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Our Reference:AD-22-0188-01 22/056474
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SENSITIVE

11 April 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners,

RE: Request for additional information Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry)

I refer to your correspondence dated 5 April 2022 and 7 April 2022, in which you have requested additional information to supplement the information provided by the Crime and Corruption Commission (CCC) on 1 April 2022. Each matter will be addressed separately.

Detailed organisational chart was requested. For seconded police officers can you please provide further detail in relation to the informal and formal reporting arrangements for these officers and how these arrangements intersect with structures and reporting arrangements for civilian staff.

1. A further, more detailed Organisational Chart is provided at **Attachment A**.
2. The detailed Organisational Chart identifies whether staff are civilian or from the Queensland Police Service (QPS) and the formal reporting arrangements between them.
3. There are no informal reporting structures within the CCC.

A breakdown of police and civilian investigatory roles. For civilian roles, please outline the qualifications, skills and experience of those officers and provide an indication whether staff employed as civilian investigators also have a policing background, whether in Queensland or other jurisdictions.

4. In the Crime division, there are currently 14 seconded police in investigatory roles and 0 civilians in investigatory roles.
5. In the Corruption division, there are currently 19 seconded police in investigatory roles and 11 civilians in investigatory roles.
6. To clarify, these numbers do not include specialist investigator roles such as financial investigators, intelligence analysts, human source officers and forensic computing investigators.
7. A policing background is not required for civilian investigator roles. However, of all civilian investigators currently at the CCC, only one does not have a policing background.
8. Please refer to the following attachments for an outline of the qualifications, skills and experience required to fill the roles of the civilian investigator positions:
 - **Attachment B** - Director of Corruption Operations;
 - **Attachment C** - Senior Investigator; and
 - **Attachment D** - Investigators.

The CCC's engagement in strategic workforce planning. Specifically, information relating to the mapping of the skills and capabilities required to investigate corruption matters based on: a) data about the types of matters being reported and investigated, and b) whether the required skills and capabilities match the actual skills and capabilities of CCC staff, including seconded police officers.

9. The CCC has a deliberate and structured approach to strategic workforce development. The CCC Futures Workforce Strategy defines a clear vision and roadmap that will ensure the CCC workforce continues to evolve to effectively combat major crime and reduce corruption.
10. The CCC's approach to strategic capability development is informed by its Workforce Strategy, Areas of Focus (which reflect existing and emerging trends), and strategic opportunities and risks. This approach targets investment at building core capabilities that are central to the performance of the CCC's functions.
11. Recent strategic plans have focused on developing the CCC's digital, analytics and workforce capabilities, recognising the growing impact of sophisticated technology as an enabler of crime and corruption.
12. Investments in new technology and training demonstrate the CCC's commitment to developing the necessary skills and capabilities in its officers.
13. The capability of corruption investigators is central to the performance of the corruption function. As outlined in the CCC's submission, CCC corruption investigators have a baseline investigation capability that enables them to undertake investigations into a variety of matter types. Seconded police are trained detectives and civilian investigators can demonstrate a capability to conduct investigations.

14. The CCC is not in a position to recruit investigators who specialise in the investigation of particular matter types. This is because the nature of the CCC's work changes over time and potential candidates seeking employment at the CCC may not have the specialised skill required.
15. CCC corruption investigations are conducted by multi-disciplinary teams comprised of commission officers who have different skills and capabilities. The capabilities in the multi-disciplinary team are augmented by the specialist capabilities located elsewhere in the CCC (e.g. forensic computing, surveillance, etc). The CCC suggests that the core investigation capability provides a solid foundation for all corruption investigations, and augments these skills, where necessary. Additional specialist skill can be accessed to both guide the investigation and develop the capabilities of individual officers (with the potential to be incorporated into individual performance plans where appropriate).
16. Ensuring the CCC can retain seconded police officers to balance skillsets and capabilities is another reason that the QPS Secondment Policy provides a degree of flexibility.
17. If the CCC has a need to access niche or specialist knowledge, the CCC will source that skill via other means. The CCC has a history of partnering with units of public administration to source additional capability via secondments. Recent examples of this include Taskforce Flaxton, where officers from Queensland Corrective Services were seconded to the CCC, and the Wellers Hill investigation, where officers from the Department of Education were seconded to the CCC.
18. In March 2020, the CCC developed a Strategic Workforce Planning Model (SWPM) to inform strategic workforce planning decisions aligned to annual strategy and budgeting decisions. Operational priorities since March 2020, including the COVID-19 pandemic, have meant that further development and use of this tool has not progressed.
19. The SWPM provides a two-year view of the full-time-equivalents (FTE) required for each division to deliver a forecast portfolio of work. The SWPM is designed to take an enterprise view of the workforce, prioritising strategic changes and bringing into focus skills and capabilities that matter most to the strategy.
20. The SWPM works largely on an activity-based demand model, which calculates required FTE by multiplying the number of anticipated activities by the amount of effort required to complete the activity.
21. At the highest level, the SWPM considers five core 'activity' types: investigations; projects; witness protection; corporate services and indirect time. Each of these core activities comprises multiple levels of activity, allowing the model to be updated based on assumptions for different activities. The assumptions used for the type of matter being investigated can be adjusted to reflect the different resourcing and timeframe profiles of different types of investigations (the model already differentiates between three different types of corruption investigation).
22. However, mapping has not been performed in relation to:
 - a) data about the types of matters being reported and investigated; or
 - b) whether the required skills and capabilities match the actual skills and capabilities of CCC staff, including seconded police officers.

Section 4.1.3. of Part 2, Section 2 of the Operations Manual sets out the circumstances in which independent advice is sought on certain cases and notes it ‘may include cases in which mandatory suspension or disqualification from office is a consequence of charging or conviction’. Please advise why the obtaining of independent advice is not mandatory in those circumstances.

23. In drafting the criteria which govern when the CCC would seek external advice (either from the Office of the Director of Public Prosecutions or Senior Counsel), the intention was to provide decision-makers (in this case, executive officers who are experienced lawyers) with a degree of latitude to consider whether such advice is necessary in all the circumstances.
24. There is a degree of discretion involved in the decision as to whether a particular case warrants obtaining external advice. It must be recognised that the CCC has its own lawyers, and that a comprehensive legal review of each matter is now required by policy. Noting that the decision-makers along the way are also experienced lawyers, it is considered that they are well-placed to make the decision about whether such advice is required.
25. In most cases a statutorily mandated suspension or disqualification from office will be a matter that weighs strongly in favour of obtaining external advice. However, there will be cases, from time to time, where the matter is straight forward and where referral for external advice is not necessary.

Copies of the Code of Conduct, Risk Management Framework and Risk Appetite Statement.

26. Please refer to the following attachments:
 - **Attachment E** – Code of Conduct
 - **Attachment F** – Risk Management Framework
 - **Attachment G** – Risk Appetite Statement

Any documents or information detailing the processes for auditing the conduct of seconded police officers against the CCC’s practices, procedures, code of conduct and any other ethical principles either on an ad hoc basis, periodically or following unsuccessful prosecutions or in any other circumstances.

27. The CCC records its successful and unsuccessful prosecutions as an agency. It does not correlate the individual performance outcomes for seconded police officers to the success or failure of a prosecution.
28. The CCC considers measuring the individual performance of a seconded police officer in relation to a successful or unsuccessful criminal prosecution would lead to it becoming an unintended influence, when the purposes of the *Crime and Corruption Act 2001* (CC Act) are broader than achieving a criminal prosecution, for example, the CCC is to –
 - a) raise standards of integrity and conduct in units of public administration; and
 - b) help units of public administration to deal effectively and appropriately with corruption by increasing their capacity to do so.
29. There are several internal requirements listed in the Operations Manual section MM02 a seconded police officer must adhere to, prior to making a decision to lay charges. While the decision to charge is for the seconded police officer, multiple disciplines contribute to this decision, including, for Corruption matters, lawyers and the Senior Executive Officer (Corruption). The Chairperson (or

their delegate) considers the matter and decides if it should be referred to the seconded police officer for consideration of charges.

