased their awareness and understanding of their roles, responsibilities and obligations, and the functions of the CMC, under the Crime and Misconduct Act.
- The CMC conducted training for public sector (including local government) managers and staff in dealing with suspected official misconduct based on our publication *Facing the facts*. A total of 252 people attended the *Facing the facts* workshops conducted at the CMC's premises in late 2008 and May 2009 and during our regional visits. Other ad hoc workshops were conducted for particular agencies. Positive feedback from all sessions suggests that the attendees increased their knowledge of the tools and strategies to prevent and deal with misconduct, and appropriately manage any impact on the workplace.
- This year we conducted misconduct prevention training as part of the regional visits covering issues relating to codes of conduct and conflicts of interest.

### Joint ventures

- Significant planning has been undertaken for the second Australian Public Sector Anti-Corruption Conference (APSACC). The Independent Commission Against Corruption (NSW), the Corruption and Crime Commission (WA) and the CMC will jointly host APSACC in Brisbane in July 2009. The 2009 conference will coincide with the 20th anniversary of the release of the Fitzgerald Report into corruption in Queensland. Keynote speakers will include the Premier of Queensland, the Hon. Anna Bligh MP, the Chief Justice of Queensland, the Hon. Paul de Jersey AC, and respected journalists Chris Masters and Quentin Dempster. Topics will include international corruption prevention efforts; the role of the media in exposing corruption; and corruption risks and prevention opportunities in major development, higher education, the health sector, policing, corrections and remote communities. Details of the conference will be given in our 2009–10 Annual Report.
- We continued our involvement as an industry partner in Whistling While They Work, a three-year collaborative research project led by Griffith University and funded by the Australian Research Council. This project aims to enhance internal witness management in Australian public sector organisations. In September 2008, the project released a publication entitled *Whistleblowing in the Australian Public Sector*. The CMC Chairperson spoke at the book launch, which was held at Parliament House in Canberra. The project's second report into organisational best practice will be released in the second half of 2009.
- We continued to work closely with a range of relevant groups such as the Corruption Prevention Network Queensland and Queensland Public Sector Ethics Network to foster ethical conduct. Presentations on integrity issues have been made to both groups by our prevention advisers.

### Resource development

- In conjunction with the Queensland Ombudsman and the Public Service Commission, as part of the Whistling While They Work project, we developed a series of guides about public interest disclosures for the Queensland

public sector. The first of these web-based documents are now available at <www.cmc.qld.gov.au>:

- *Making a public interest disclosure: a guide for individuals working in the public sector*
- *Handling a public interest disclosure: a guide for public sector managers and supervisors*
- *Blowing the whistle in Queensland* (flyer)

A third guide, intended for organisations, will be released in the next reporting period.

- *Receiving gifts and benefits: managing the risks* (Building Capacity series, no. 8) was updated following legislative changes.
- *Managing public records responsibly*, a joint publication with Queensland Archives, was updated.
- In the light of legislative reforms, particularly in local government, and the CMC's devolution strategy, we commenced a review of our primary misconduct publication, *Facing the facts*. Preliminary consultation on suggested improvements has been conducted with agencies and the revised publication will be released in the next reporting period.

### Working with Indigenous communities

During the reporting period, the CMC undertook a number of visits to Indigenous communities in Queensland, including Doomadgee, Yarrabah and Thursday Island. As part of these visits, CMC staff met with mayors, councillors, council workers, community agencies and organisations, staff from government departments and agencies in these areas, and members of the communities. During those visits we provided information about the role and functions of the CMC, and conducted conflict of interest training workshops.

### Researching the public sector

- We released the report *Perceptions of misconduct in Queensland correctional institutions: a survey of custodial officers*. It summarises the key findings of a collaborative research project by the CMC and Griffith University. We surveyed custodial correctional officers in 2001 and again in 2007 about their perceptions of misconduct in Queensland correctional facilities. The results highlighted some significant improvements in perceptions of misconduct over time and some challenges. We made recommendations to address these challenges and Queensland Correctional Services has indicated its willingness to implement them.

### Online resources

Our misconduct materials are easy to access from the home page of our website <www.cmc.qld.gov.au>, and are some of our most popular web pages. For example, our most frequently accessed publications, downloaded over 100 times a month, are:

- *Facing the facts: a CMC guide for dealing with suspected official misconduct in Queensland public sector agencies*
- *Managing conflicts of interest in the public sector: Toolkit*, and
- *Fraud and corruption control: guidelines for best practice*.

