

A trustworthy public sector

This year, areas of focus for the CMC's Misconduct function were fraud, financial management and recruitment in the public sector, police use of force, and handling of confidential information.

Achievements

- The CMC completed 87 official misconduct investigations. As a result, 7 people have been charged with 48 criminal offences and we have recommended to the ODPP that another 4 people be charged with 77 criminal offences; 37 people have been the subject of 128 disciplinary recommendations.
- We completed two audits of complaint matters considered high-risk or priority areas: police discharge of firearms and integrity systems within agencies. These audits resulted in 14 recommendations to police and public sector agencies (see pages 28, 34).
- The CMC's report *Multiple and prolonged Taser deployments* was tabled in Parliament and made three recommendations to improve reporting and oversight (see page 30).
- Our misconduct prevention officers made 116 procedural recommendations to public sector agencies in response to key gaps or issues identified through serious misconduct investigations.
- The CMC finalised 78 per cent of its official misconduct investigations within 12 months.
- We assessed 4578 complaints of official misconduct across the public sector, 82 per cent of which were assessed within 4 weeks.
- In our monitoring role, we finalised our reviews of matters we had referred to other agencies to deal with in a median of 13 days.

Our challenges

- Continuing to effectively resource high-profile or sensitive assessments and investigations without compromising the quality and timeliness of other investigations.
- Implementing the objectives of the Independent Advisory Panel recommendations while continuing to be an effective investigative and oversight body.

Misconduct investigations

87 serious official misconduct investigations completed

7 people charged with 48 criminal offences

4 people recommended to be charged with 77 criminal offences

37 people subject to 128 disciplinary recommendations

Complaints assessed

4578 complaints of official misconduct across the public sector

82% assessed within 4 weeks

Monitoring

Median of 13 days to finalise our reviews of matters

Misconduct prevention

116 procedural recommendations to public sector agencies

Performance summary

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, 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
- monitoring and auditing how agencies manage complaints
- working with agencies to prevent misconduct.

This chapter first provides an overview of our Misconduct work across all sectors (page 24). It then describes in more detail our work with the Queensland Police Service (page 27) and the public sector (page 31).

Promoting a trustworthy public sector: 2012–13

The CMC's receipt and assessment of complaints is one means by which we keep informed of current and emerging misconduct issues across the Queensland public sector. This year we saw a decrease in the number of complaints against both police officers and public sector officials (see pages 27 and 31 respectively).

In 2012–13, the CMC finalised 87 misconduct investigations, including joint investigations with other agencies. Our investigations into alleged official misconduct by police officers were mostly related to unlawful possession and supply of dangerous drugs, unauthorised release of confidential information, and assaults, while public sector investigations focused on recruitment practices and favouritism. High-profile issues this year included the finalisation of matters arising from the Flood Commission, allegations of medical misconduct, an enrolment matter at the University of Queensland and the major fraud at Queensland Health.

Our misconduct prevention function focused on high-risk issues or matters related to the appropriate use of public resources. In 2012–13, we delivered training throughout the state to ensure that local councils and regional government offices were made aware of misconduct risk areas and of their obligations to the communities they serve.

This year has been one of transition for the Misconduct function. We completed the Building Integrity Program, our long-term collaboration with core public sector agencies to implement improved integrity systems. As at 30 June 2013, we are awaiting the finalisation of several external reviews which will have implications for our structure and functions. These include the Independent Review of the Police Complaints, Discipline and Misconduct System (SETS), currently under government consideration, and the outcomes of the review by the Independent Advisory Panel (see also page 58).

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. 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. More information is available on our website at

www.cmc.qld.gov.au/reportmisconduct.

Key performance indicators

The following assesses our performance against the 2012–16 Strategic Plan and the service standards and other measures and targets identified in the CMC 2012–13 Service Delivery Statement.

Table 4 shows our continuing commitment to improving the timeliness of our operational areas. In our monitoring role we finalised our reviews of matters we had referred to agencies

in a median of 13 days, considerably shorter than our target of 20 days. Targets relating to agency integrity systems and acceptance of recommendations were met, and we completed our long-term strategy of collaborating with major public sector agencies to implement improved integrity systems (see page 35).

Our performance can also be reviewed against results over the previous four years provided in Appendix 1 (page 111).

Table 4. Service Area: Public sector integrity

| | 2012–13 Target/est. | 2012–13 Actual | 2013–14 Target/est. |
|---|------------------------|-------------------|------------------------|
| Service standards (SDS) | | | |
| Percentage of agencies rated as managing their integrity systems to a satisfactory or better standard | 70 | 100 | n/a |
| Percentage of recommendations to agencies accepted | 85 | 95 | 85 |
| Median days to finalise a review matter | 20 | 13 | 15 |
| Percentage of investigations of police-related fatalities where Coroner has been satisfied with CMC's response ¹ | 100 | n/a | n/a |
| Other measures (SDS) | | | |
| Percentage of significant agency-managed complaints matters reviewed ² | 15 | 15 | n/a |
| Number of research, intelligence, capacity building, prevention and monitoring projects undertaken ² | 20 | 24 | n/a |
| Number of serious matters retained for CMC investigation: ^{2,3} | | | |
| (a) Queensland Police Service matters | 25 | 28 | n/a |
| (b) Other agency matters | 25 | 19 | n/a |
| Percentage of investigated matters finalised within 12 months | 80 | 78 | 85 |

The following notes explain significant variations between targets/estimates and actual performance.

