

## Achievements

- We completed 61 official misconduct investigations. As a result, 8 people have been charged with 138 criminal offences and we have recommended to the Director of Public Prosecutions (DPP) that another 6 people be charged with 35 criminal offences; 28 people have been the subject of 122 disciplinary recommendations.
- Our misconduct prevention officers made 49 procedural recommendations to public sector agencies in response to key gaps or issues identified through serious misconduct investigations.
- We assessed 3943 complaints of official misconduct across the public sector, 89 per cent of which were assessed within 4 weeks (exceeding our target of 85%).
- In our monitoring role, we finalised our reviews of matters we had referred to other agencies to deal with in a median of 12 days.

### **Misconduct investigations**

61 official misconduct investigations completed

8 people charged with 138 criminal offences

6 people recommended to be charged with 35 criminal offences

28 people subject to 122 disciplinary recommendations

## Our challenges

Implementing a new workforce structure as well as administrative and business processes to match the legislative framework established in the *Crime and Corruption Act 2001* that commences on 1 July 2014.

### **Complaints assessed**

3943 complaints of official misconduct across the public sector

89% assessed within 4 weeks

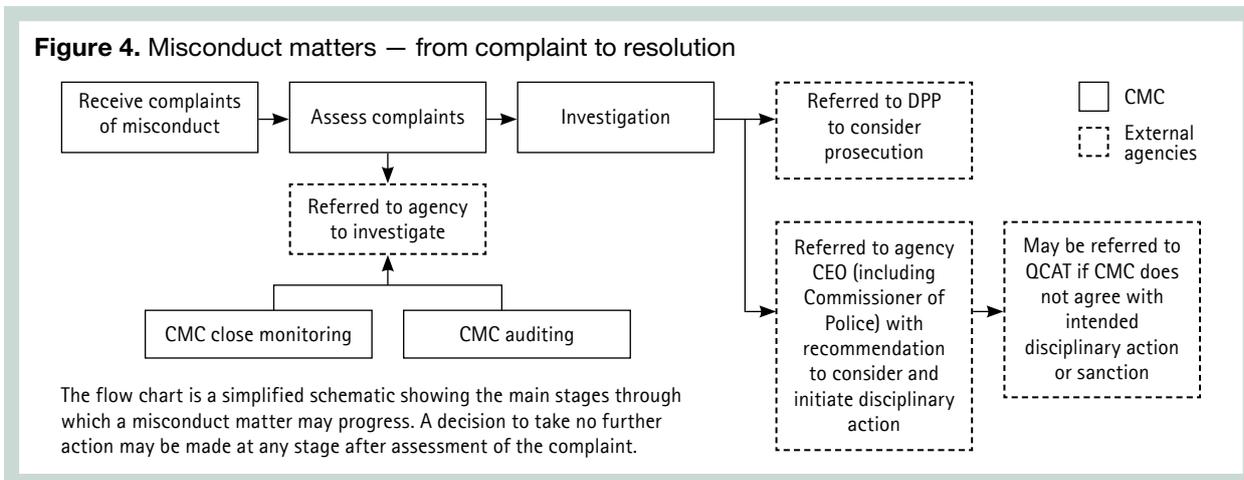
## Our role and jurisdiction

Our role is to promote a trustworthy public sector in Queensland and reduce the incidence of misconduct. Our jurisdiction includes all state government departments, the Queensland Police Service (QPS), local governments, public sector agencies and statutory bodies, government-owned corporations, universities, prisons, courts, tribunals and elected officials. Our principal functions concern the receipt, assessment and investigation of allegations of misconduct; these are supported by research, intelligence and misconduct prevention activities.

The major components of our Misconduct role are:

- receiving and assessing complaints
- investigating the most serious misconduct matters
- reviewing and auditing how agencies manage complaints
- working with agencies to prevent misconduct.

**Figure 4. Misconduct matters — from complaint to resolution**



The CMC is not a court, nor can it discipline anyone as a result of a misconduct investigation. Where it considers further action to be warranted, it can refer matters to the CEO of an agency to consider disciplinary action or to the DPP to consider prosecution. In the case of a disputed sanction, it can request review by the Queensland Civil and Administrative Tribunal (QCAT). In some cases, police officers seconded to the CMC can make arrests and instigate criminal charges.

### How misconduct matters come to the CMC

Possible misconduct within the Queensland public sector is brought to the CMC's attention through complaints from the public or from whistleblowers and anonymous sources, or through the CMC's own investigative and intelligence activities. CEOs (including Directors-General) of public sector agencies are also obliged by law to refer to the CMC any suspected official misconduct in their agency.

This chapter first provides an overview of our Misconduct work across all sectors (see page 18). It then describes in more detail our work with the QPS (see page 21) and the public sector (see page 25).

## Performance summary

In 2013–14, the CMC exceeded its Service Delivery Statement (SDS) performance target for agency acceptance of recommendations arising out of our investigative, research and prevention work. In our monitoring role we finalised our reviews of matters we had referred to agencies in a median of 12 days, which is shorter than our target of 15 days. While our timeliness in relation to finalised

investigations was short of our target of 85 per cent, the CMC finalised a significant number of investigations that were older than 12 months at the beginning of 2013–14. As a result, as at 30 June 2014, only 2 current matters are older than 12 months (compared with 8 as at 30 June 2013), which places the Commission in a better position to achieve its future targets.

**Table 3. SDS service standards**

Public sector integrity service standards	Target	Result
Percentage of recommendations to agencies accepted	85	98
Median days to finalise a review matter	15	12
Percentage of investigated matters finalised within 12 months	85	77

Our SDS performance over the past five years is provided in Appendix 1, page 99.