## Misconduct investigations of the public sector

A number of high-profile, long-running and complex investigations were undertaken or resulted in court appearances in 2008–09, including the following.

### Public duty, private interests

In July 2008, the CMC conducted a public hearing as part of the investigation into an allegation of official misconduct by the former Director-General of the Department of Employment and Training, Scott Flavell. The investigation examined Mr Flavell's role and alleged conflicts of interest in the establishment and development of a private skills training company whilst in the role of director-general.

The CMC released a public report entitled *Public duty, private interests* in December 2008. The report highlighted the need for better controls over the use of information or influence by public servants representing private interests. It also addressed issues of pre-separation conduct and post-separation employment in relation to senior executives.

Arising out of the report's recommendations, the Queensland Government introduced a new Criminal Code offence of misconduct in public office; a Queensland Contact with Lobbyists Code to deliver greater accountability standards for former ministers, parliamentary secretaries, ministerial staff and senior public servants; and a requirement for all lobbyists to register their details with the Department of the Premier and Cabinet. The government will also clarify the conflict of interest provisions within the *Public Service Act 2008*.

### **Former minister and others face charges**

Following a CMC investigation, former Queensland Government minister Gordon Nuttall was found guilty of receiving secret commissions totalling almost \$360 000 over three years from two prominent Queensland businessmen, Ken Talbot and Harold Shand.

The evidence presented at Mr Nuttall's trial showed Mr Talbot made 35 payments to the former minister totalling almost \$300 000 between October 2004 and September 2005. Mr Shand made one payment of \$60 000 to Mr Nuttall in April 2002. On 17 July 2009 Mr Nuttall was sentenced to seven years jail for each offence to be served concurrently and will be eligible for parole on 2 January 2012. Mr Nuttall has lodged an appeal in relation to conviction and sentence. Mr Shand will face a separate trial commencing on 8 March 2010. Mr Talbot's trial is scheduled to commence on 30 August 2010.

### **Conflict of interest at the Public Trustee**

We investigated a senior executive officer employed by the Public Trustee of Queensland in relation to an allegation that a family trust in respect of which the officer had an interest was engaged in share trading in a company which had a commercial relationship with the Public Trustee. It was alleged that the officer, by virtue of his employment with the Public Trustee, was privy to commercially sensitive information about the company but had at no time disclosed his interests in the company to his employer.

After investigating the matter, we referred a report to the Attorney-General recommending the evidence obtained as a result of our investigation of these matters warranted consideration of disciplinary action against the Senior Executive Officer for his alleged failure to comply with s. 84 of the *Public Service Act 1996* and the Department's Code of Conduct on the basis that he did not declare his family trust's shareholding in the first company. The Attorney-General subsequently advised the CMC that such action had been taken and the Senior Executive Officer's employment had been terminated.

### **Forgery to obtain overseas travel**

In conjunction with Queensland Transport, we investigated an executive director employed by the department in relation to an allegation that the executive director had forged the initials of a junior officer on a briefing note to the then Minister for Transport, Trade, Employment and Industrial Relations for the purpose of obtaining approval for himself to travel overseas to a conference.

We subsequently referred a report to the Minister for Transport recommending the evidence obtained as a result of our investigation was sufficient to consider disciplinary action against the executive director on the basis that he dishonestly represented to a senior officer that his subordinate had prepared the briefing note recommending he attend the overseas conference, placed the officer's initials on the briefing note without the junior officer's authority and failed to act impartially in the performance of his functions in recommending to the minister that his attendance at the conference was in the best interests of the department.

The department subsequently advised the CMC that disciplinary action had been taken against the executive director as recommended and his employment had been terminated.

### **Public servants and a contractor sentenced for fraud**

Two former Department of Public Works officers were sentenced on 12 March 2009 in the Brisbane District Court for approving false invoices worth more than \$200 000 for painting work not performed. Robin Brown pleaded guilty to a charge of fraud while Bradley Goodwin pleaded guilty to charges of official corruption and fraud. A third man, Christopher Creedy of Brisbane and West Painting Pty Ltd, also pleaded guilty to charges of official corruption and fraud. Goodwin and Creedy each received a four-year jail sentence to be suspended after one year. Brown was given a three-year wholly suspended sentence due to the lesser role he played in the scheme. The contractor, Creedy, was ordered to pay restitution of \$210 061.