1. The Memorandum of Understanding (MOU) between the CMC, the Queensland Police Service and the State Coroner is still to be finalised pending outcomes of the government's Independent Review of the Police Complaints, Discipline and Misconduct System. The MOU will define the roles, responsibilities and resourcing of each agency. In the interim, CMC investigators are attending police-related deaths in an overview capacity; they attended 11 in 2012–13.
2. In 2013–14 this measure will be discontinued for Service Delivery Statement (SDS) reporting purposes. Performance information will be available in the CMC annual report.
3. The outcome of this service standard is determined by the types of matters received that warrant further CMC investigation. In 2012–13, 47 serious matters (across both sectors) were retained for CMC investigation against a target of 50.

Combating misconduct

To carry out our misconduct functions we:

- Receive and assess complaints from public sector agencies and the community (one complaint may include multiple allegations).
- Refer complaints to appropriate agencies to deal with, and monitor and/or audit how they are managed.
- Retain and investigate the most serious allegations of misconduct, including those with a strong public interest element.

See Figure 3 below.

The CMC is not a court, nor can it discipline anyone as a result of a misconduct investigation. Where it considers further action warranted, it can refer matters to the CEO of an agency to consider disciplinary action or to the Director of Public Prosecutions 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.

Receiving and assessing complaints

New complaints and allegations

In 2012–13, the CMC received 4494 complaints, which involved 10311 separate allegations. Of the complaints received:

- 58 per cent were referred by public sector agencies
- 40 per cent came from members of the public
- 2 per cent came from government or were initiated by the CMC.

The number of complaints received represents a 15 per cent decrease compared with the previous year.

Figure 4: Complaints and allegations received between 2010–11 and 2012–13

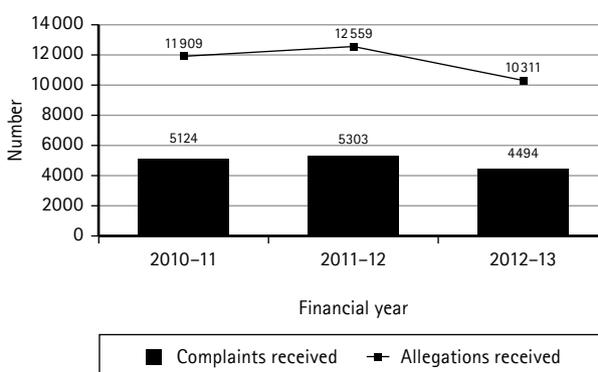
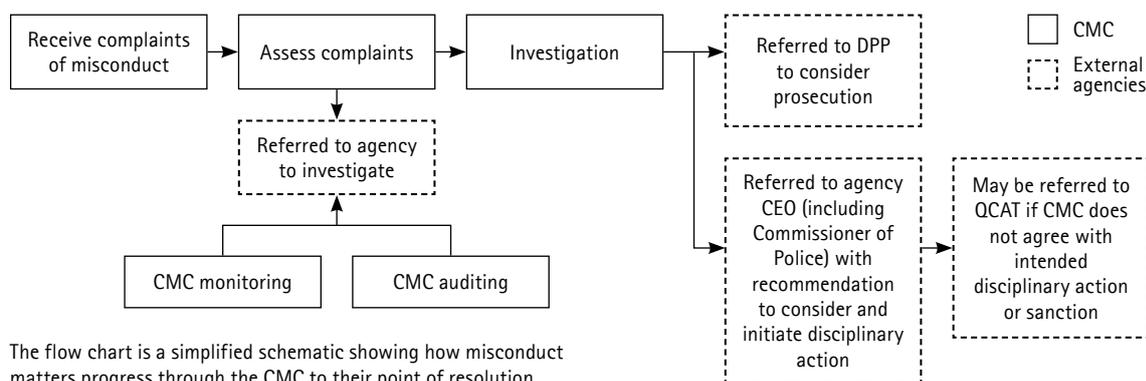


Figure 3. Misconduct matters — from complaint to resolution



There are many factors that influence trends in the numbers of complaints being made to the CMC. We note this year that the number of allegations against public sector officials has declined and, specifically, that allegations against Queensland Health employees have decreased by 38 per cent. One possible factor influencing this outcome was the implementation of the *Health and Hospital Boards Act 2011*, which took effect in July 2012. As a result, 17 Hospital and Health Networks were established.

While this decrease relates primarily to the reporting of less serious matters, there was still a 15 per cent decrease in the number of more serious allegations. The CMC continues to offer guidance to the Hospital and Health Networks in identifying potential risk areas and reporting and managing misconduct, and ensuring that the more serious allegations of official misconduct are being reported in an ongoing way.

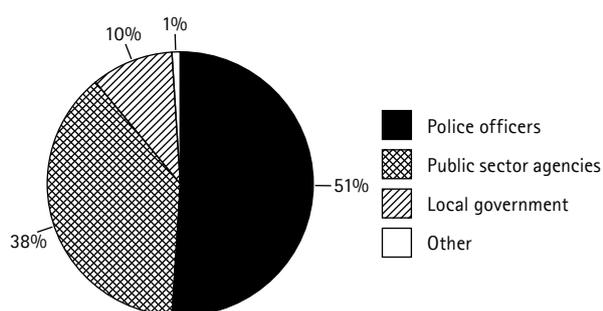
Who the allegations were about

Of the allegations made in 2012–13:

- 51 per cent related to police
- 38 per cent related to public sector agencies (including government-owned corporations)
- 10 per cent related to local government.