# Combating misconduct

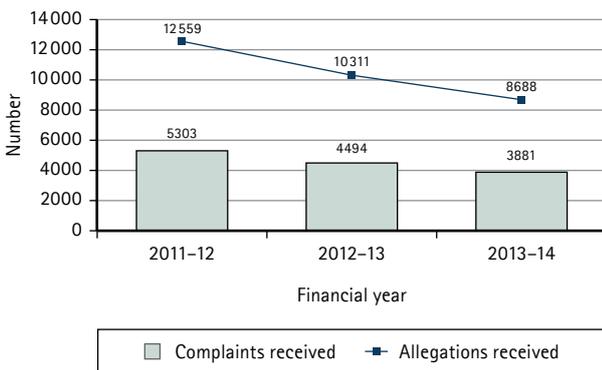
## Receiving and assessing complaints

### New complaints and allegations

In 2013–14, the CMC received 3881 complaints, which involved 8688 separate allegations. Of the complaints received:

- 65 per cent were referred by public sector agencies
- 34 per cent came from members of the public
- 1 per cent came from government or were initiated by the CMC.

**Figure 5:** Complaints and allegations received between 2011–12 and 2013–14



The number of complaints received represents a 14 per cent decrease compared with the previous year. The reasons for the continued decrease following 2012–13 can be difficult to identify. In part, it may be due to members of the public and agencies pre-emptively adopting the widely publicised higher threshold for reporting that was recommended by the Independent Advisory Panel's review of the Crime and Misconduct Act and other matters.

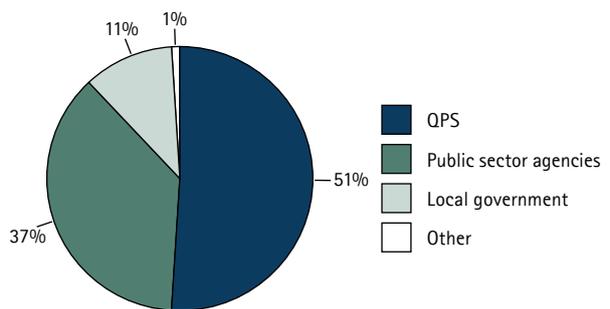
## Who the allegations were about

Figure 6 shows that, of the allegations made in 2013–14:

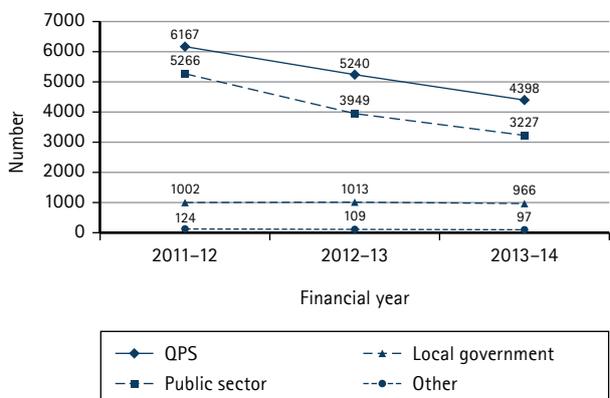
- 51 per cent related to police
- 37 per cent related to public sector agencies (including government-owned corporations)
- 11 per cent related to local government
- 1 per cent related to other agencies (mainly involving politicians).

These figures are relatively consistent compared with the last few years.

**Figure 6:** 2013–14 allegations by sector



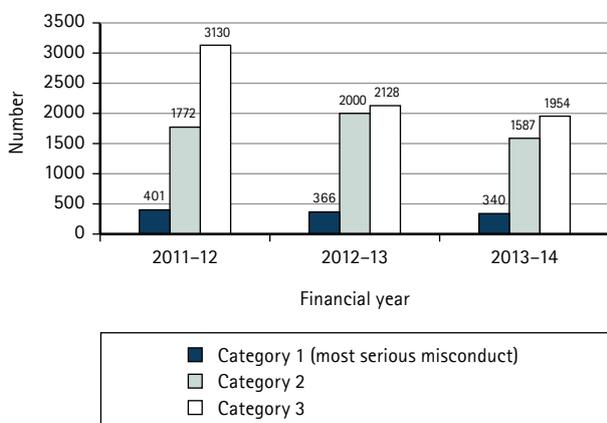
**Figure 7:** Allegations by sector, 2011–12 to 2013–14



## Our assessment of complaints

As part of their assessment, complaints received by the CMC are categorised based on their level of seriousness and sensitivity. Categories 1–3 are matters that fall within the CMC’s jurisdiction, Category 1 matters being the most serious (see Figure 8). Categories 4 and 5 are matters that do not meet the definition of police misconduct or official misconduct.

**Figure 8:** Categories of complaints received in 2013–14



Of the total 3943 complaints assessed in 2013–14 (including complaints carried forward from 2012–13 but assessed this year), 89 per cent were assessed within 4 weeks of receipt, exceeding our target.

In 2013–14, the CMC retained 51 of the most serious matters for investigation, including joint investigations with other agencies. The majority of complaints assessed (79%) were referred to the originating agency or the QPS to deal with. Around 20 per cent of complaints required no further action.

## CMC oversight of complaints managed by agencies

The number of complaints the CMC receives means that the CMC cannot investigate all matters. Our legislation also states that, as long as the public interest is safeguarded and the agency has capacity, action to prevent and deal with misconduct should generally happen within that agency.

Most complaints are dealt with by the relevant agency investigating the matter or taking managerial action, in some cases subject to specific monitoring by the CMC. For example, we may oversee an agency’s investigation

while it is taking place, or review interim or final reports as an investigation progresses and before any disciplinary or other managerial action is taken. Oversight of less serious matters is limited to the agency only notifying the CMC of the outcome. (However, these matters may also be audited.)

In 2013–14, the CMC completed 308 reviews of agency-managed complaints. The CMC was satisfied with the way in which public sector agencies (including the QPS) dealt with these matters in 91 per cent of the cases, which is comparable to last year. The median time taken to complete a review was 12 days, which is faster than our target of 15 days.