### **Queensland Transport employee issues false 18+ cards and drivers licences**

During the execution of a search warrant in October 2003, police discovered an 18+ card which was shown to be fake. Using the CMC's coercive powers a number of persons receiving false documentation were identified. During 2008–09 Anne-Marie Corrigan pleaded guilty to one count of fraud and received a 12-month intensive correctional order and had a conviction recorded. Terrence Goodman Benfer was charged and convicted of one count of fraud. Glen David Cannard was charged and convicted on one count of fraud and one count of forgery.

## The CMC's work with the Queensland Police Service

This section covers complaints against police, monitoring the QPS, misconduct investigations, capacity building in the QPS and researching police methods and practice.

The CMC works with the Ethical Standards Command (ESC) of the QPS in handling complaints about and investigations into the conduct of police.

### Complaints against police

In 2008–09, 2081 police complaints were received. This was slightly higher than for 2007–08 (1869) and higher than 2006–07 (1891).

The state-wide complaint rate per 1000 officers has remained steady for the period and similar to previous years. The trend in relation to Indigenous complaints remained steady for the year. As at the end of 2008–09, Indigenous complaints were 6 per cent of the total complaints against police.

A comparison of QPS allegations registered in 2007–08 and 2008–09 (see Figure 13) reveals the following:

- the highest number of allegations related to Assault/excessive force
- allegations relating to Arrest, Investigations and Searches showed a minor increase
- allegations relating to Demeanour/attitude showed the greatest increase.

### Tasers

The use of Tasers by police officers is an issue of considerable debate and concern in the community, and we are closely monitoring all matters relative to their use.

In 2008–09, following a Taser incident at Southbank in April 2008 (see page 35) we received eight complaints concerning the deployment of a Taser.

- Four complaints were investigated by the QPS and allegations of inappropriate use were not substantiated. We agreed with those findings and no further action was taken.
- Three matters have been referred to QPS for investigation. They have not yet been finalised.
- One matter is being jointly investigated by the QPS and the CMC, and is ongoing.

### Monitoring the QPS

In 2008–09, the CMC conducted 130 reviews (9 per cent of complaints dealt with by the QPS). It was satisfied with compliance and integrity in 83 per cent of the cases. In relation to the remaining complaints, some of the issues of concern were findings not supported by the evidence, failure to secure or consider relevant evidence, failure to interview a relevant witness, incorrect categorisation of allegations as breach of discipline and investigation reports not in accordance with the prescribed format. In addition, the CMC conducted two audits of classes of complaints dealt with by the QPS (other than those conducted as part of Project Verity [see below]). The types of matters audited were those involving allegations of process corruption and whistleblowers. In the course of these audits 37 complaints were reviewed.

No significant concerns were raised by these audits and the report made some recommendations designed to help enhance the capacity of the QPS.

### Capacity building in the QPS

#### Devolution of QPS complaints management (Project Verity)

This project is about the devolution to appropriate local level managers of the responsibility to deal with less serious complaints about their officers through investigation or other appropriate management action. Last year we reported that we had developed a devolved complaints management model and were trialling it in two regions. An extensive evaluation process, involving surveys of complainants, police managers and officers and audits of complaints dealt with by the regions during the trial period revealed that the model had not been fully implemented as intended for a number of reasons. The CMC and the ESC determined it was appropriate to suspend any further evaluation or roll-out of the model and proceeded to address the identified issues. A new QPS Complaints Management and Discipline Policy has now been drafted. Further steps are to be taken to develop practice guidelines and an enhanced program of awareness sessions, education and training and on-the-spot advice and support for managers. Following the implementation of these measures, a further evaluation will be carried out to ascertain firstly, whether the model has been implemented and secondly, whether it meets the project's objectives.

### Improving the Indigenous complaints process

The CMC continued with its project to develop culturally appropriate, timely and effective ways to manage Indigenous complaints against police. Following the initial phase of data collection and analysis and a series of workshops, this year we engaged in consultation focused on developing a model or models to facilitate better access to, and understanding of, the complaints system. We will look to trial appropriate models in the coming year.

### Researching police methods and practice

The CMC is involved in a wide range of activities relating to police practices, including conducting research into police methods of operation, police powers and their use, and law enforcement by police.

- We released the report *Interactions between police and young people*. Partly funded by an Australian Research Council grant, this three-year project examined the relationship between young people (15–24 years old) and police in Queensland across three linked research projects. These projects were conducted by the CMC in partnership with the University of Queensland and Queensland University of Technology in response to our public attitudes surveys (see below), which have consistently found poorer perceptions of police by young people than by older people. Although none of the studies provided definitive answers for improving relations between police and young people, all three increased our understanding of the nature and complexity of these relations.
- We released the report *Public perceptions of the Queensland Police Service: findings from the 2008 public attitudes survey*. Since 1991, the CJC–CMC has conducted a series of surveys of Queensland residents about their attitudes toward the Queensland Police Service, public service and local government, and complaints processes. In the seventh survey in the series conducted in 2008, for the first time we included questions about Indigenous issues and the Indigenous status of respondents and collected detailed information about the nature of respondents' contact with police.