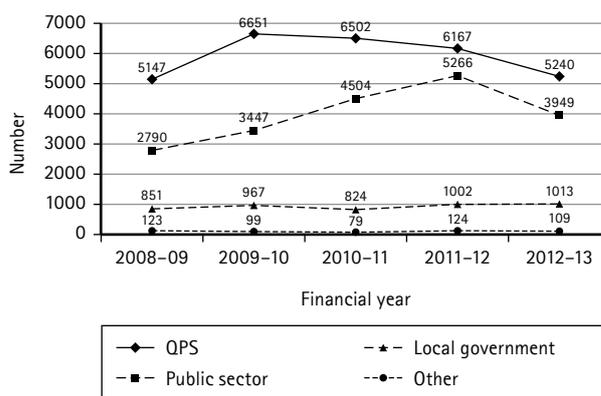
See Figure 5.

Figure 5: 2012–13 allegations by sector



Although allegations against police officers account for more than half of the allegations received by the CMC, the last four years have seen a 25 per cent downward trend in these allegations. Allegations against public sector officers decreased by 25 per cent in the last year. For further details of allegations in specific sectors, see pages 27 and 31–2.

Figure 6: Allegations by sector, 2008–09 to 2012–13

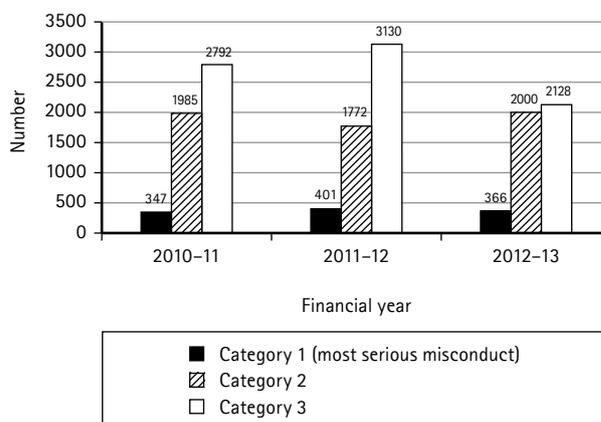


Our assessment of complaints

As part of the assessment process, 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; Categories 4 and 5 are matters that do not meet the definition of police misconduct or official misconduct. See Figure 7.

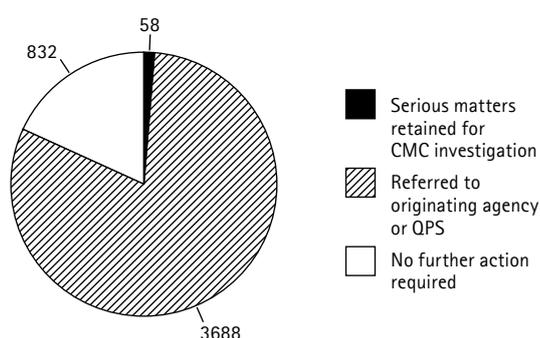
Of the 4494 complaints received in 2012–13, 82 per cent were assessed within 4 weeks of receipt.

Figure 7: Assessment outcomes



In 2012–13, the CMC retained 58 of the most serious matters for investigation, including joint investigations with other agencies. The majority of complaints assessed (81%) were referred to the originating agency or the QPS to deal with. Around 18 per cent of complaints required no further action. See Figure 8.

Figure 8: Outcomes of complaints assessed by the CMC¹



1. The number of complaints assessed in 2012–13 is higher than the number of complaints received in the year due to complaints carried forward from earlier reporting periods.

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 requires that, subject to consideration of the public interest and the capacity of a particular public sector agency, 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 receipt of outcome advice only.

In 2012–13, the CMC completed 349 reviews of agency-managed complaints. The median time to complete a review was 13 days, considerably shorter than our target of 20 days.

Audits are another strategy that enable us to scrutinise how high-risk matters have been dealt with by an agency. In 2012–13, we conducted two audits: one of police discharge of firearms and another of integrity systems within agencies. See pages 28 and 34.

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. Our decisions to investigate matters, either ourselves 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 there is likely to be an increase in public confidence in having the misconduct dealt with by the CMC directly.

In 2012–13 the CMC commenced 63 investigations, including cooperative investigations.

Outcomes of our investigations

In 2012–13 the CMC finalised 87 misconduct investigations. As a result of these investigations:

- 48 criminal charges were laid against 7 people
- 77 additional recommendations for criminal charges were made to the Office of the Director of Public Prosecutions against another 4 people
- 128 recommendations for disciplinary action against 37 people were made to the relevant agency.

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

Queensland Police Service

Assessment of police complaints

In 2012–13, we received 2190 police complaints containing 5240 allegations against Queensland police officers. The number of complaints received was 15 per cent lower than in 2011–12. Overall, 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, and inappropriate access to and/or disclosure of confidential information accounted for almost 63 per cent of the total misconduct allegations against police (Figure 9).

Where possible, the CMC and the QPS record whether complaints about police involve incidents with Indigenous people. Similarly to last year, Indigenous complaints comprised 8 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 demeanour/attitude accounted for 61 per cent of the total allegations made by Indigenous people against police.

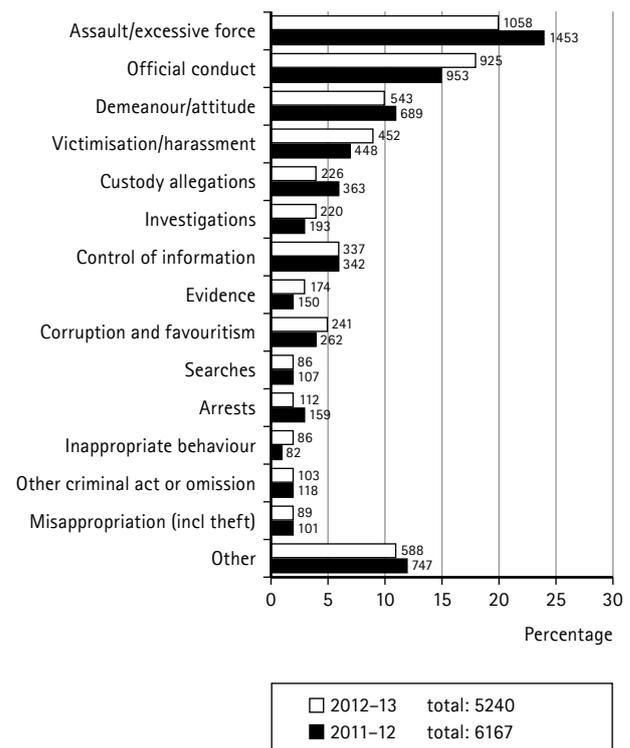
CMC investigations into allegations of misconduct