### Matters audited by the CMC

Audits are a strategy in our oversight role that enable us to scrutinise how high-risk matters have been dealt with by an agency. In 2013–14, the CMC conducted two audits:

- A compliance and integrity audit of the way in which complaints related to inappropriate associations between public service officers and criminal motorcycle gangs (CMGs) were dealt with by the QPS and other public sector agencies.
- An audit of matters referred back to public sector agencies where the investigations had been outsourced to external investigators. (These matters were ones that required review by the CMC, which it carried out in the 2012–13 financial year.)

For further details, see pages 23 and 29.

## The most serious complaints retained for CMC investigation

The CMC investigates the most serious cases of alleged official misconduct. These investigations are conducted by multidisciplinary teams comprising police, civilian investigators, lawyers, intelligence analysts, financial investigators and prevention officers. These decisions to investigate matters, either by the CMC only or in cooperation with a public sector agency, are based on factors such as:

- the nature and seriousness of the alleged misconduct, particularly if there is reason to consider it is prevalent or systemic in an agency
- whether our special powers will be needed to effectively investigate the matter

- whether the relevant agency has the capacity and resources to effectively deal with the misconduct
- whether the public will be more confident if the misconduct is dealt with by the CMC directly.

**Table 4: Misconduct investigations**

CMC investigations	Number
Investigations brought forward from 2012–13	37
New investigations 2013–14	53
Finalised investigations 2013–14	61
Investigations carried forward into 2014–15	29

The CMC received specific funding over the 2013–14 financial year to establish a team to focus on CMG-related activities to decrease CMG members' influence on and access to QPS and public sector personnel. This team was established in January 2014 and, in the 6 months to 30 June 2014, it has completed 11 investigations resulting in 16 recommendations to the QPS to consider disciplinary action.

In 2013–14 the CMC commenced 53 investigations, including cooperative investigations. This year saw considerable resources being directed to a number of large, complex public sector investigations, which restricted the CMC's capacity to investigate other matters.

One strategy that the CMC may use to progress an investigation is to hold investigative hearings. The CMC's power to convene hearings and compel witnesses to give evidence is one of the fundamental differences between the CMC and a standing law enforcement agency (such as the QPS). The purpose of a hearing is not to decide an issue, but to progress an investigation by discovering new evidence.

In 2013–14, we held 16 days of hearings in support of 4 investigations into matters concerning release of confidential police information, misuse of authority in relation to recruitment and selection, and electoral bribery.

## Outcomes of our investigations

In 2013–14 the CMC finalised 61 misconduct investigations. As a result of these investigations:

- 138 criminal charges were laid against 8 people
- 35 additional recommendations for criminal charges were made to the DPP against another 6 people
- 122 recommendations for disciplinary action against 28 people were made to the relevant agency.

Significant investigations completed this year are highlighted later in this report.

## Improving the timeliness of our investigations

This year the CMC implemented initiatives aimed at improving the timeliness of investigations. They include:

- Limiting the number and type of misconduct investigations retained by the CMC, thereby creating greater resources and scope to complete existing investigations.
- Early identification of and withdrawal from investigations that are not considered an effective use of resources.
- Establishing more efficient procedures to obtain written statements and audio recordings.
- Co-location of QPS investigators at the CMC to conduct high-profile or sensitive investigations.
- Reviewing our priorities for engaging in joint investigations with agencies.
- Review of delegations and decision making.

These initiatives considerably reduced the number of CMC investigations exceeding 12 months.

In relation to the investigations completed in 2013–14, 77 per cent (47 investigations) were finalised within 12 months. With only 2 current matters remaining that are older than 12 months as at 30 June 2014, the CMC is in a better position for the future to meet its target of 85 per cent.

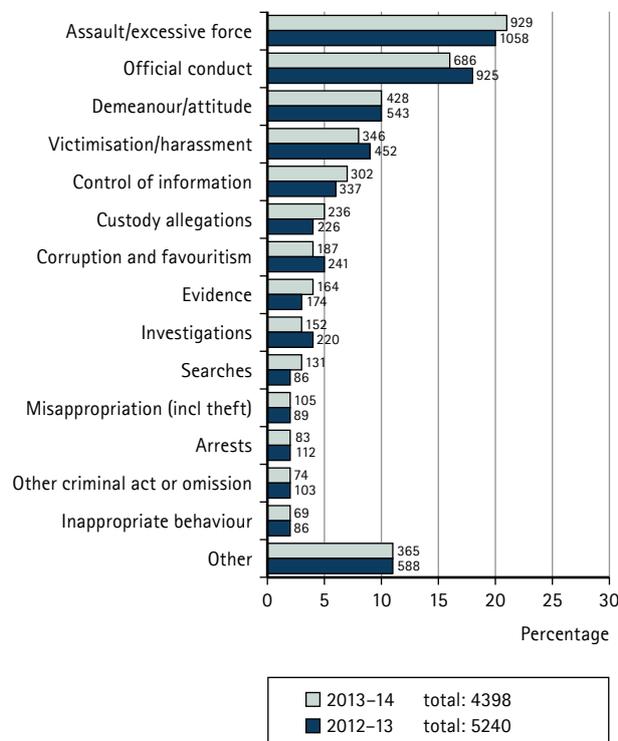
# Queensland Police Service

## Assessment of police complaints

In 2013–14, we received 1839 complaints containing 4398 allegations against Queensland police officers; the number of complaints received was 16 per cent lower than in 2012–13. Overall, as noted earlier, allegations against police represented about 51 per cent of the total allegations received by the CMC.

Allegations of assault/excessive force; official conduct (such as misuse of police powers); inappropriate demeanour or attitude; victimisation or harassment; inappropriate access to and/or disclosure of confidential information; and custody-related concerns accounted for almost 67 per cent of the total misconduct allegations against police (Figure 9).