30. The conduct of seconded police officers is subject to the CC Act and the *Police Service Administration Act 1990* (PSAA). Seconded police officers are bound by the CCC's Code of Conduct and are bound as police officers by the Code of Conduct for the Queensland Public Service. Further, as police officers they are bound by the QPS Standard of Professional Practice which sets out the integrity and ethical framework.
31. The performance of a seconded police officer is managed by a manager of at least one level higher in rank to them. Briefings are conducted on a frequent basis in relation to the progress of investigations which provide a day-to-day oversight of a seconded officer. Further, the reporting structure outlined in **Attachment A** shows the level of oversight for each seconded officer.
32. The seconded police officer's accoutrements and police files are inspected on a monthly basis and those results are entered into the Police Group App.
33. The seconded police officer's performance is managed by the QPS Development and Performance Review Policy. The CCC will provide these documents to the Commission of Inquiry should QPS provide approval to do so.
34. The CCC recognises that reflection and critical analysis is central to continuous improvement. Consequently, structured processes are included in significant CCC activities to capture and embed good practices, and to identify and address practices that require improvement. For example
 - The *Portfolio program and project management framework*, which seeks to achieve a consistent and structured approach to portfolio, program and project management, includes the requirement to prepare a project closure report. A project closure report must capture lessons learned and identify how changes delivered by the project can be sustained and supported in the future.
 - Chapter MM01 – Matter Management, planning and conduct of the CCC Operations Manual (Operations Manual) recognises that the capabilities required to progress the investigation and the assessment of opportunities for improvement should be front-of-mind for Case Officers throughout the investigation. At Feasibility stage, the requirements and capabilities required to progress an investigation are central to proposing a recommended course of action. During delivery, the Case Officer will continually assess the progress of the investigation, having regard to the investigation scope and requirements, and to the capability of individuals working on the investigation. Section 4.2.4 Post-delivery relates to post-closure activity and includes an assessment of whether the investigation achieved its purpose and whether opportunities for improvement can be identified.

Any information or documents detailing processes for complaints against seconded police officers including any external review processes in relation to those complaints such as via the Parliamentary Commissioner.

Processes for receiving complaints

35. There are numerous ways for a person to complain about the conduct of a police officer seconded to the CCC, including to the CCC, the QPS, and the Parliamentary Crime and Corruption Committee (PCCC).

To the CCC or PCCC

36. An internal complaint will either be a report of suspected improper conduct sent to the Chief Executive Officer (CEO) or a workplace complaint. An external complaint, whether from the PCCC or other external stakeholder, will be by way of correspondence to the CCC, which is generally sent directly to the CEO.
37. A complaint, whether formal or informal, may be made in person, via telephone, through the web portal, or by email.
38. The CCC's website provides information about complaints to the CCC and PCCC:

Complaints about the conduct of a CCC officer

To make a complaint about alleged improper conduct by a CCC officer, please email the CCC's Chief Executive Officer at CEO@ccc.qld.gov.au.

Complaints about the CCC's service

You can make a complaint about our services or a service provided by a CCC officer to the CCC or to our Parliamentary oversight committee, the Parliamentary Crime and Corruption Committee (PCCC).

To make a complaint about a CCC service or the service provided by a CCC officer, you can:

- *call us on 07 3360 6060*
- *email us at mailbox@ccc.qld.gov.au*
- *complain in writing using our service delivery complaint form (DOC).*

Written complaints should be sent to:

*General Manager, Corporate Services
Crime and Corruption Commission
GPO Box 3123
Brisbane Qld 4001*

You can also make a complaint about the CCC's services to the Parliamentary Crime and Corruption Committee (PCCC). Contact details of the PCCC are available at: <https://www.parliament.qld.gov.au/work-of-committees/committees/PCCC>.

To the QPS

39. The QPS website contains a form to provide feedback for a service or interaction provided by the QPS and/or a staff member or Police Officer employed by the QPS.¹

Processes for dealing with complaints

40. The CCC has developed a complaints management system for managing various types of complaints against commission officers. The definition of 'commission officers' includes police seconded to the CCC under section 255 of the CC Act.² Accordingly, the policies and procedures apply to seconded police. They include:

¹ <https://forms.police.qld.gov.au/launch/feedback>

² *Crime and Corruption Act 2001* (Qld) (CC Act), s257.

- *Complaints against commission officers policy and procedure (Attachment H);*
- *Protocols for reporting suspected improper conduct of officers of the CCC (Attachment I);*
- *Public interest disclosures against commission officers policy and procedure (Attachment J);* and
- *Customer Service Complaints policy and procedure (Attachment K);* and
- *Discipline policy and procedure (Attachment L).*

41. A summary is provided below.

Complaints against commission officers' policy and procedure

42. The Complaints against commission officers' policy and procedure (Complaints Policy) is the CCC's overarching policy for internal complaints. It applies to all commission officers.

43. The Complaints Policy divides complaints into four categories:

- Improper conduct complaints;
- Workplace complaints;
- Customer service complaints; and
- Human rights complaints and considerations.³

44. The Complaints Policy details:

- the channels by which complaints come to the CCC;⁴
- the procedure for assessing the complaint;⁵
- the procedure for dealing with Workplace complaints (including internal review);⁶
- the procedure for dealing with Customer service complaints; and ⁷
- the procedure for dealing with Human rights complaints. ⁸

45. If the complaint raises a suspicion of improper conduct, the Complaints Policy stipulates that the Protocols for reporting suspected improper conduct of officers of the CCC (Improper Conduct Protocols) apply.

Improper Conduct Protocols

46. The Improper Conduct Protocols detail:

- the receipt and notification of suspected improper conduct;⁹
- taking action in relation to suspected improper conduct; ¹⁰
- Parliamentary Commissioner initiated investigations;¹¹ and
- record keeping.¹²

47. Improper conduct is conduct of a commission officer that involves:

³ Complaints Policy, pages 4 and 5.

⁴ Complaints Policy, page 5.

⁵ Complaints Policy, page 6.

⁶ Complaints Policy, page 9.

⁷ Complaints Policy, page 13

⁸ Complaints Policy, page 17

⁹ Improper Conduct Protocols, page 1.

¹⁰ Improper Conduct Protocols, page 2.

¹¹ Improper Conduct Protocols, page 3.

¹² Improper Conduct Protocols, page 3.

- a) disgraceful or improper conduct in an official capacity; or
- b) disgraceful or improper conduct in a private capacity that reflects seriously and adversely on the commission; or
- c) conduct that would, if the person were an officer in a unit of public administration, be corrupt conduct; or
- d) disclosure of confidential information without the required authorisation, whether or not the disclosure contravenes an Act; or
- e) failure to ensure—
 - i. a register kept by the commission under an Act is up to date and complete; or
 - ii. all required documentation is on a file kept by the commission and correctly noted on a register kept by the commission under an Act; or
- f) exercise of a power without obtaining the required authorisation, whether inadvertently or deliberately; or
- g) noncompliance with a policy or procedural guideline set by the commission, whether inadvertently or deliberately, that is not of a minor or trivial nature; or
- h) exercise of a power conferred on the person under the CC Act or another Act in a way that is an abuse of the power.¹³

Public interest disclosures against commission officers (policy and procedure)

48. The Public interest disclosures against commission officers policy and procedure (PID policy) is relevant to anyone wishing to make a public interest disclosure (PID) about a commission officer.

49. The PID Policy details:

- the process for making a PID;¹⁴
- assessing a disclosure;¹⁵
- action to be taken if the disclosure is assessed as a PID;¹⁶
- support for disclosers;¹⁷ and
- rights of subject officers.¹⁸

Customer Service Complaints policy and procedure

50. The Customer Service Complaints policy and procedure (CSC Policy) defines customer service complaints and sets out a process for dealing with service delivery complaints. It complements the overarching Complaints Policy.

51. A service delivery complaint is a customer complaint about any aspect of the CCC's services (e.g. complaints about delays, communication or responsiveness). As such, the CSC Policy is largely relevant to the work of the CCC's Integrity Services division, which is not staffed by any seconded police officers.

Discipline policy and procedure

52. In circumstances where a complaint against an officer seconded to the CCC gives rise to disciplinary grounds, the CCC's Discipline policy and procedure (Discipline Policy) will apply.

53. The Discipline Policy notes that a disciplinary process is not a substitute for managerial action, nor the need for managers to intervene early to address unsatisfactory conduct or work performance.

¹³ CC Act section 329(4), Complaints Policy, page 4.

¹⁴ PID policy, page 4.

¹⁵ PID Policy, page 5.

¹⁶ PID Policy, page 6.

¹⁷ PID Policy, page 7.

¹⁸ PID Policy, page 9.

54. The Discipline Policy details:

- disciplinary grounds for relevant and former relevant commission officers;
- the disciplinary process (in seven steps);
- factors relevant to proposed disciplinary action; and
- sharing disciplinary information.

55. If a formal investigation is required, the Discipline Policy stipulates that the decision maker must consider whether to engage an internal or external investigator, including where the commission officer is a seconded police officer.¹⁹

56. Pursuant to section 273C of the CC Act, the CEO of the CCC may discipline a seconded officer for misconduct, however, cannot in practice enforce any sanction other than reprimand or managerial guidance. This is because the CCC cannot alter the underlying employment relationship between the employee and QPS (for example, via dismissal, demotion or reduction in pay level).

57. Where conduct could warrant a higher-level sanction, the CEO may determine the most appropriate course is to rescind the officer's secondment so that the QPS may deal with the disciplinary matter.