In 2012–13, the CMC conducted 43 investigations into 192 allegations of police or official misconduct. The most common types of allegations investigated related to official conduct (duty failures), the unlawful possession (use) and supply of dangerous drugs by police officers, the unauthorised release of information from the QPS database, and assaults by police officers on members of the public. As a result of our investigations, we recommended that 42 criminal and 93 disciplinary charges be instituted against 27 persons.

Investigations into police and drugs

This year we completed 3 separate investigations of 6 police officers alleged to be involved in the unlawful possession and supply of steroids, cocaine or ecstasy.

Figure 9. Allegations against police, 2011–12 and 2012–13



Timely assessment of complaints against police

A Joint Assessment Committee (JAC) involving the CMC and the Ethical Standards Command of the QPS continues to assess the more serious complaints referred to the QPS to deal with. The focus of the JAC is to maintain the efficiency and timeliness of the complaint process, and provide for the best concentration of investigative effort.

The JAC meeting was convened on 41 occasions in 2012–13 and considered 143 matters: 6 per cent of matters were identified as not requiring further action, and a further 29 per cent were considered serious enough to warrant a full investigation. Of the remaining 65 per cent of matters, the committee reached agreement on the level of investigative effort required, expectations on the standard of investigation, and timeframes for finalising the matters.

As a result of the investigations, one officer was demoted and transferred. A disciplinary brief has been forwarded to the QPS with regard to a second officer, and the remaining four officers chose to resign from the Queensland Police Service after the investigations became overt.

These investigations also raised issues in relation to inappropriate use of QPS information systems and inappropriate associations with criminals. The CMC provided information about one officer's criminal associates to the QPS, which resulted in those associates being charged with drug offences. The CMC also made a number of prevention recommendations in relation to information system controls.

Unauthorised release of confidential police information

In May 2011 the CMC received information in relation to two Queensland police officers. Our investigations identified that one of the officers and his wife, also a Queensland police officer, were allegedly conducting inquiries on the QPS database and releasing those details to a relative.

As a result of the investigation, the CMC in September 2012 referred a brief of evidence to the ODPP for consideration of possible prosecution proceedings. Following advice to the CMC from the ODPP in June 2013, three people, including an ex-police officer and a current serving police officer, were charged with a total of 42 offences.

Police assault and excessive use of force

Over this reporting period the CMC conducted nine investigations involving alleged excessive use of force by police officers.

This included a joint CMC and QPS Ethical Standards Command (ESC) investigation after video footage was released in the media showing Gold Coast police appearing to assault a handcuffed man in the basement of the Surfers Paradise police station in January 2012. The CMC completed its part of the investigation and also reviewed the investigation completed by the ESC. Although the victim declined to make a criminal complaint, the CMC agreed with the recommendations that two officers be subject to a disciplinary hearing. As at 30 June 2013, this matter remains ongoing.

As a result of community concern about use of force in police watch-houses, the CMC also commenced an independent audit of incidents of excessive force in police watch-house and holding areas. The results will be reported on in the 2013–14 period.

Monitoring QPS internal investigations of police complaints

The CMC monitors the QPS's handling of complaints through various mechanisms. These include oversight of the investigation of serious incidents involving police (see case study below); 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.

Police discharge of firearms

This project reviewed QPS "significant events" over a 12-month period in which firearms were discharged – in particular, where police shot at moving vehicles. The CMC expressed concern to the police following a perceived increase in such events in 2011–12, in circumstances that might not be in line with QPS policy and procedures.

The review considered each incident and examined the justification for the officer's actions, the investigation by the ESC, options available to police in these types of situations, and the public safety aspects of discharging a firearm in a public place at a moving vehicle.

The CMC review found that police investigators were sometimes inconsistent in their approach to crime scene management, did not fully exploit the use of video re-enactments, on occasion asked leading or closed questions preventing free memory recall, and were reluctant to consider criminal charges or propose disciplinary action.

The review also looked at the role of the Queensland Police Union of Employees (QPUE) attending these matters. The CMC recommended that, to avoid the possible contamination of information and evidence, the QPS and the QPUE agree on protocols for disclosure of information.

The CMC has written to the Queensland Police Commissioner notifying the QPS of the project's findings and recommendations.

This year, 114 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 94 per cent of the cases, compared with 85 per cent in 2011–12.

In the remaining matters, we identified a range of concerns and raised them with the QPS, including conflicts of interest, unexplained delays in completing inquiries or investigations, and poor analysis of the available information.

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 regarding 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 11 police incidents across the state. They included traffic fatalities following police contact or police pursuits, and self-harm by civilians resulting in death. The CMC attended each incident as part of its oversight function 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 such as would warrant the CMC's further involvement, including assuming control of an investigation if that is 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 2012–13 the CMC examined 102 reviewable decisions and made application to QCAT to review 7 cases; we considered that either the findings in those cases were inconsistent with the relevant law and facts or the sanctions were disproportionate to the facts. Three further review proceedings had been commenced by the CMC in the previous financial year and were still ongoing this financial year. Two matters involved appeals to the QCAT appeal jurisdiction and one involved an appeal to the Court of Appeal.