**Figure 9.** Allegations against police, 2012–13 and 2013–14



Where possible, the CMC and the QPS record whether complaints about police involve incidents with Indigenous people. Similarly to last year, Indigenous complaints comprised 7 per cent of the total complaints made against police. The three most common allegations focus on interactions between Indigenous people and police – allegations of assault/excessive force; victimisation or harassment; and inappropriate demeanour/attitude accounted for 60 per cent of the total allegations made by Indigenous people against police.

### Timely assessment of complaints against police

A Joint Assessment Committee (JAC) involving the CMC and the Ethical Standards Command of the QPS continues to jointly assess the most serious complaints referred to the QPS to deal with. The focus of the committee is on maintaining the efficiency and timeliness of the complaint process, and concentrating investigative effort.

In 2013–14 the JAC convened on 33 occasions and considered 137 matters: 7 per cent of matters were identified as not requiring further action, and a further 31 per cent were considered serious enough to warrant a full investigation. Of the remaining 62 per cent of matters, the committee reached agreement on the level of investigative effort required and timeframes for finalising the matters.

There was a 4 per cent decrease in matters being assessed by the JAC during 2013–14, partly due to the CMC's shift to focus on more serious matters. The JAC meetings also enable other sensitive matters to be discussed, and over the year there were discussions about a further 55 matters of mutual concern.

## CMC investigations into allegations of misconduct

In 2013–14, the CMC conducted 27 investigations into 150 allegations of police or official misconduct. The most common types of allegations investigated related to official conduct (duty failures); the unauthorised release of information from the QPS database; inappropriate relationships with members of criminal organisations; and misuse of authority for personal benefit. As a result of our investigations, the CMC recommended that 10 criminal and 93 disciplinary charges be instituted against 17 persons.

### Investigation into a police officer's interactions with members of the public

In June 2012, the CMC commenced an investigation into allegations concerning a serving QPS officer's interactions with members of the public arising from separate incidents. In September 2012, two days of coercive hearings were held where three witnesses were examined. A further 45 interviews were conducted during the course of the investigation. The subject officer was stood down by the QPS pending the final outcome.

### Review of the police discipline system (the SETS Review)

In 2011, the former state government commissioned an independent review of the Queensland police complaints, discipline and misconduct system. In May 2011, its report, *Simple effective transparent and strong* (SETS), made recommendations aimed at improving public confidence in how police complaints and disciplinary matters are dealt with.

In late 2011 the former government endorsed an implementation plan, with recommendations due for completion over a two- or three-year period. However, following the election of the new state government in March 2012, the QPS initiated a further project to develop a new discipline system for the QPS. The CMC has been included in ongoing consultation and has responded to various QPS discussion papers in 2013–14. That work is ongoing.

The CMC's 2013–17 Strategic Plan includes a strategic priority to respond to changes to the police complaints, discipline and misconduct system.

In October 2013, the CMC commenced criminal proceedings against the subject officer for the following offences: assault (two counts); deprivation of liberty; misconduct in public office; perjury (three counts); and damaging evidence with intent (alternatively, misconduct in public office).

An investigation report and disciplinary brief was forwarded to the QPS Ethical Standards Command in February 2014 for consideration of disciplinary action against the primary subject officer for 56 disciplinary offences, and another 5 subject officers for a total of 9 disciplinary offences. As at 30 June 2014, this matter remains ongoing.

### Allegations of abuse of office by police officer

After investigating allegations that a police officer from the South Eastern Region abused his position as a police officer by charging a female person with criminal offences for an improper purpose, the CMC issued that police officer with a Notice to Appear in court on one charge of abuse of office, contrary to section 92 of the *Criminal Code*. This matter is now before the courts.

### Allegations of abuse of office to benefit criminal and social associates

In November 2012 the CMC commenced an investigation into allegations that a current serving police officer at the commissioned officer rank was abusing the authority of his office and position for the benefit of criminal and social associates. The abuse related to allegations of unauthorised release of information, the accessing of restricted areas without justification, attempting to influence public officials, and improper conduct.

The subject officer was stood down by the QPS pending the final outcome of the CMC investigation. In May 2014, the CMC referred 11 allegations to the QPS for consideration of disciplinary action. This matter remains ongoing.

## Oversight of the QPS

The CMC monitors the QPS's handling of complaints through various mechanisms. These include overseeing the investigation of serious incidents involving police; settling initial investigative steps to be taken by the QPS in a matter; overseeing an investigation while it is taking place; and reviewing interim or final reports as an investigation progresses and before any disciplinary or other action is taken. We may also audit the way the QPS has dealt with a general class of complaints or dealt with particular areas of focus.

In 2013–14:

- the CMC conducted a compliance and integrity audit of the way in which complaints relating to inappropriate associations between public service officers (including police) and criminal motorcycle gangs (CMGs) were dealt with by the QPS and other public sector agencies. The findings of this audit indicate that public sector agencies appropriately dealt with complaints of this nature.
- A total of 128 police matters were the subject of individual close scrutiny through a case review. The CMC was satisfied with the way in which the QPS dealt with matters in 95 per cent of the cases, compared with 94 per cent in 2012–13. In the remaining matters, we identified a range of concerns and raised them with the QPS, including unexplained delays in completing inquiries or investigations, and poor analysis of the available information.

Last year we reported on our review of police discharge of firearms, in particular, where police shot at moving vehicles. In 2012–13, the CMC sent its review report and recommendations to the QPS. As at 30 June 2014, the matter is still ongoing.

### **CMC oversight of police-related deaths and other significant police incidents**

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

This year the CMC responded to 6 police-related deaths across the state. They included self-harm by civilians resulting in death, a siege and a police shooting. The CMC attended each incident to:

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

Where the CMC has deemed further investigation is warranted, these matters have been referred accordingly.