58. Of note, section 273DA of the CC Act obliges the CEO to provide disciplinary information about a person who is or was a relevant commission officer (including a police officer) to a relevant official (such as the Commissioner of Police), if that relevant official requests it.

Discipline action after secondment

59. Division 9, Subdivision 4 of the CC Act makes provision for dealing with disciplinary action against a former CCC officer who has moved or returned to QPS.

60. The CCC's CEO may make a disciplinary declaration about that person, declaring what the disciplinary outcome would have been had the person not left the CCC. Under subdivision 3, the QPS may take disciplinary action against the person. Disciplinary action may not be taken against the person by both the CCC and QPS.

61. While the CCC's CEO may refer the matter to QPS to take disciplinary action against the former secondee, QPS retains complete control over that process, including the outcome.

Role of PCCC and Parliamentary Commissioner in dealing with complaints

62. Section 329 of the CC Act provides that all conduct of CCC officers which a notifier suspects involves, or may involve, improper conduct must be notified to the PCCC and the Parliamentary Crime and Corruption Commissioner (Parliamentary Commissioner).

63. The role of the Parliamentary Commissioner in dealing with complaints is set out from page 2 of the Improper Conduct Protocols.

64. In deciding whether to take action in respect of suspected improper conduct, the PCCC and Parliamentary Commissioner may consider:

- whether the CCC needs to take immediate action to secure evidence or to ensure the integrity of its operations;
- the CCC's recommended course of action in respect of dealing with the matter;

¹⁹ Discipline Policy, page 7.

- the respective investigative resources and facilities of the PCCC, Parliamentary Commissioner and CCC;
- whether the nature of the suspected improper conduct requires the investigation to be carried out independently of the CCC; and/or
- any other relevant matter.

65. Under s295(2) of the CC Act, the PCCC may, with bipartisan support:

- ask the CCC to provide a report on the matter to the PCCC;
- ask the CCC to investigate and provide a report on the matter to the PCCC;
- ask the QPS or another law enforcement agency to investigate and report to the PCCC;
- ask the Parliamentary Commissioner to investigate and provide a report to the PCCC;
- refer the matter to the Director of Public Prosecutions; and/or
- take other action it considers appropriate.

66. If the PCCC requests the CCC to undertake an investigation of suspected improper conduct, or any part of an investigation, the PCCC may request the CCC to furnish reports of the investigation in such terms and at such intervals as are reasonably necessary.

67. Upon the conclusion of an investigation of suspected improper conduct notified to the PCCC and Parliamentary Commissioner, the notifier will advise the PCCC and Parliamentary Commissioner of the investigative findings and any preliminary recommendations, prior to any action being undertaken.

Other external review processes

68. For completeness it should be noted section 332 of the CC Act enables a person to apply to a Supreme Court judge for an order in the nature of a mandatory or restrictive injunction if an investigation into corruption is being conducted unfairly. Section 334 of the CC Act provides that the judge who hears such an application may order the Senior Executive Officer (Corruption) to conduct the investigation in accordance with guidelines specified in the order or direct the Senior Executive Officer (Corruption) to stop or not proceed with an investigation. This is a further mechanism to enable a complaint of unfairness to have external oversight.

Does the CCC employ key performance indicators or other criteria (performance indicators) in evaluating the performance of seconded police officers?

69. The CCC does not employ key performance indicators in evaluating the performance of seconded police officers.

70. Performance of seconded police officers is managed under the QPS regime. The QPS Development and Performance Review Policy is to be read in conjunction with the Development and Performance Review Guidelines and the Managing Unacceptable Performance & Conduct Fact Sheet.

In terms of the decision-making process in relation to the laying of criminal charges (with a view to the prosecution of those charges either summarily or upon indictment) following a corruption investigation:

- **Are seconded police officers or other officers of the CCC required to consider alternatives to criminal charges as part of the decision-making process?**
- **If so, has this requirement been set out in guidelines and procedures to be applied by seconded police, or other, officers in this regard?**
- **If so, please provide a copy of those materials.**

71. There are two ways in which seconded police, and CCC officers more generally, consider alternatives to criminal charges as part of its processes. First, the CCC reiterates that the approach which the CCC takes to investigation relies on the contributions of a multi-disciplinary team, such that a variety of officers contribute to investigative strategy and decision-making. It is as part of that investigative decision-making process that the investigative team considers a range of options to best deal with the crime or corruption being investigated. The second way in which alternatives to criminal charges are considered as part of the decision-making process is when consideration is given as to whether to commence criminal proceedings.

72. In relation to the first aspect, section 35 of the CC Act sets out how the CCC performs its corruption functions. It lists a variety of ways in which the CCC may deal with a complaint of corruption. Those include investigating and referring for prosecution criminal offending, but also includes other strategies such as building capacity within units of public administration (UPAs), consideration of disciplinary proceedings, and making recommendations for improvements in public sector entities and systems.

73. In some cases corrupt conduct being investigated will not involve criminal offending. Section 15 of the CC Act contemplates that corrupt conduct may involve conduct which is not a criminal offence. In such cases investigations consider other resolution options such as disciplinary action, intervention and disruption, and recommendations to reduce corruption risks and avoid the recurrence of corrupt conduct.

74. In investigations where potential criminal conduct is identified, then consideration is given throughout the investigation as to potential criminal charges, but consideration must also be given to alternatives. There are two primary guidelines and procedures setting out this requirement: the Director of Public Prosecutions (State) Guidelines (the Director's Guidelines) and the Operations Manual. They will be addressed separately.

75. As a general proposition, though, the public interest generally weighs in favour of criminal proceedings where more serious criminal offending is identified. This reflects the position in the Director's Guidelines, which are adopted by the Operations Manual and the QPS's Operational Procedures Manual (QPS OPM). Moreover, in many cases which the CCC investigates, there may be limited alternatives to criminal prosecution. Corruption offences are generally offences against the public good, or governmental interests or structures. There are often no individual victims, which means that alternatives such as restorative justice processes may not be available and are of limited utility. For elected officials or certain statutory appointment-holders there may also be no disciplinary mechanisms available.

Director's Guidelines

76. Section 4.9 of the PSAA states that in discharging the prescribed responsibility, the commissioner may give, and cause to be issued, to officers, staff members or police recruits, such directions, as

the commissioner considers necessary or convenient for the efficient and proper functioning of the police service (section 4.9(1) PSAA).

77. The introduction of the QPS OPM expressly states that the QPS OPM is issued pursuant to section 4.9 of the PSAA.
78. Section 3.4.5 of the QPS OPM states that the Director's Guidelines should be complied with.
79. Under the second limb of the two-tiered test of the Director's Guideline, seconded police officers are required to consider public interest criteria, which includes:

If there is sufficient reliable evidence of an offence, the issue is whether discretionary factors nevertheless dictate that the matter should not proceed in the public interest. Discretionary factors may include:

- (a) the level of seriousness or triviality of the alleged offence, or whether or not it is of a 'technical' nature only;*
- (b) the existence of any mitigating or aggravating circumstances;*
- (c) the youth, age, physical or mental health or special infirmity of the alleged offender or a necessary witness;*
- (d) the alleged offender's antecedents and background, including culture and ability to understand the English language;*
- (e) the staleness of the alleged offence;*
- (f) the degree of culpability of the alleged offender in connection with the offence;*
- (g) whether or not the prosecution would be perceived as counterproductive to the interests of justice;*
- (h) the availability and efficacy of any alternatives to prosecution;***
- (i) the prevalence of the alleged offence and the need for deterrence, either personal or general;*
- (j) whether or not the alleged offence is of minimal public concern;*
- (k) any entitlement or liability of a victim or other person to criminal compensation, reparation or forfeiture if prosecution action is taken;*
- (l) the attitude of the victim of the alleged offence to a prosecution;*
- (m) the likely length and expense of a trial;*
- (n) whether or not the alleged offender is willing to co-operate in the investigation or prosecution of others, or the extent to which the alleged offender has done so;*
- (o) the likely outcome in the event of a conviction considering the sentencing options available to the Court;*
- (p) whether the alleged offender elected to be tried on indictment rather than be dealt with summarily;*
- (q) whether or not a sentence has already been imposed on the offender which adequately reflects the criminality of the episode;*
- (r) whether or not the alleged offender has already been sentenced for a series of other offences and what likelihood there is of an additional penalty, having regard to the totality principle;*
- (s) the necessity to maintain public confidence in the Parliament and the Courts; and*
- (t) the effect on public order and morale.*

The relevance of discretionary factors will depend upon the individual circumstances of each case.

The more serious the offence, the more likely, that the public interest will require a prosecution. Indeed, the proper decision in most cases will be to proceed with the prosecution if there is sufficient evidence. Mitigating factors can then be put to the Court at sentence.