Of these matters, two cases were decided by QCAT (one in favour of the CMC, the other confirming the original decision of the QPS); two cases were heard and are awaiting decisions from QCAT; one case was discontinued by the CMC; and the balance of cases are awaiting determination.

Significant police discipline matters this year included:

- A review of the QPS decision to impose a suspended demotion on a police officer who failed to act after receiving a telephone call from a local resident regarding an abandoned vehicle parked in Wyandra. Five days later the body of the driver of the vehicle was located in bushland approximately 650 metres from his abandoned vehicle. QCAT's decision removed the suspension over the officer's demotion.
- A review of the QPS decision not to commence disciplinary action against a constable who was convicted of common assault against a member of the public. When the officer was convicted, the court found that "the force used in the application of the four knee strikes [against the man] was not authorised, justified or excused by law". The subject officer made an application to "strike out" the CMC's application, arguing QCAT had no jurisdiction to determine the matter; however, QCAT decided in favour of the CMC (that is, that the review should continue). The subject officer subsequently appealed against that decision to QCAT's appeal jurisdiction, and that appeal is ongoing.
- As reported last year, the CMC appealed in the QCAT appeal jurisdiction against a QCAT decision confirming the sanction (that is, a suspended demotion) the QPS had imposed on a sergeant. This sanction had been imposed for misconduct arising from the sergeant's lack of action as search and rescue coordinator with respect to the sinking of the *Malu Sara* vessel in October 2005,

in which five people perished. On 20 February 2013, QCAT allowed the CMC appeal and removed the suspension on the subject officer's demotion, concluding that a suspended sentence "cannot reasonably be said to reflect the seriousness of that misconduct" and that the misconduct "goes to the heart of the role the officer was undertaking in the course of part of his duties – protecting the community". The subject officer has appealed to the Court of Appeal.

QCAT review of QPS sanction in case of substantiated misconduct

Early in 2013, QCAT undertook a review of a QPS decision in relation to sanctions imposed on a constable arising from three substantiated charges of misconduct. The sanctions imposed were a reduction in salary and a suspension from the service for 12 months. When the matter proceeded to hearing before QCAT, the CMC sought dismissal of the officer. QCAT's decision is pending, having reserved its decision after the hearing.

The misconduct had occurred across approximately a four-year period and comprised a range of behaviour, including that the officer had:

- inappropriately accessed and/or released QPS information
- inappropriately investigated a complaint of break and enter for a dwelling in which he resided and subsequently arrested a suspect for that offence (that is, there was a conflict of interest)
- engaged in an act of reprisal against another officer, by arranging for a can of dog food and a dog bowl to be given as a "secret Santa" gift to another officer whom he suspected of having reported discipline matters
- failed to report suspected misconduct relating to disclosure of information and identification of informants
- inappropriately discussed details of CMC coercive hearings, in which he was called as a witness, with another witness, including discussing the need to get their stories straight.

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.

Tasers

In June 2013, the CMC tabled in Parliament a report on multiple and prolonged Taser deployments. We found that most multiple or prolonged deployments appeared to be appropriate, and were targeted at people who were displaying violent behaviour. In such situations, the use of a multiple or prolonged deployment may minimise the risk of injury to the police officer, the person concerned or bystanders.

The report included three recommendations to the QPS, including that police record the reason for, and effect of, each Taser cycle during an incident. This will enable an appropriate level of scrutiny of each deployment. In the next reporting period we will examine QPS use of force more broadly. See www.cmc.qld.gov.au/tasers.

Police integrity

In June 2013, we provided a research paper to the QPS which showed the importance of officers' perception of QPS ethical culture as a predictor of intention to report misconduct. This was a somewhat unexpected finding, as several previous studies had emphasised the importance of a range of job-related factors in understanding issues relating to police ethics and misconduct.

We found that the QPS can generate significant improvements in its ethical culture and improve misconduct reporting by ensuring that officers have a clear understanding about what is and is not acceptable behaviour, and that supervisors model ethical behaviour and communicate to officers the importance of doing "the right thing". See www.cmc.qld.gov.au/ethical-culture-survey.

Indigenous people in policing roles

In September 2012, we published a report on Indigenous people in policing roles (a follow-up review to the CMC's 2009 *Restoring order* report). This report confirmed that individuals in these roles can play an important part in improving police legitimacy in the community. For example, they can build relations between police and the community, assist the community to deal with crime and disorder, support the delivery of policing services by sworn officers, and help balance the enforcement of state laws and local lore and custom.

The report made 10 recommendations that focus the Indigenous policing roles on local crime and public safety priorities, and better manage the risks and challenges associated with performing the roles. The government is still considering its formal response to these recommendations. However, since publication of the report, in line with one of the recommendations, the QPS has taken full responsibility for day-to-day policing in the Torres Strait and now directly employs the Community Police Officers working in the region. See www.cmc.qld.gov.au/indigenous-policing-roles.

Policing and crime prevention in remote and discrete Indigenous communities

This year we commenced a project that reviews crime and safety planning in discrete and remote Indigenous communities. Specifically, we are examining the degree to which police prioritise crime prevention strategies and how well these align with the crime prevention strategies identified in local plans. We will present the findings of this work in the next reporting period.

Public sector (including local government)

Assessment of public sector complaints

In 2012–13, the CMC received 2010 complaints containing 3949 allegations against public sector employees, 23 per cent lower than in 2011–12. As mentioned earlier, this decrease may reflect the reduction in complaints about Queensland Health officers following the implementation of the *Health and Hospital Boards Act 2011* in July 2012 (see page 25).