### **Police discipline matters**

Under Chapter 5, Part 2 of the Crime and Misconduct Act, the CMC may apply to QCAT for a review of a "reviewable decision" (which includes decisions relating to police misconduct made by the QPS against police officers). Once QCAT decides a matter, it is open to the CMC or the other parties involved (that is, the QPS decision maker and the officer who is the subject of the disciplinary matter) to appeal the matter to QCAT in its appeal jurisdiction. A further right of appeal lies from the QCAT appeal jurisdiction to the Queensland Court of Appeal.

In 2013–14 the CMC examined 46 reviewable decisions and was involved in the review or appeal of 14 police disciplinary matters in the QCAT, QCAT appeal and the Queensland Court of Appeal jurisdictions.

Each of the matters had originally commenced by application brought by the CMC, in which we had considered that either the findings were inconsistent with the relevant law and facts, or the sanctions were disproportionate to the facts. Nine of the cases were resolved over the course of the year.

Of the 14 matters, 11 remained in the QCAT jurisdiction, 2 progressed to the QCAT appeal jurisdiction (both of which are still ongoing this financial year) and 1 progressed to the QCAT jurisdiction (now resolved).

Nine matters were resolved in the QCAT review jurisdiction, as follows: 1 of the QCAT review applications was resolved by the CMC withdrawing its application to review following a compulsory conference; 3 were resolved by consent of all the parties following compulsory conferences; 1 was resolved in favour of the CMC; and 4 matters resulted in the confirmation of the original QPS decision.

The most significant review or appeal case finalised this year was the following.

#### **Review of the sinking of the *Malu Sara***

This case revolved around the tragic loss of a motor vessel, the *Malu Sara*, and all five people on board in the Torres Strait in 2005. Following an inquest in 2009, an Assistant Police Commissioner took disciplinary action for police misconduct against the police sergeant in charge of the search and rescue operation. On 9 March 2011 the Assistant Commissioner found that the sergeant had failed to carry out his search role as required, and demoted him to a senior constable rank for two years but suspended the demotion.

Originally, QCAT rejected the CMC's application to replace the suspended demotion with an absolute demotion; however, the QCAT Appeal Tribunal later upheld the CMC's appeal and demoted the sergeant absolutely.

The sergeant then appealed to the Queensland Court of Appeal. By a majority of two judges to one, the Court of Appeal upheld the sergeant's appeal on 11 March 2014, effectively confirming the suspended demotion the Assistant Police Commissioner had originally imposed three years earlier.

## **CMC policing research**

CMC policing research focuses on police methods of operation, police powers and their use, and law enforcement by police. Our work over the past year included the following.

### **Police use of force monitoring program**

The CMC routinely monitors the type, frequency and nature of recorded QPS "use of force" incidents. This monitoring program allows us to identify notable trends in police use of force in a timely manner and inform possible further research, monitoring or audit projects by the CMC.

### **Inventory of QPS use of force monitoring and review processes**

Previous research and investigations conducted by the CMC identified deficiencies in the processes used by the QPS to monitor and review use of force incidents. Building on this work, this project benchmarked QPS policies and processes against those in other Australian jurisdictions and international best practice. We found that while QPS processes are largely consistent with Australian and international best practice, in some areas QPS processes fall below standards set in other jurisdictions.

## **Monitoring police ethics: a 2013 survey of Queensland recruits and first-year constables**

The CMC surveyed 590 recruits and first-year constables (FYCs) to gain some insight into the professional values, knowledge and perceptions of recruits and FYCs. The results indicate that the QPS can improve their officers' intention to report misconduct by clearly communicating the organisation's expected standards of behaviour, and by addressing officers' concerns about the degree of protection and support they might expect from peers, supervisors and the organisation.

## **Audit of community safety plans in discrete Indigenous communities**

In 2013 the CMC commenced a project to review crime and safety planning in discrete and remote Indigenous communities. Specifically, it examined the degree to which police prioritised crime prevention strategies and how well these aligned with the crime prevention strategies identified in local plans. The report, published in June 2014, showed wide variability in progress with community safety planning. It outlined the factors that have impeded community safety planning and reviewed the processes used to conduct the planning and the content of the plans. It also included observations that may assist people responsible for continuing work on community safety plans, police working in Indigenous communities, and those who design and implement reforms in Indigenous communities.

This review of community safety planning is the last in a series of activities undertaken by the CMC specifically in response to recommendations made in our 2009 report *Restoring order: crime prevention, policing and local justice in Queensland's Indigenous communities*.

## **Police interviewing police**

This project examines the extent of compliance with the QPS investigative interviewing model when police interview police subject officers. It seeks to measure the nature and extent of non-compliance in police interviews of police subject officers, and determine what factors affect the level of compliance. Findings from this review will inform the debate about the appropriateness of internal investigations and may assist the QPS in the development of policies, procedures and training in investigative interviewing of police subject officers and generally.

## Public sector (including local government)

### Assessment of public sector complaints

In 2013–14, the CMC received 1818 complaints containing 3227 allegations against public sector employees. The number of complaints received was 10 per cent lower than in 2012–13 and continued a downward trend. As previously mentioned, the reasons for the continued decrease can be difficult to identify but could indicate an early adoption of the higher threshold for reporting complaints to the Commission.

The 3227 allegations against public sector employees represented around 37 per cent of total allegations received by the CMC. Allegations of inappropriate official conduct; assault; misappropriation; corruption and favouritism; and victimisation or harassment accounted for 71 per cent of the allegations made against officers from public sector agencies, excluding local government (Figure 10).

In the local government area the CMC received 355 complaints of official misconduct, which is comparable to the previous year. The complaints contained 966 allegations, or 11 per cent of all allegations made to the CMC. Of these:

- 7 per cent involved local governments
- 15 per cent were against councillors
- 78 per cent were against local government employees.

Misconduct allegations of corruption and favouritism, inappropriate official conduct, and misappropriation accounted for 68 per cent of the allegations made against officers of local governments (Figure 11).