Operations Manual

80. Seconded Officers are required to follow the Operations Manual. The Operations Manual makes it clear that criminal charges are not the only outcome of an investigation. The CC Act also makes this clear through the prevention function (section 23 of the CC Act) and the principles for performing corruption functions (section 34 of the CC Act).

81. At the delivery stage, that is, when an investigation is completed, the Operations Manual (MM01 - 4.2.4) makes clear that criminal charges are only one of a range of outcomes for an investigation. It states:

*The delivery stage for a CCC investigation involves engaging in investigation practices and related activities to collect and analyse information and evidence, and organise it so that it can be used for one or more discrete **products** of the investigation, such as a report, brief of evidence or disclosure. These products can be applied (for example, in taking disciplinary or prosecution action) to ultimately produce **outcomes** for the investigation, such as a penalty or sentence, a sanction, the forfeiture of property, a change of practice or other impact. The investigation products may be delivered and put into use incrementally as they are completed.*

82. Section 4.1 of the Operations Manual section MM02, which deals with general principles for an investigation, reaffirms criminal charges are not the only outcome. It states:

An investigation or project may produce one or more results, for example:

- *One or more persons being charged*
- *An investigation report, that may be the result of a public hearing, or a brief of evidence for referral to a prosecuting authority*
- *The referral to a Unit of Public Administration (UPA) of information that is relevant to the exercise of the UPA's functions, including for disciplinary action*
- *The restraint and forfeiture of property*
- *Corruption prevention recommendation*
- *A public report (refer to MM03 – Matter reports and publications)*
- *The dissemination of intelligence and information (refer to MM04 – Disclosure and requests for information)*
- *No further action by the CCC.*

83. Section 4.2.2 of the Operations Manual section MM02: 'Matter briefs' also states that seconded police officers should apply the same two-tiered test that the ODPP applies in determining whether to commence a criminal prosecution. That imports the public interest test, one consideration of which is the availability and efficacy of any alternatives to prosecution.

Legal observations

84. In addition, section 4.1.4 of the Operations Manual section MM02 states observations (prepared by lawyers) must include:

Any public interest considerations relevant to the decision as to whether to proceed, or

not proceed, in relation to disciplinary or criminal charges.

85. Again, the availability and efficacy of alternatives to a prosecution is one of the relevant public interest considerations.

Investigation reports

86. Section 4.2.3 of the Operations Manual section MM01 requires an investigation report for Corruption matters to be completed. The report should be completed providing a summary of the matter, including the allegations, the persons of interest, the investigative steps undertaken, a summary of the evidence obtained, the findings and conclusions and any recommendations.
87. Where the complainant is a UPA, advice on the outcome of the investigation will often, but not always, be accompanied by a copy of the investigation report and, where appropriate, copies of relevant evidence so the UPA can consider taking disciplinary action. An outcome letter to a UPA must refer to section 49 of the CC Act and, where evidence is being provided, also to section 60(1) of the CC Act.
88. The outcome letter is to be settled by a lawyer who should consider whether redactions to the investigation report are necessary, e.g. to remove references to evidence that should not be disclosed to the UPA such as an oral statement obtained pursuant to section 75 of the CC Act where the witness has claimed self-incrimination privilege and the protection available under s. 197(2) of the CC Act.
89. Where the CCC has investigated allegations against a person, then it is CCC policy that the person is to be given a response in writing as to the outcome of the investigation but only if the CCC has previously communicated with the person about one or more of the allegations. The written response to the person is to be limited to addressing:
- the allegations about which the CCC has previously communicated with the person; and
 - any additional matters that are to be referred to another authority for action, including disciplinary action, but only if the relevant authority has been consulted about the giving the person the response and the response does not include information that would be contrary for the public interest, for example, because it would compromise or prejudice any action that might be taken by the authority.

CCC publications

90. Section 4.1 of the Operations Manual section MM03 provides that decisions about what to publish and how best to communicate are informed by a number of considerations, including:
- the status of an operational matter and any related activities
 - considerations of equity to all stakeholders who have an interest in a matter
 - considerations of any criminal prosecution
 - the need to afford natural justice to persons adversely affected by a proposed publication, including the need to comply with section 71A of the CC Act
 - obligations arising from legislative provisions
 - how best to communicate the work of the CCC to its stakeholders and increase public
 - confidence about the use of our powers
 - the opportunities to maximise our reach to a particular audience
 - timeliness and cost

- longevity of the published material.

91. The above considerations require careful balancing of the competing demands before decisions are made about what, when, where and how to publish.

92. Section 4.2 of the Operations Manual section MM03 states:

Publications constitute a stage of the delivery phase of an investigation, incorporating the preparation of reports or similar products that include:

- *confidential reports provided to the head of an agency, recommending specific action to be undertaken in response to a CCC investigation*
- *public reports based on information gathered through a public inquiry or investigation outcomes*
- *publications using specific investigation outcomes to highlight prevention lessons for the public sector (Prevention in Focus series).*

93. In relation to the approval to prepare a report or publication, section 4.3.2 of the Operations Manual section MM03 states:

The requirement to prepare a confidential investigation report or a report for the public is a key decision. Approval is dependent on the investigation phase and type of product. Within the feasibility stage, the investigation products form part of the business case for ELT review.

Within the delivery stage, publications comprise a sub-stage of delivery and are reviewed as part of the high-level delivery plan (refer to IM01 – Portfolio assessment and review for further information on governance arrangements).

Where an investigation or assessment is likely to, or will, involve the making of a recommendation(s) for law reform in relation to a Cabinet process or a matter involving a constitutional convention, refer to MM01 – Matter management, planning and conduct.

The Case Manager must ensure the ELT decision is recorded in the CCC Case management system.

94. The decision to charge and other potential actions such as commencement of disciplinary proceedings, preparation of a public report or making corruption prevention recommendations to a unit of public administration, are not mutually exclusive.

CCC Submission dated 1 April 2022

95. Since submitting the submission on 1 April 2022, the CCC has reviewed the contents and wishes to clarify a few points made in the submission.

Paragraph 263

96. At paragraph 263 of the CCC's submission the following was stated:

Were section 255 not included in the CC Act, and seconded police officers not available to the CCC, none of the powers available under the PPRA would be available to the CCC. This would impact the CCC's operations significantly, and regularly.

97. Whilst this statement is correct for the entire CCC, it wishes to clarify that in relation to its **crime function only**, the *Police Powers and Responsibilities Act 2000* (PPRA) allows a law enforcement officer, who is a commission officer as defined under Schedule 2 of the CC Act, to make an application for:
- a) a controlled operation, under Chapter 11, section 239 of the PPRA; and
 - b) an authority to acquire or use an assumed identity, under Chapter 12, section 282 of the PPRA;
98. A surveillance device warrant, under Chapter 13, section 328(1) of the PPRA allows a senior officer of the CCC to apply for the issue of a surveillance device warrant. A senior officer is defined to mean an authorised commission officer (section 322 PPRA). For applications under section 328 of the PPRA, authorisation has been given by the Chairperson to any commission officer engaged in the CCC's crime function who is an operations coordinator and/or a police officer of at least the rank of inspector.

Paragraph 774

99. At paragraph 774 of the CCC's submission the following was stated:

Attachment L details the total number of witnesses examined from 2016-17 financial year to 2020-21 financial year for crime. This includes the total number of witnesses examined for referred investigations.

100. The CCC wishes to clarify that a review of the Crime statistics provided confirms that the figures are understated as they do not include the number of hearings conducted in investigations not yet finalised during the financial year. These figures are now updated in **Attachment M**.
101. **Attachment M** details the total number of witnesses attending from 2016-17 financial year to 2020-21 financial year, by investigation type, for crime. This includes the total number of witnesses attending for referred investigations.

Paragraph 777

102. At paragraph 777 of the CCC's submission the following was stated:

In 2019-20, the number of witnesses examined for referred examinations was 88. This was the lowest number of witnesses in the last five years. This was impacted by the reassignment of QPS resources and delays associated with witnesses attending hearings, particularly from interstate.

103. The CCC wishes to clarify that in 2020-21, the number of witnesses attending for referred investigations was 106 not 88.