The 3949 allegations against public sector employees represented around 38 per cent of total allegations received by the CMC. Allegations of inappropriate official conduct, corruption and favouritism, assault, misappropriation, and victimisation or harassment accounted for 70 per cent of the allegations made against officers from public sector agencies, excluding local government (Figure 10).

In the local government area we received 417 complaints of official misconduct involving local governments, which is comparable to the previous year. The complaints contained 1013 allegations, or 10 per cent of all allegations made to the CMC. Of these:

- 9 per cent involved local governments
- 16 per cent were against councillors
- 75 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

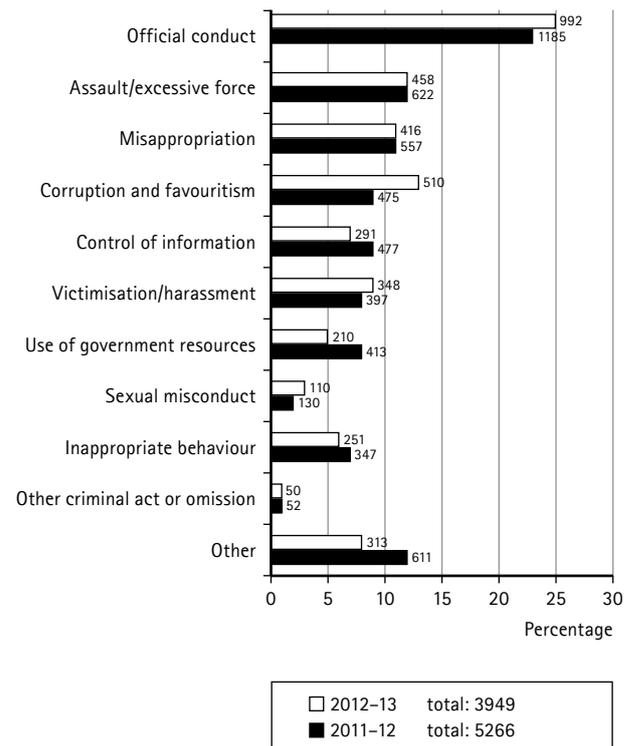
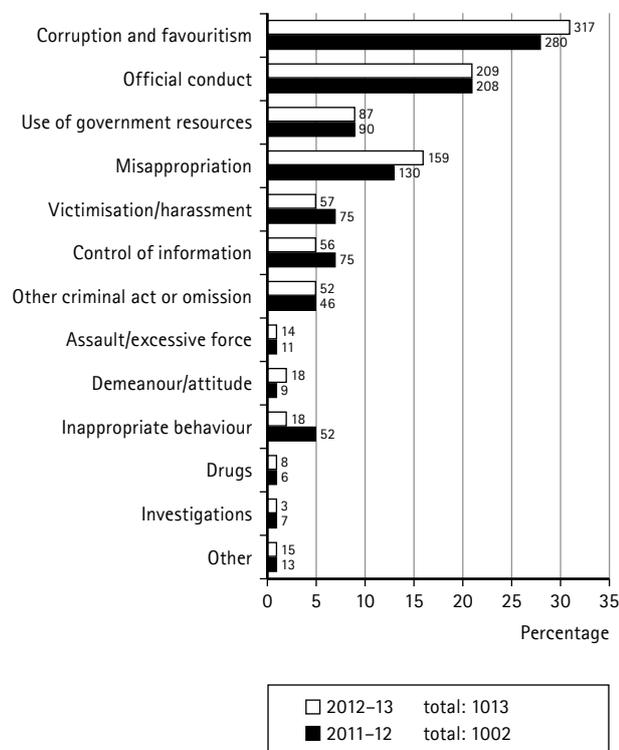


Figure 11. Types of allegations — local government



In 2012-13 the CMC exercised its power pursuant to section 256 of the Crime and Misconduct Act to engage suitably qualified persons in order to deal efficiently with the assessment of three complex complaints of suspected official misconduct, each requiring consideration of the legislative frameworks of specialised public sector environments, as well as voluminous material.

Queensland Floods Commission of Inquiry

In August 2012, retired Justice of the Queensland Court of Appeal John Jerrard QC finalised his examination of matters relating to the conduct of several engineers during the 2010-11 Queensland floods. The matter had been referred to the CMC by the independent Queensland Floods Commission of Inquiry (see last year's annual report).

According to Mr Jerrard's advice, an inherent contradiction existed between the manual's flood strategy flowchart (W1 to W4) and a definition of Strategy 2 W2, as later referred to in the manual. This contradiction provided an explanation for the engineers' inconsistent statements and descriptions of what they had done. On that basis the CMC was satisfied there was no evidence to suggest the conduct of the engineers amounted to official misconduct and/or a criminal offence.

Independent assessment of health matters

In July 2012, retired Justice of the Queensland Court of Appeal Richard Chesterman AO RFD QC provided the PCMC with his final report relating to a series of allegations about medical matters (see last year's annual report). A redacted version of that report was tabled in the Legislative Assembly on 23 July 2012.

The report made four recommendations which highlighted the need for stronger legal participation in the review of complaints about medical cases. One recommended the appointment of an experienced criminal legal practitioner to examine previous disciplinary sanctions made by the Medical Board of Queensland, the Queensland Board of the Medical Board of Australia and the Australian Health Practitioner Regulatory Authority. The review would look at the last five years where a patient died or suffered serious bodily harm to determine if criminal charges should be laid.