Figure 10: Types of allegations — public sector

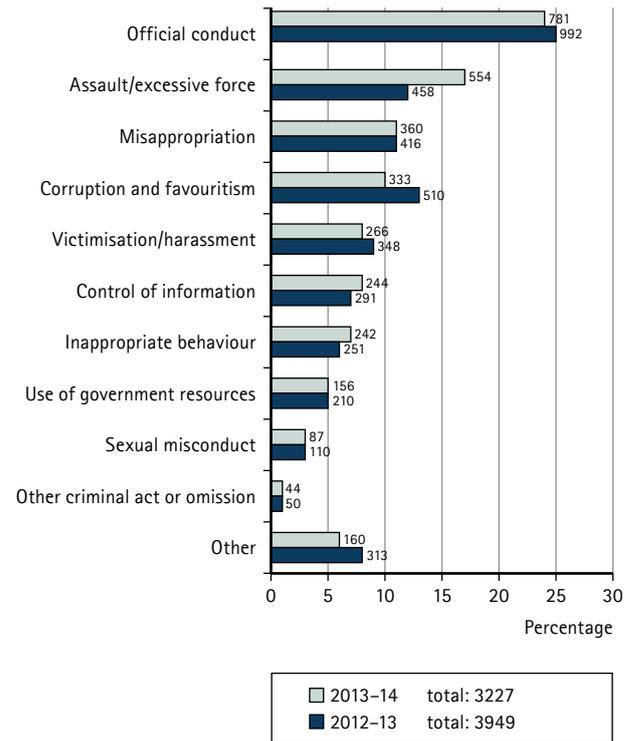
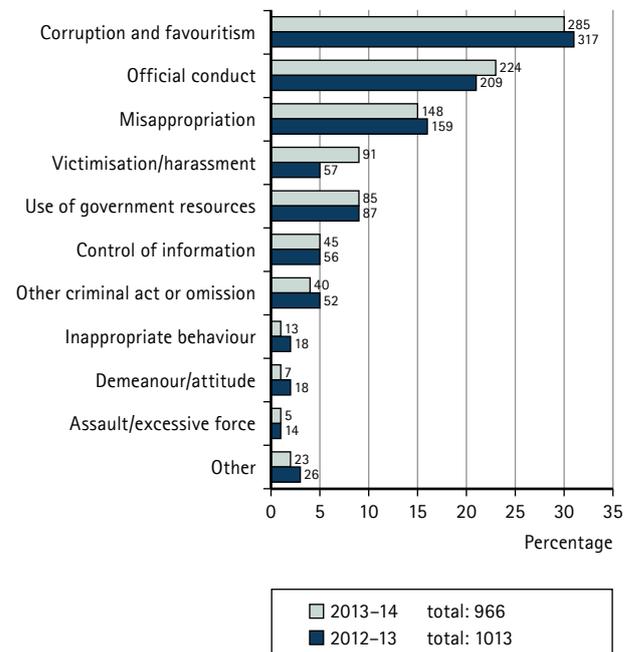


Figure 11. Types of allegations — local government



## Independent assessments of public sector complaints

In 2013–14 the CMC engaged retired Supreme Court Justice Stanley Jones AO QC to assess two complex complaints of suspected official misconduct, each requiring consideration of the legislative frameworks of specialised public sector environments, as well as voluminous material. Details of these matters are provided below.

### Concerns in relation to the approval process for coal seam gas projects

In September 2013, Mr Jones provided his final report to the CMC on matters relating to the approval of two major coal seam gas projects. Mr Jones's assessment focused on three sets of allegations:

- That undue pressure was placed on departmental officers and consultants, and that not enough time was allowed to assess the environmental impacts of projects and to draft appropriate conditions.
- That the environmental impact statement processes for the projects breached the statutory provisions relating to environmental protection.
- That there was undue influence on decision makers, including an allegation that one of the assessment processes was corrupted.

In relation to the first set of allegations, Mr Jones concluded that, while considerable time pressure was placed on departmental officers to meet imposed timelines, there was no evidence that this was imposed by external agencies or unfairly by senior officers. In relation to the second set of allegations, Mr Jones found no evidence that any officer either breached statutory provisions or knowingly facilitated such a breach. Mr Jones concluded that there was no evidence that raised a suspicion of official misconduct and no grounds to warrant further investigation. In relation to the third set of allegations, Mr Jones found no evidence to support allegations of undue influence.

Mr Jones concluded that he could not find any evidence on which a complaint of official misconduct against any person could reasonably be based, and no circumstances which would justify further investigation under the Crime and Misconduct Act.

Having been informed by Mr Jones's consideration of this matter, the CMC assessed the complaints and decided to take no further action. It is important to note that the CMC's jurisdiction and assessment of this matter related to the question of whether any person had committed official misconduct.

### Queensland Health Senior Medical Officers

In March 2014, the Queensland Audit Office (QAO) referred its report *Right of private practice: Senior Medical Officer conduct* to the CMC. The QAO audit was conducted to ascertain whether Queensland Health Senior Medical Officers (SMOs) were participating in the right of private practice (RoPP) scheme with probity and in compliance with their contractual conditions. The report concluded that a number of SMOs were:

- treating private sector patients in public hospitals and retaining this income in breach of their right of private practice contract, or
- treating private sector patients in public hospitals, without a right of private practice, and retaining the income. The SMOs were being paid by the public hospital and earning private sector income at the same time —effectively double-dipping and in breach of the *Health Insurance Act 1971* (Cwlth).

The CMC engaged Mr Jones to provide advice to inform the CMC's assessment of this matter. The CMC is assessing the information provided by the QAO and the advice of Mr Jones to determine how the matter should be most appropriately dealt with. This matter is ongoing.