Attachments

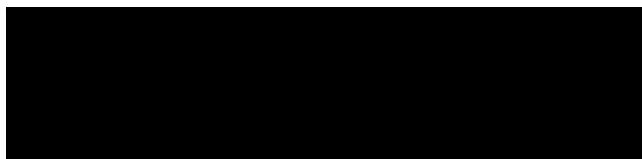
Please find **enclosed**:

- A. CCC detailed organisational chart
- B. CCC Position description – Director of Corruption Operations
- C. CCC Position description – Senior Investigator
- D. CCC Position description – Investigator
- E. CCC Conduct of conduct
- F. CCC Risk management framework
- G. CCC Risk appetite statement
- H. CCC Complaints against commission officers – policy and procedure
- I. Protocols for reporting suspected improper conduct of officers of the CCC
- J. CCC Public interest disclosures against commission officers (policy and procedure)
- K. CCC Customer service complaints
- L. CCC Discipline policy and procedure
- M. Number of witnesses attending CCC investigative hearings for Crime and Corruption divisions

104. The CCC notes that the Commission of Inquiry reserves the discretion to redact or not to publish particular information. The CCC wishes to maintain confidentiality over attachments A to M above.
105. The CCC supports the publication of this correspondence, subject to the Commission of Inquiry's discretion to redact or not publish particular information.
106. In the event the Commission of Inquiry determines to maintain confidentiality over parts of this correspondence, the CCC respectfully requests that, if an individual or entity seeks access to any confidential information, including for example under the *Right to Information Act 2009* (Qld) or some other process, the Chairperson or the CEO of the CCC be informed and afforded the opportunity to provide submissions in relation to the particular request.
107. For completeness, the CCC notes this correspondence and attachments are provided to the Commission of Inquiry in response to its request and pursuant to the CCC's power to disclose information under section 60(2) of the CC Act.

Please do not hesitate to contact me or the CCC's CEO should have you have questions in relation to the submission.

Yours sincerely



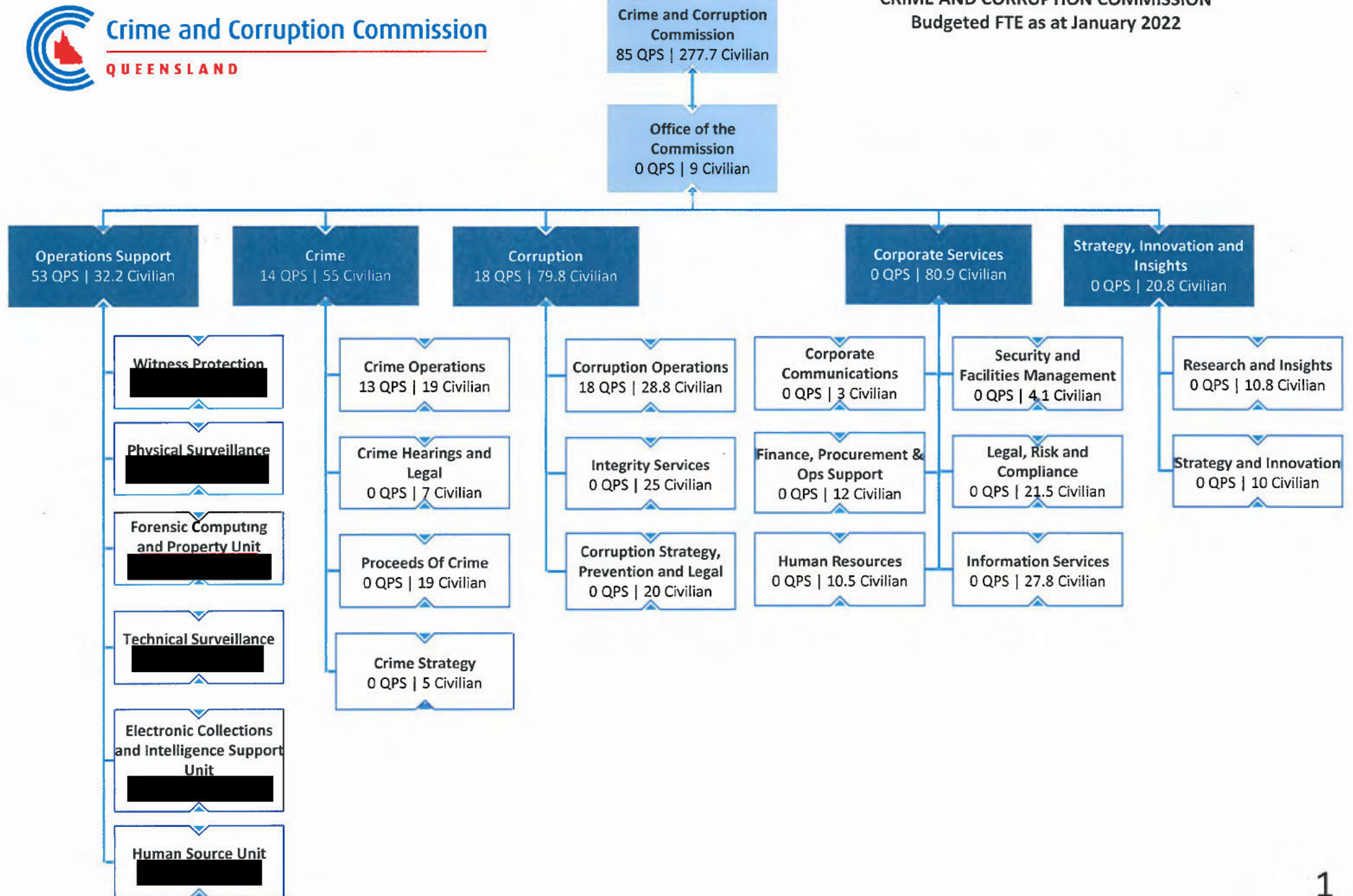
Bruce Barbour
Acting Chairperson

encl.



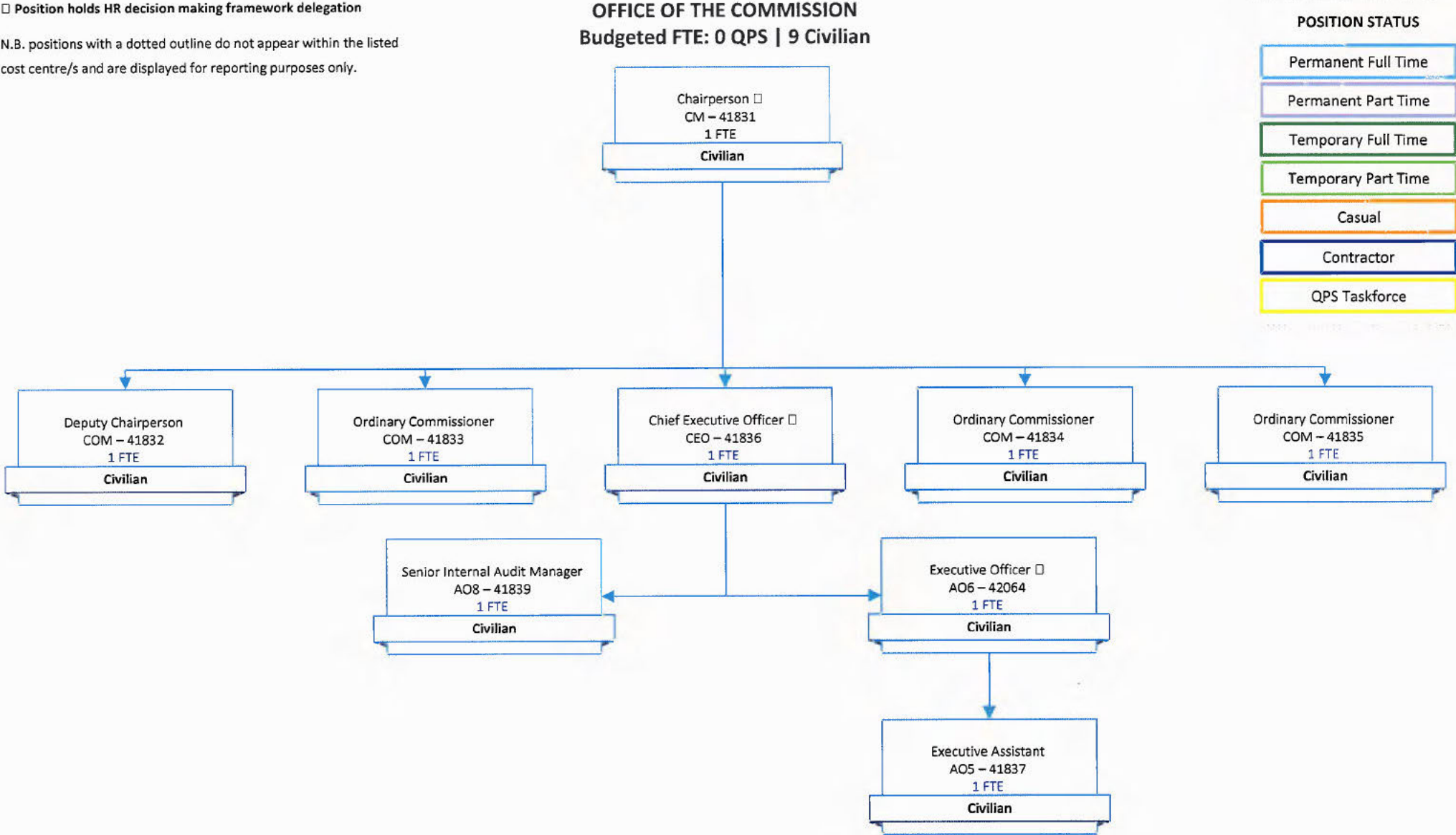
Attachment A

CRIME AND CORRUPTION COMMISSION
Budgeted FTE as at January 2022



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.