- We released a research and issues paper entitled *Tasers: a brief overview of the research literature*, based on Australian and international research into the use of Tasers by operational police.
- The CMC continues to administer the police ethics survey to Queensland Police Service recruits and first-year constables. The survey is designed to gauge their attitudes to and perceptions of a range of issues related to police ethics and misconduct and to track any changes over time. It serves as a useful guide to the ethical climate of the QPS and is intended to assist the QPS in making decisions about the ethics education and training of its officers.

Written reports summarising the results of the most recent surveys are provided annually to the QPS and presentations of the findings are given to staff at both QPS academies. We are also in the final stages of preparing a public report which describes key findings from the survey since its inception in 1995. The report will be released in the next reporting period.

### Misconduct investigations of the QPS

#### Jailing of former police officers over watch-house incident at Loganholme

In November 2008, former Senior Constable Craig Stuart Ablitt was sentenced to 15 months jail, suspended after five months, for his part in the assault of a 25-year-old woman in a holding cell at the Loganholme Police station in April 2004. He pleaded guilty to being an accessory after the fact to assault occasioning bodily harm. His fellow officer, former police constable Justin Anthony Burkett, was jailed in August 2007 for three years, suspended after nine months, after pleading guilty to one count of assault causing bodily harm, four perjury charges and two charges of attempting to pervert the course of justice. The woman was attacked by Burkett after being taken into custody for suspected shoplifting and arguing with Burkett.



### **Allegations of police corruption (Operation Capri)**

Commencing in 2006 and concluding in September 2008, Operation Capri was an investigation into multiple aspects of police misconduct in connection with the use and management of prison informants, the removal of prisoners from custody for improper purposes, the unlawful diversion of telephone calls made by prisoners from correctional centres, misappropriation of money intended to be used as rewards, and the improper receipt of money and gifts from a prison informant who manipulated police officers for his own ends.

Our investigation revealed that some police officers improperly took advantage of their authority and made wide use of their powers while largely failing to exercise or recognise their associated responsibilities. The prevailing attitude of these officers was that it was acceptable for them to ignore legislation and QPS policy and procedures, and to act in ways that were improper and, in some cases, dishonest and unlawful.

Some 25 officers were implicated. Of the 25 officers, one officer resigned prior to the commencement of the investigation, one officer resigned prior to the conclusion of the investigation, the CMC recommended that six officers receive managerial guidance and that disciplinary action for misconduct be considered against 17 officers. Of those 17 officers, one officer was dismissed; six officers resigned, six officers were given managerial guidance, and the disciplinary action in relation to four officers has not yet concluded. Additionally, three of the 25 officers are also facing criminal charges and those matters are currently before the courts.

The revelations of Operation Capri serve as a reminder for all police of the risks and responsibilities inherent in the exercise of professional duties and the importance of embedding a culture of ethical behaviour.

A public report of the investigation will be tabled in July 2009.

### **Taser incident at South Bank**

In April 2008, a police officer used a Taser on a 16-year-old girl at South Bank. Following its investigation of the incident, the CMC recommended in March 2009 that the police officer receive managerial guidance over his actions. The CMC found that the police officer had shown poor exercise of discretion in requiring youths to 'move on' (in a situation where they were waiting for an ambulance), poor communication in failing to advise the youths of the consequences of disobeying a police direction, and using the Taser contrary to the QPS policy in circumstances where the girl could have been otherwise restrained and where the police officer knew she could be a juvenile.

Further, the CMC commented that this incident and other cases pointed to a concerning pattern within the QPS with regards to the handling of policing incidents. The CMC Chairperson warned that the QPS must learn from its mistakes in policing or risk jeopardising the police service's professionalism.

## **Misconduct: outlook 2009–10**

In 2009–10, the following Misconduct priorities will be pursued:

- advance the progressive roll-out of a developed and effective localised complaints management resolution process in police regions and commands (Project Verity)
- continue to further devolve responsibilities for dealing with misconduct to public sector agencies including local governments
- focus on significant misconduct issues such as:
  - the inappropriate use of confidential information, conflict of interest issues, and purchasing and procurement irregularities
  - excessive use of force in conjunction with frontline policing and inappropriate use of policing powers.