## CMC investigations into allegations of official misconduct

In 2013–14, the CMC completed 34 investigations into 232 allegations of official misconduct in the public sector (including local government). The three most common types of allegations investigated were corruption and favouritism (misuse of power and authority) (34%); inappropriate official conduct (duty failures) (26%); and misappropriation (18%).

As a result of our investigations, we recommended that 128 criminal and 29 disciplinary charges be instituted against 18 persons. A further 35 recommendations for criminal charges are awaiting advice from the DPP.

### **How the CMC cooperates with public agencies in investigating misconduct**

The CMC may investigate misconduct independently, but in some situations it may choose to conduct joint investigations with other agencies. This enables those agencies to access the CMC's unique powers as well as its in-house expertise in intelligence, financial analysis, forensic computing, research and prevention. Under the Crime and Misconduct Act, the CMC can also assume responsibility for an investigation if the public interest requires – for instance, when information about more serious misconduct arises during an investigation, or when an investigation by an agency is not being conducted effectively.

### **Allegations of suspected official misconduct at the Department of Transport and Main Roads**

In September 2012, the CMC commenced a misconduct investigation into the process surrounding the appointment of a departmental officer by the former Director-General of the Department of Transport and Main Roads. On advice from the Director of Public Prosecutions the CMC determined that it would not lay criminal charges.

### **Investigating allegations of electoral bribery**

In 2011 the CMC investigated an allegation that an inducement was offered to member of parliament Dr Bruce Flegg to vacate his seat of Moggill. The CMC found no evidence to support the allegation and no further action was taken. In June 2013, the CMC received new material relevant to this matter. After assessing this material, the CMC determined that it was appropriate to reopen its original investigation.

The CMC engaged former District Court Judge Mr Gary Forno QC to oversee the reopened investigation and to carefully consider the evidence. The reopened investigation found (in line with the earlier investigation) that, although the seat of Moggill was a topic of discussion among members of the Liberal National Party prior to the state election, there was no evidence that a criminal offence of electoral bribery was committed within the meaning of section 98C of the *Criminal Code*.

A brief of evidence in relation to the provision of false evidence to the CMC is under consideration.

### **Alleged misuse of public office**

In January 2014, the CMC finalised its investigation into allegations that a then member of parliament, Mr Scott Driscoll, unlawfully used his electoral office to run a commercial business and fraudulently misused parliamentary property. As at 30 June 2014 a brief of evidence is under consideration.

### **Allegations concerning inappropriate disposal of scrap metals**

In October 2012, the CMC received information raising allegations of suspected official misconduct by a number of former and current public service employees and contractors. The allegations concerned employees dealing inappropriately in respect of the disposal of scrap metals (such as electrical wiring) and government-owned furniture.

The investigation involved examination of numerous documents as well as interviewing 32 witnesses, including subject officers.

In May 2014, the CMC referred the allegations to the department for consideration of possible disciplinary action and post-separation disciplinary action against the former employees.

### **Allegations of official misconduct at a university**

In July 2012 the CMC commenced an investigation into allegations of corruption, favouritism and misappropriation by a senior manager in the university sector. The allegations related to the senior manager receiving significant undeclared gifts and benefits from private contractors engaged by the university.

The CMC substantiated eight allegations and, in December 2013, referred them to the university for the purposes of disciplinary action. The officer was dismissed.

### **Allegations of fraud by Queensland Health employee**

In June 2012, the CMC commenced an investigation referred to it by Queensland Health, in relation to allegations that a coordinator of Queensland Health's payroll division had claimed and been paid a significant amount of overtime that was not authorised. It was alleged that some of the subject officer's claimed overtime had not been worked, and/or had not been approved by the respective line managers.

In March 2014, a brief of evidence was delivered to the DPP for consideration of commencing a criminal prosecution for fraud-related offences. In May 2014, the DPP advised that criminal charges were warranted and that each false claim should be separately charged. On 28 June 2014, the subject officer was served with a notice to appear for 46 offences of fraud pursuant to section 408C of the *Criminal Code*. This matter is now before the courts.

### **Allegations that a public servant received secret commissions**

In December 2010, the CMC completed an investigation into allegations that a senior manager of a facility on the Gold Coast operated by the former Department of Innovation, Information, Economy, Sport and Recreation had received secret commissions in excess of \$130 000 from a private cleaning/maintenance contractor at the facility.

The CMC's investigation identified 59 separate payments totalling \$133 664.45 that were allegedly made from contractors to the senior manager. In May 2014, the CMC served him with a Notice to Appear in court on 59 charges of receiving secret commissions contrary to section 442B(a) of the *Criminal Code*. This matter is now before the courts.

As part of the same CMC investigation, a cleaning, maintenance and security contractor was charged with fraud in May 2013. The 49-year-old man appeared on 7 March 2014 before the Brisbane District Court and was sentenced to 18 months imprisonment wholly suspended for two years. He was also ordered to pay \$18 345.90 in restitution to the Department of National Parks, Recreation, Sport and Racing.

### **Allegations of demands and threats on government**

In December 2012 the CMC commenced an investigation into allegations that, after a state government employee's employment was terminated in November 2012, he threatened to release information and make a complaint to police unless he was re-employed in another role in the government.

In June 2014, after having referred the matter to the DPP for consideration, the CMC issued the former state government employee with a Notice to Appear in court on one charge of demands with menaces upon agencies of government, contrary to section 54A of the *Criminal Code*. The matter is now before the courts.

### **Allegations of official misconduct against former Vice-Chancellor and Deputy Vice-Chancellor of the University of Queensland**

In September 2013 the CMC tabled its report on allegations relating to the admission of the daughter of the then Vice-Chancellor of the University of Queensland into the School of Medicine. It recommended that the Crime and Misconduct Act be amended to make it clear who has the responsibility to report official misconduct to the CMC in circumstances where the allegations are made against the public official himself/herself. The government accepted the recommendation, and section 48A of the *Crime and Corruption Act 2001* now requires agencies to have a policy to deal specifically with this situation.