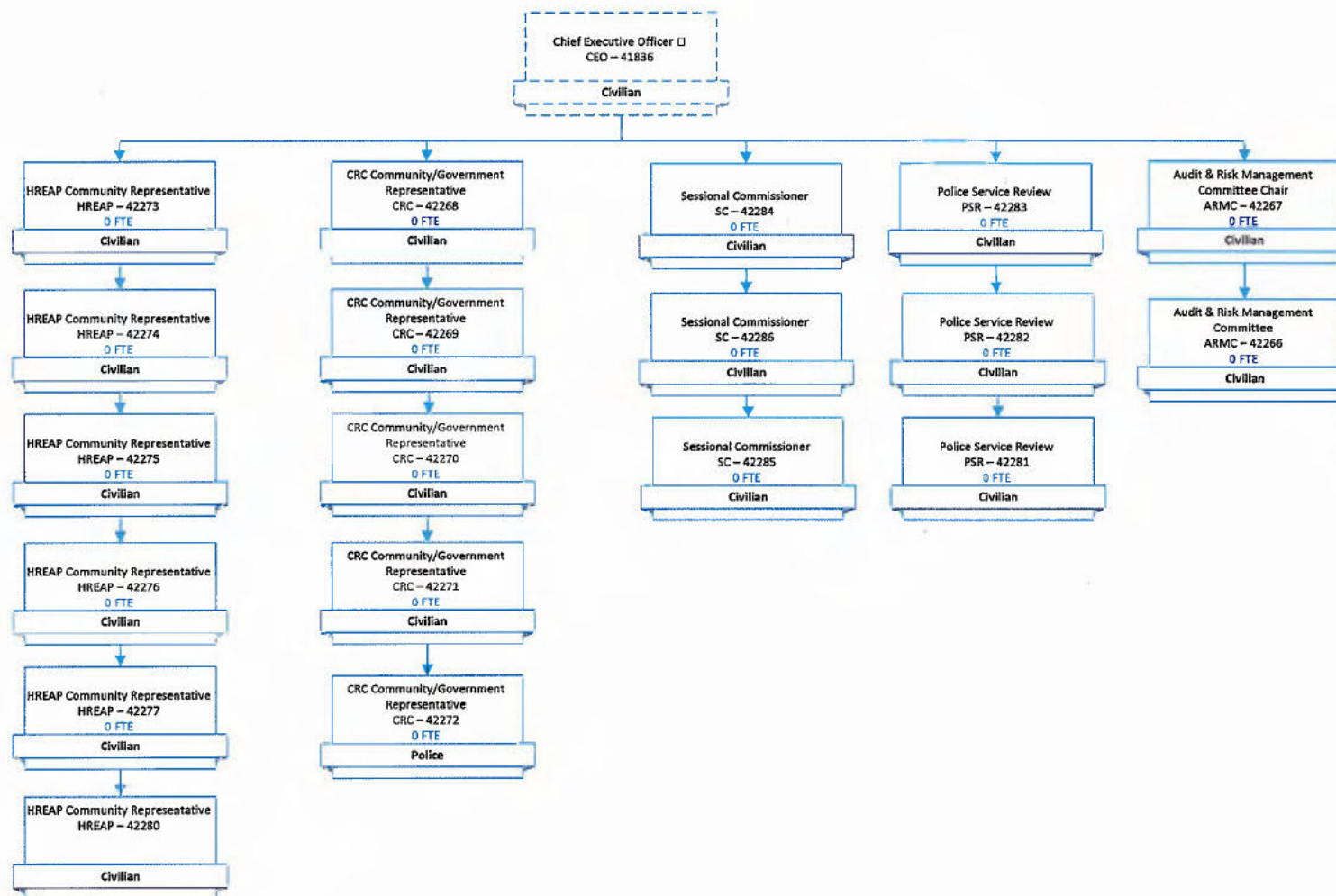
□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

BOARD MEMBERS

Budgeted FTE: 0 QPS | 0 Civilian

N.B. These roles are engaged on an ad hoc or per meeting basis, and are not considered budgeted FTE.



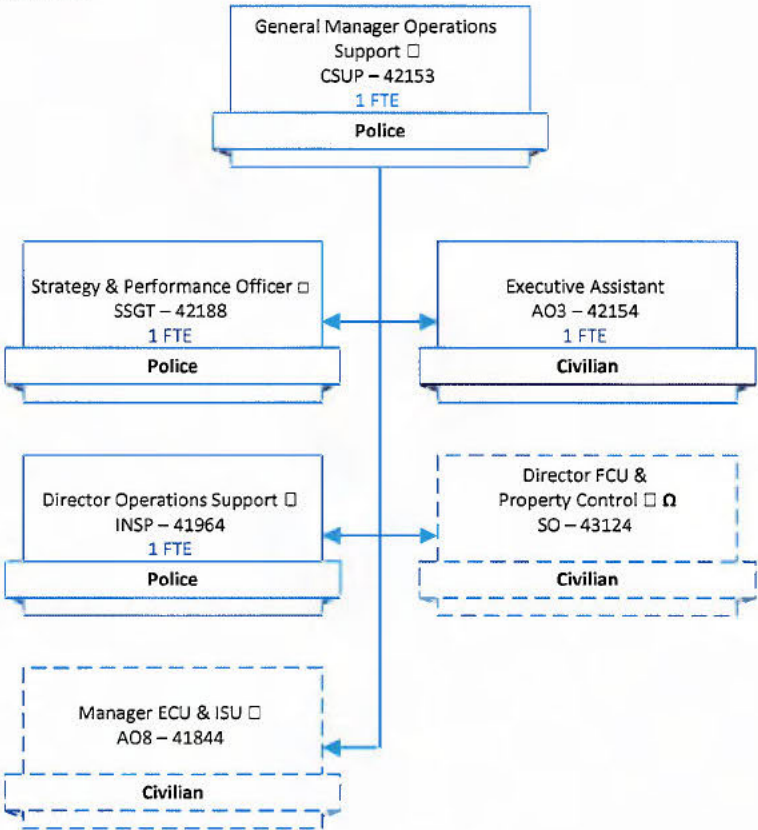
POSITION STATUS

Permanent Full Time
Permanent Part Time
Temporary Full Time
Temporary Part Time
Casual
Contractor
QPS Taskforce

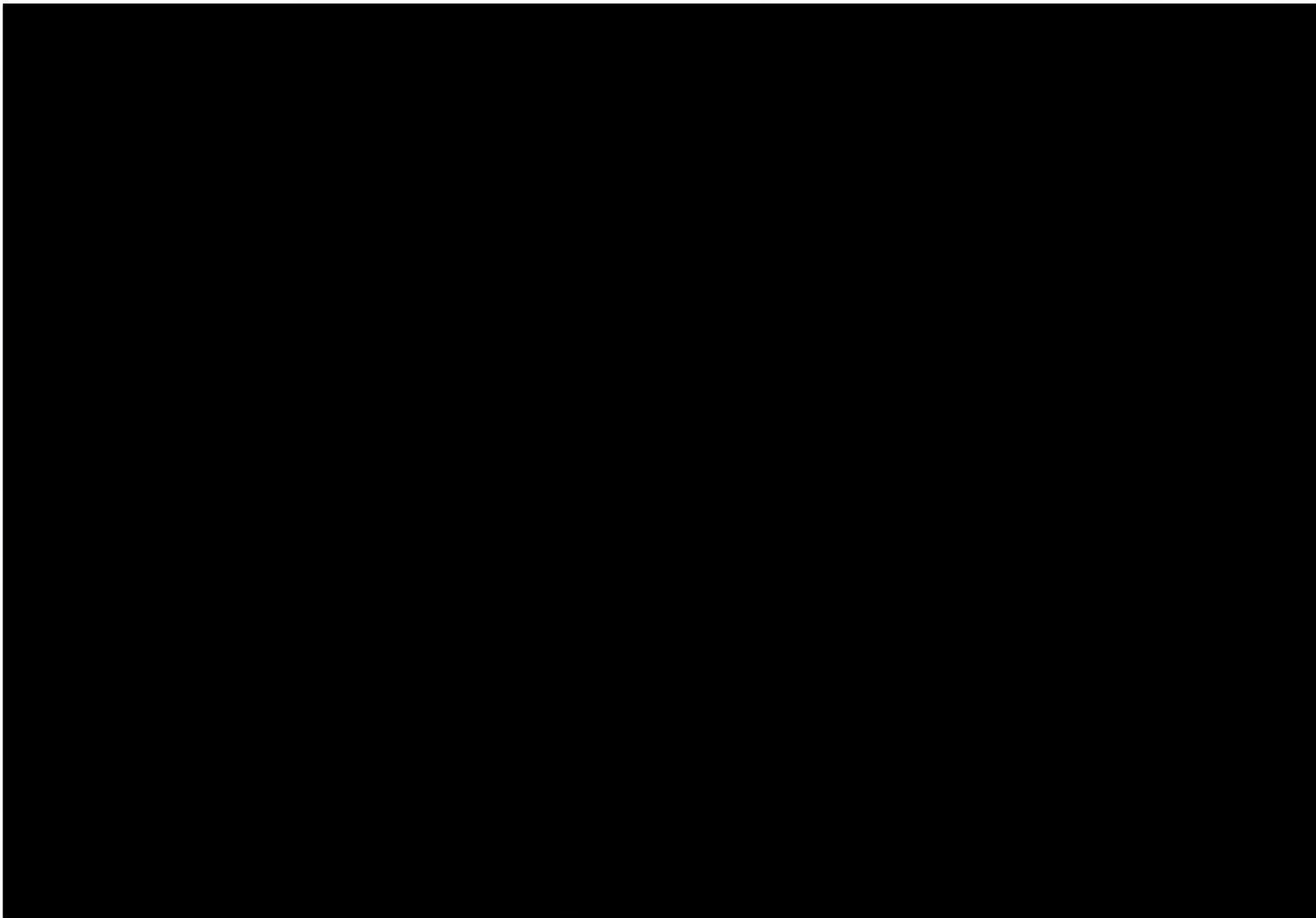
- Position holds HR decision making framework delegation
- Ω Position holder has policing background