In July 2012, the Minister for Health stated that each of the recommendations would be implemented. Notably, Mr Jeff Hunter SC was commissioned to review complaints about medical cases in which patients died or suffered serious bodily harm. As a result of Mr Hunter's review, the actions of six doctors were referred in March 2013 to the Queensland Police Service for consideration in terms of criminality. These included incidents reported from public and private hospitals, and private doctors' rooms and clinics located across the state.

Concerns in relation to approval process of coal seam gas projects

In March 2013, the CMC received complaints concerning the then state government's approval of two major coal seam gas projects in 2010. The concerns focused on the approval process generally and, more specifically, on the environmental impact statement preparation and drafting of the Coordinator-General's report.

Due to the specialised and complex nature of the approval processes and the volume of material to be considered in assessing the matters, the CMC engaged the services of former Justice Stanley Jones AO QC to undertake the assessment. Judge Jones is to provide written advice to the CMC as to whether the material raises a reasonable suspicion of official misconduct. That assessment is ongoing.

CMC investigations into allegations of official misconduct

During 2012–13 the CMC commenced a number of investigations into official misconduct, some of which have been the subject of considerable public interest and media attention. A recurring theme in these investigations has been allegations involving the misuse of power and authority, most notably in the area of appointments to positions in the public service. A large proportion of allegations have required the CMC to consider closely the use of a public official's power to appoint persons to temporary positions in the public service. These investigations continue to occupy a significant amount of the CMC's resources, and it is anticipated that these matters will be finalised during the next reporting period.

In 2012–13, the CMC completed 44 investigations into 253 allegations of official misconduct in the public sector (including local government). The two most common types of allegations investigated were inappropriate official conduct (duty failures) (47%) and corruption and favouritism (misuse of power and authority) (23%). As a result of our investigations, we recommended that 4 criminal and 35 disciplinary charges be instituted against 17 persons. A further 77 recommendations for criminal charges are awaiting advice from the ODPP. As at 30 June, two significant public sector investigations were having public reports finalised.

Suspected official misconduct at the University of Queensland

As reported in last year's annual report, the CMC was finalising its activities in relation to a forced offer for entry into the University of Queensland's 2011 medical program (MBBS). In November 2012, the ODPP advised there would be no criminal charges against any person involved in the making of the forced offer.

The CMC's quality review made 49 recommendations to the University of Queensland in relation to the implementation or improvement of relevant policies, procedures and practices in key integrity areas, including complaints management, conflicts of interest, public interest disclosures, gifts and benefits, procurement/contracting, secondary employment, and fraud and corruption control. The university has noted and/or accepted the majority of the recommendations. The CMC will be following up on the implementation of all recommendations in the 2013–14 reporting period.

As at 30 June 2013, a public report into the matter was being finalised and this will be published in the next reporting period.

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 them to access the CMC's unique powers as well as 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.

Major fraud at Queensland Health

As reported in last year's annual report, in December 2011 Hohepa Morehu-Barlow (aka Joel Barlow) was charged by the QPS with fraud offences against the then Queensland Health and other offences for allegedly misappropriating in excess of \$16.6m. In March 2013, Barlow pleaded guilty to a number of offences and was sentenced to 14 years imprisonment.

The CMC conducted a misconduct investigation, in conjunction with Queensland Health and the QPS, into the circumstances, including the actions of other employees, which surrounded the offences by Barlow. The investigation report was provided to the Department of Health in May 2013. As at 30 June 2013, a public report into the matter was being finalised and will be published in the next reporting period.

Monitoring

In 2012–13, the CMC:

- Reviewed a total of 235 complaints investigated or otherwise dealt with by public sector agencies, including local governments. A range of concerns were identified across all agencies, including lack of timely response; the quality of investigations, particularly of interviews; unexplained delays in completing inquiries/ investigations; and the quality of material provided to the CMC for review. Overall, in 91 per cent of cases the CMC was satisfied with the way in which agencies dealt with these matters.
- Made over 430 procedural recommendations to approximately 20 public sector agencies. Recommendations focused on areas such as staff training, information security, workplace and client security, and reviews or amendments of policies and procedures in relation to procurement practices.
- Audited complaints from a general compliance and integrity perspective. The CMC found that agencies generally dealt appropriately with complaints referred to them by the CMC. Agencies identified prevention opportunities and put appropriate strategies in place. The CMC raised some concerns about the way agencies identified and assessed risk in relation to public interest disclosures.

The CMC noted increased outsourcing of investigations by public sector agencies in 2012–13. As such outsourcing is likely to represent a significant expense for government, the CMC will undertake an efficiency and effectiveness audit of these arrangements in 2013–14.

General compliance and integrity audit

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.

This year, the CMC conducted an audit of how the public sector and local governments (excluding the QPS) dealt with complaints, with a focus on compliance with the standards outlined in the CMC publication *Facing the facts*, of timeliness, integrity and appropriateness of outcomes. The results of the audit were used to identify the standards of practice applied by public sector agencies, build on examples of high standards, and address any individual or systemic deficiencies.

The audit results indicate that in most instances agencies appropriately deal with complaints in accordance with standards of compliance, integrity and timeliness. Most matters were dealt with by way of management action or investigation. The CMC recommends that agencies consider providing training opportunities for managers and supervisors in:

- recordkeeping practices
- assessing and managing public interest disclosures
- risk analysis and organisational analysis
- the evidentiary burden and standard of proof for administrative investigations
- encouraging feedback from complainants and other stakeholders to improve complaints management and integrity systems.

Oversighting misconduct matters in youth detention centres

In 2012–13 the CMC and the Commission for Children and Young People and Child Guardian continued to liaise closely about alleged assaults against young people in detention (see last year's report). During this period, responsibility for detention centre staff moved to the Department of Justice and Attorney-General as a result of machinery-of-government changes. The CMC is now working with that department to ensure timely, independent reporting of possible misconduct and to resolve the identified cultural issues.