The report called on all public sector agencies to consider whether their policies and procedures anticipated, and how they would deal with, the challenging circumstances of allegations of official misconduct being made against their most senior officers. The report is available at [www.ccc.qld.gov.au/uq](http://www.ccc.qld.gov.au/uq).

### **Major fraud at Queensland Health**

In September 2013, the CMC tabled its report *Fraud, financial management and accountability in the Queensland public sector: an examination of how a \$16.69 million fraud was committed on Queensland Health*. This was the final formal stage of its investigation into the fraud perpetrated by Joel Barlow and the work environment that facilitated his actions. The report included lessons learned from the Queensland Health experience and recommendations to managers and staff of public agencies. The report is available at [www.ccc.qld.gov.au/qhealth](http://www.ccc.qld.gov.au/qhealth).

The response to the report indicates that the lessons from the Barlow fraud are gaining traction within the Queensland public sector. For example:

- In the wake of the investigation, QHealth introduced a number of important fraud awareness initiatives.
- In February 2014 the Hon. Scott Emerson, as Acting Minister for Health, issued a press release citing the report and reiterating the importance of vigilance in financial management, managerial standards and accountability, acceptance of gifts and benefits, and fraud awareness and prevention.

The CMC has been requested to give presentations on fraud awareness, the learnings from the Barlow case, internal personnel security (including the indicators of high-risk employees) and other management lessons to a number of forums and peer organisations.

## Oversight of the public sector

The CMC has a statutory obligation to monitor the way in which public sector agencies deal with matters of suspected official misconduct referred to them by the CMC. The CMC may perform this function by auditing the way the agencies deal with a complaint or class of complaints.

The CMC completed an audit of matters referred to public sector agencies where the investigations had been outsourced to external investigators. (These matters were ones that required review by the CMC, which it carried out in the 2012–13 financial year.)

The purpose of the audit was to comment on whether the outsourcing of investigations by agencies is an efficient use of resources, and to determine under what circumstances an agency might use the services of an external consultant or investigator. The audit was also intended to confirm whether agencies are using established guidelines and policies relating to engaging external investigators to conduct investigations involving official misconduct.

While the findings of this audit indicate that generally external investigators met the standards of the CMC's publication *Facing the facts*, further data collection will be undertaken in the next reporting period.

In 2013–14, the CMC also:

- Reviewed a total of 181 complaints investigated or otherwise dealt with by public sector agencies, including local governments. A range of concerns were identified across agencies, including unsupported conclusions; unexplained delays in completing inquiries or investigations; the quality of material provided to the CMC for review; and the quality of investigations, particularly in relation to interviews. Overall, in 88 per cent of cases the CMC was satisfied with the way in which agencies dealt with these matters.
- Made over 102 procedural recommendations arising from our reviews to approximately 10 public sector agencies. Recommendations focused on areas such as staff training, information and workplace security, improvements to recordkeeping, and reviews or amendments of policies and procedures in relation to tendering and procurement practices.

## Misconduct prevention

Under its legislation the CMC has a function of helping to prevent misconduct. It identifies systemic weaknesses or gaps and may make recommendations, either agency-specific or more broad-based, to reduce opportunities for misconduct.

### Recommendations to agencies

Within the reporting year, agencies responded to 245 of our recommendations. Of these, they accepted 98 per cent (239). This is slightly higher compared with the previous year.

The recommendations related to matters such as having sufficient controls and mechanisms to prevent fraud; controls and risk mitigation strategies in relation to conflicts of interest and gifts and benefits; reviews or amendments of policies and procedures; improvements to recordkeeping practices; development of internal control mechanisms in relation to information security; and reviews of organisational structures to ensure clear lines of approval authority, reporting and uniformity within the agency.

## Information sessions and presentations

Information sessions designed to educate senior executives and board members of Hospital and Health Services (HHSs) about their obligations under the Crime and Misconduct Act were given to the Sunshine Coast, Gold Coast, Metro North, Darling Downs, Metro South and Children's HHS boards and executives.

Topics covered during the sessions dealt with suspected official misconduct, awareness and management of misconduct risks, and ethical issues. The impetus to deliver these sessions arose from two factors observed by the CMC – a small number of complaints indicating a lack of compliance with policies and procedures by senior executives, as well as a steady decline in the number of matters being reported to the CMC following the restructure of the Department of Health into 17 individual HHSs.

The CMC also made presentations about its role and functions to visiting delegations from West Papua, Mongolia and Abu Dhabi.

## Australian Public Sector Anti-Corruption Conference

The CMC co-hosted the fourth Australian Public Sector Anti-Corruption Conference (APSACC) in Sydney in November 2013, which was attended by 551 delegates. The conference included keynote addresses by Dr Peter Eigen, founder of Transparency International and a current member of Kofi Annan's Africa Progress Panel; Rose Gill Hearn, the former and longest serving Commissioner of the New York City Department of Investigation; and the Hon. James Wood AO QC, former Justice of the Supreme Court of New South Wales and Royal Commissioner into Corruption within the NSW Police Service.

The conference program featured a variety of national and international speakers, including a mix of police, public servants, local government officers and academics. Selected papers from APSACC conferences are available on the APSACC website, [www.apsacc.com.au](http://www.apsacc.com.au).

## Looking forward

The *Crime and Corruption Act 2001*, which takes effect from 1 July 2014, establishes a corruption function that requires the Commission to focus on investigating serious and systemic corruption within units of public administration. In June 2014, the CMC held information sessions for public service senior executives outlining changes to its jurisdiction. New guidelines for managing and investigating corruption have also been published.

In 2014–15, the Crime and Corruption Commission will give particular emphasis to:

- Implementing a robust audit plan to ensure that units of public administration are dealing with complaints, information and matters appropriately.
- Continuing to improve our timeliness in finalising investigations of serious corrupt conduct.