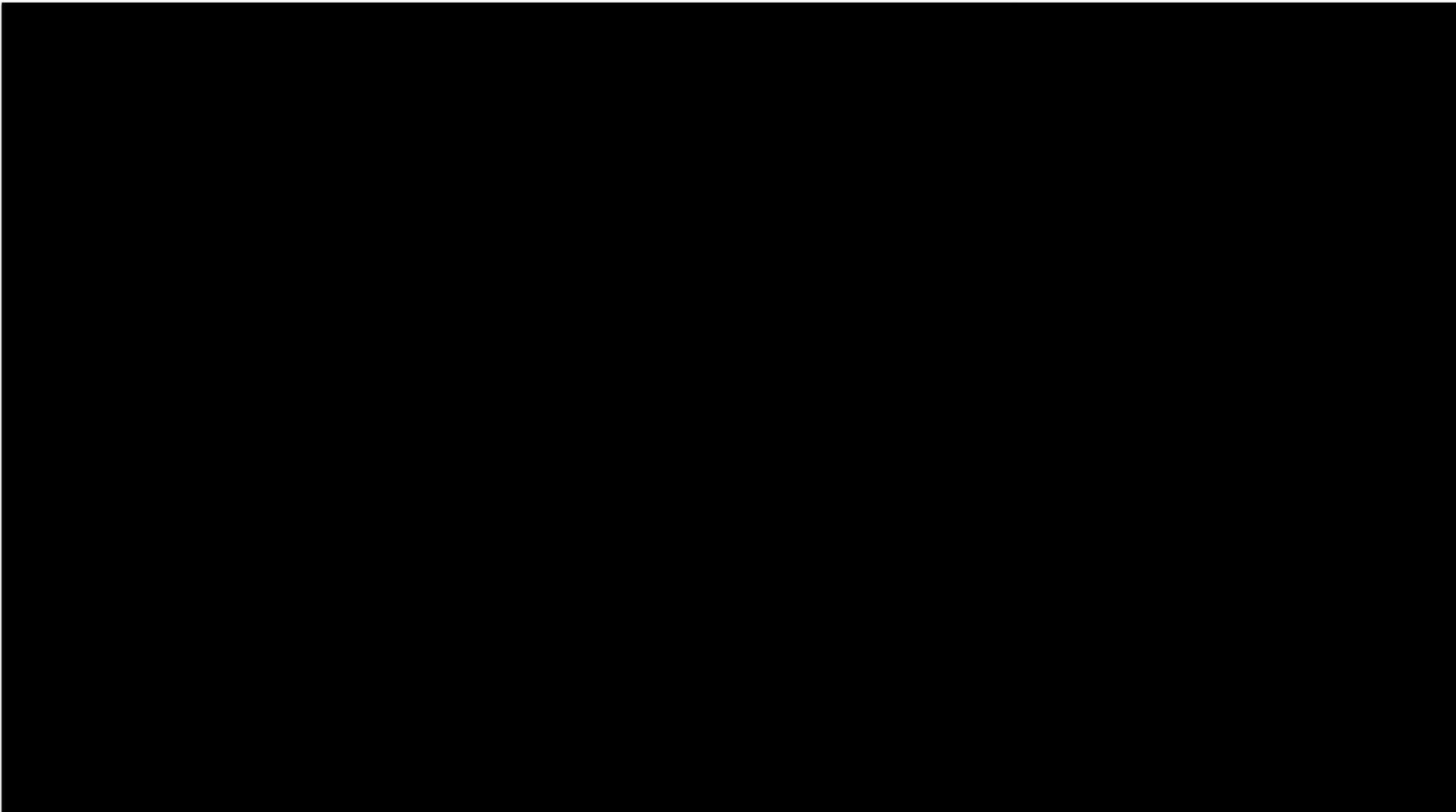
N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

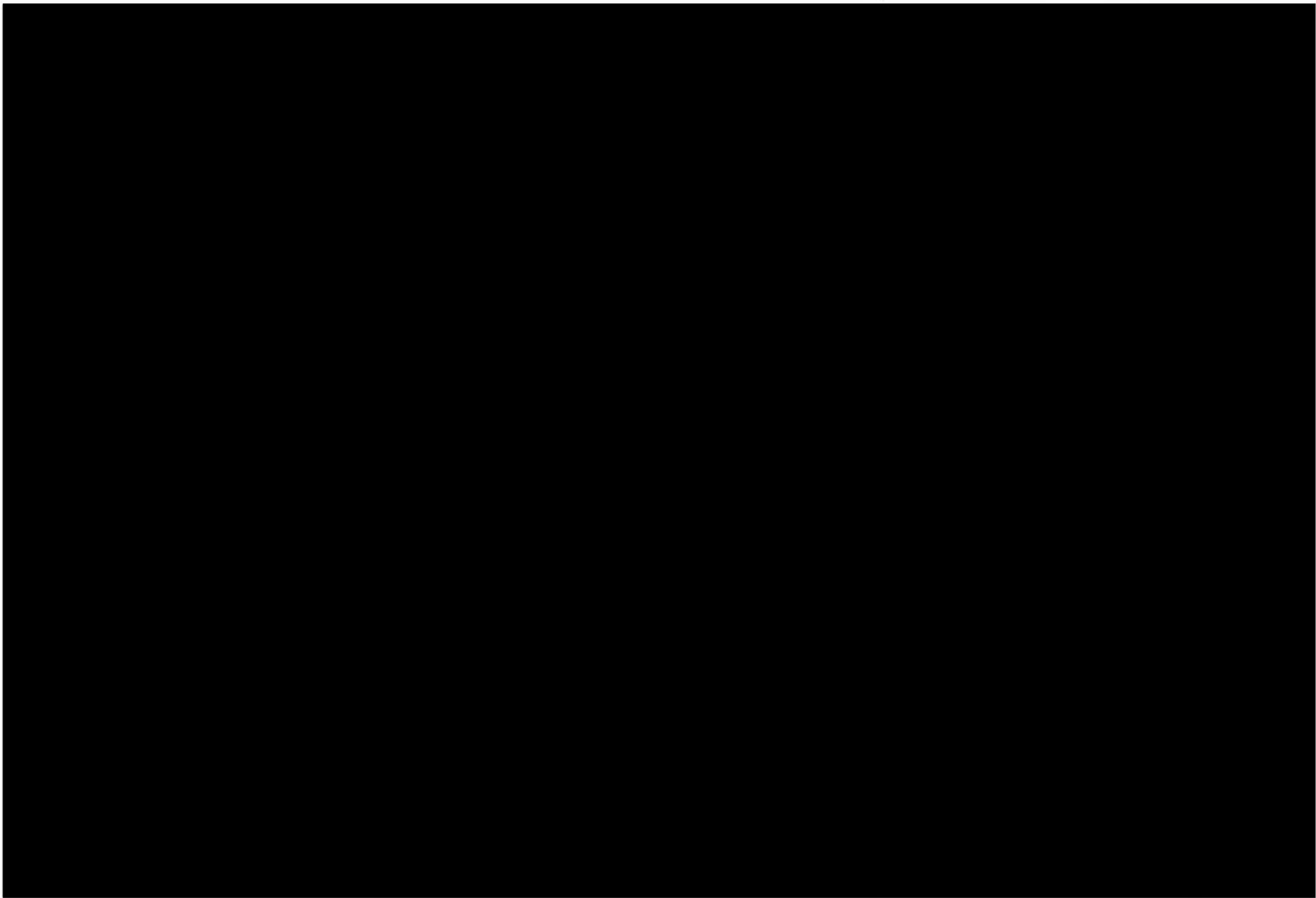
OPERATIONS SUPPORT – POLICE COMMAND
Budgeted FTE: 3 QPS | 1 Civilian