The CMC has also liaised with the Commission for Children and Young People and Child Guardian about updating our information-sharing protocol and other work that could jointly be done to inform young people in detention about complaint processes.¹

¹ Note that in his final report delivered on 1 July 2013 to the Queensland Child Protection Commission of Inquiry, Commissioner Tim Carmody QC recommended the abolition of the Commission for Children and Young People and Child Guardian.

Misconduct prevention

Under its legislation the CMC has a function of helping to prevent misconduct. Prevention officers are attached to our investigation teams, enabling them to review relevant systems, policies, procedures and work practices. They identify systemic weaknesses or gaps and may make recommendations, either agency-specific or more broad-based, to reduce opportunities for misconduct. Within the reporting year, agencies responded to 621 of our recommendations.² Of these 621, they accepted 95 per cent (591). This is comparable to the previous year.

Prevention information – addressing potential risk areas

CMC prevention officers provide information to agencies, including councils, about areas that present opportunities for misconduct. This year the areas highlighted included:

- misconduct risks and decision making in the procurement chain
- fraud awareness
- social media, misconduct and public officials
- public interest disclosures (with the Queensland Ombudsman's office)
- corruption dangers in outsourcing and continuing risk mitigation – guarding against fraud in government procurement (with the Queensland Government Chief Procurement Office, the Queensland Audit Office and Queensland Treasury).

² Not all recommendations were made within this reporting period.

Promoting a trustworthy public sector – the Building Integrity Program

One of the CMC's strategic priorities in the period 2010–13 has been to progressively build agencies' capacity to manage and be accountable for the misconduct of their own officers, subject to our oversight. In 2012–13, through our Building Integrity Program (BIP), we have now worked with all core public sector agencies to help them implement improved complaints management and integrity systems. (For a full description of the project, go to our website www.cmc.qld.gov.au/bip.)

The first two years of the BIP program saw four "early adopter" agencies – Brisbane City Council, Queensland Health, the Department of Employment, Economic Development and Innovation and the Department of Justice and Attorney-General – rated as at least "competent" in relation to their integrity systems.

In 2011–12, the CMC assessed the integrity systems of 12 government departments in existence before the machinery-of-government changes that followed the 2012 elections. In 2012–13 we evaluated the three remaining departments (the Department of Transport and Main Roads, the (former) Department of Education and Training, and the (former) Department of Communities).

In evaluating these departments, the CMC:

- reviewed each department's integrity framework, including the related policies and procedures
- surveyed more than 2243 departmental staff to ascertain their knowledge of and trust in departmental complaints and integrity systems
- used survey results to assist agencies to identify implementation issues or possible areas for improvement
- audited how departments dealt with actual complaints, and examined 113 matters referred to them by the CMC.

Outcomes and recommendations

The evaluation reports assessed the integrity frameworks of all these departments as being at least "effective", exceeding our performance target. Nonetheless, we were able to provide them (collectively) with 143 suggested actions for improvement. Across the departments there was scope for improving policies and procedures dealing with official misconduct, implementing recommendations dealing with systemic issues, and training managers and supervisors on issues such as identifying and managing conflicts of interest and secondary employment.

Since the integrity frameworks are broadly transferable, it is expected that agencies established under the most recent machinery-of-government changes will take with them the integrity systems from the parent agencies assessed by the CMC.

Prevention initiatives for local government

- The councillor conduct guide released in October 2011 was updated to reflect changes to legislation which impact on the way councillors perform their role under the *Local Government Act 2009*.
- CMC prevention officers travelled through south-west Queensland to visit six regional councils and presented to approximately 70 people (including mayors, councillors, CEOs and other senior officers) on a range of topics including councillor obligations, reporting obligations under the Crime and Misconduct Act, and a range of misconduct prevention discussion points.
- The CMC attended two local conferences held by individual Local Government Managers Australia regional branches, thereby reaching out to over 20 councils.
- The CMC participated in two Local Government Association of Queensland (LGAQ) LocalBuy State Conferences, including panel discussions on the requirements of procurement in the Local Government Act, and misconduct risks associated with procurement.

- Prevention officers were invited to deliver training to 14 staff at Logan City Council on implementing procedural recommendations arising from misconduct investigations.
- A CMC prevention officer addressed the Far North Queensland Regional Organisation of Councils Buying Group Forum on the topic "Lessons learnt from the NSW Local Government toner cartridge fraud – could it happen in Queensland?"

Regional corruption prevention workshop in Indonesia

In September 2012, the CMC provided a subject matter expert to participate in a joint training workshop in Bandung, Indonesia at the invitation of the Australian Transaction Reports and Analysis Centre (AUSTRAC) under an AusAID-sponsored capacity building project for the Indonesian Government integrity agencies. Three sessions titled "Corruption prevention and investigations using anti-money laundering tools" were delivered by the CMC's Principal Misconduct Prevention Adviser to 42 representatives of six Indonesian integrity agencies, along with two further sessions that were co-facilitated on money laundering and asset confiscation.

Looking forward

In 2013–14, while pursuing the priorities listed in the *2013–17 Strategic Plan*, we will:

- Focus our resources to the greatest extent possible on assessing and investigating the most serious misconduct matters.
- Improve the timeliness of the most serious misconduct investigations conducted by the CMC.
- Implement any government-endorsed recommendations arising out of the Independent Review of the Police Complaints, Discipline and Misconduct System and the Independent Advisory Panel review, including any changes to processes and structures.
- Focus our research largely on policing issues including use of force, interviewing of police suspects, and crime and safety planning in remote Indigenous communities.