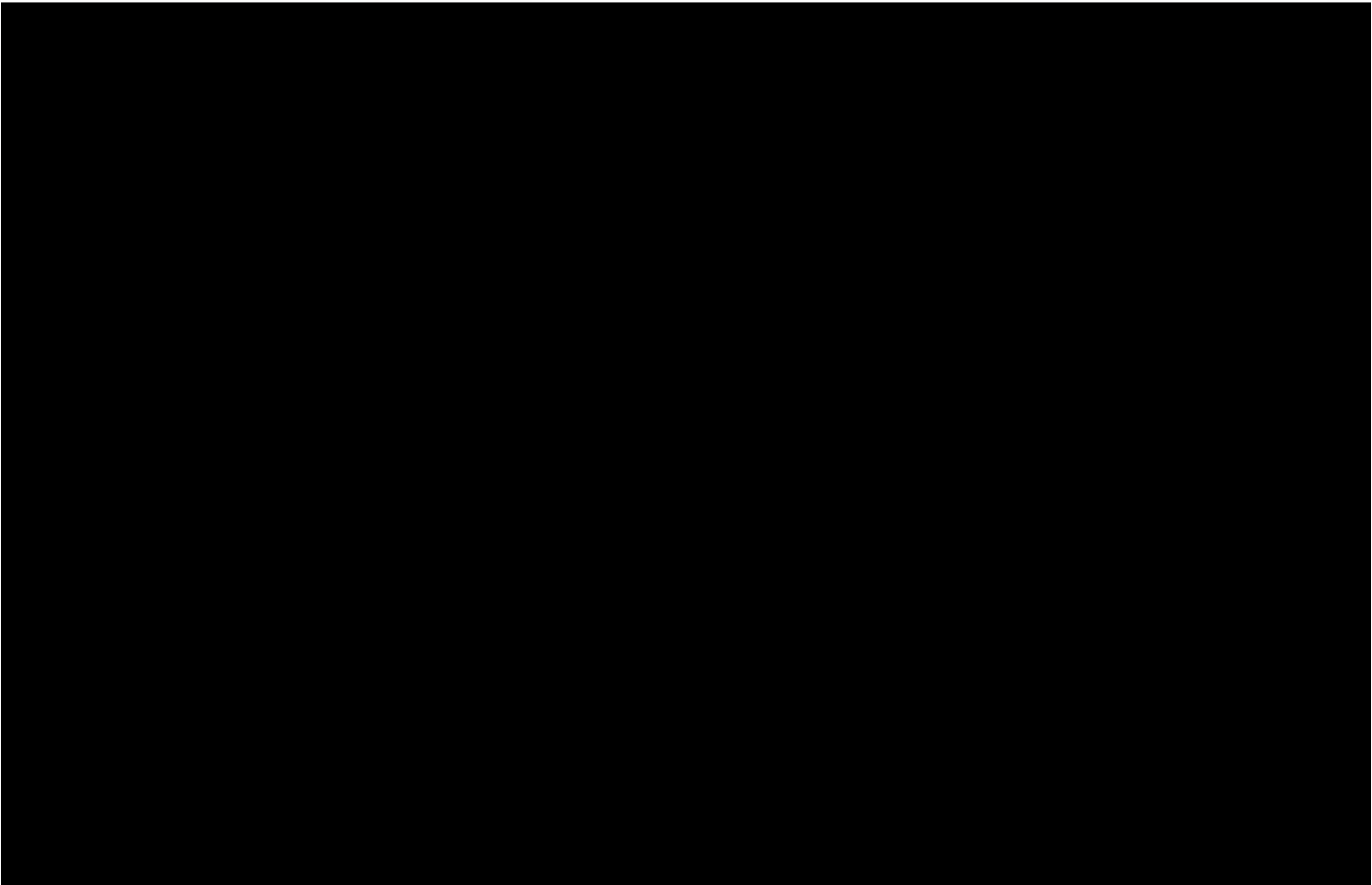


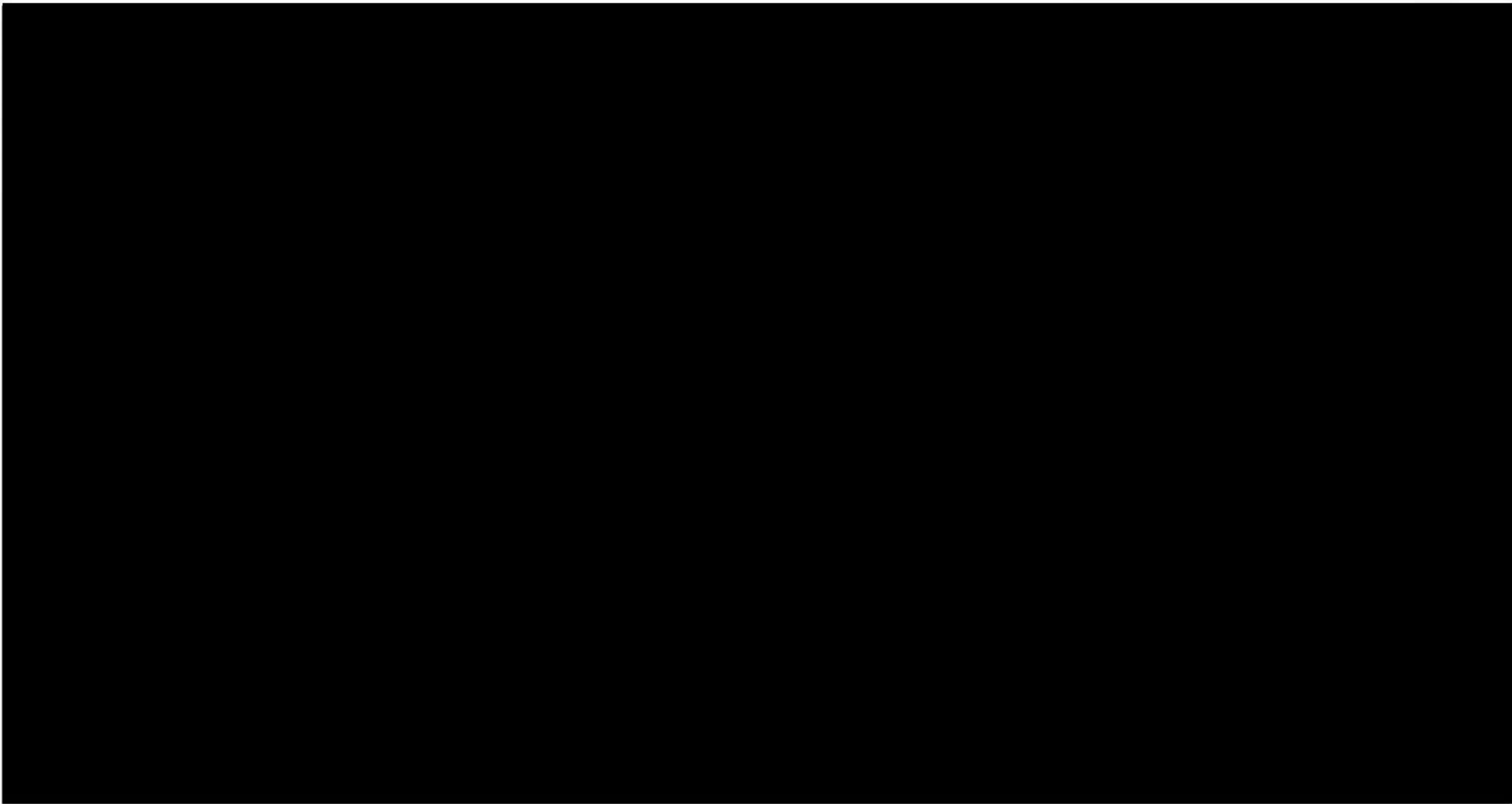
POSITION STATUS
Permanent Full Time
Permanent Part Time
Temporary Full Time
Temporary Part Time
Casual
Contractor
QPS Taskforce

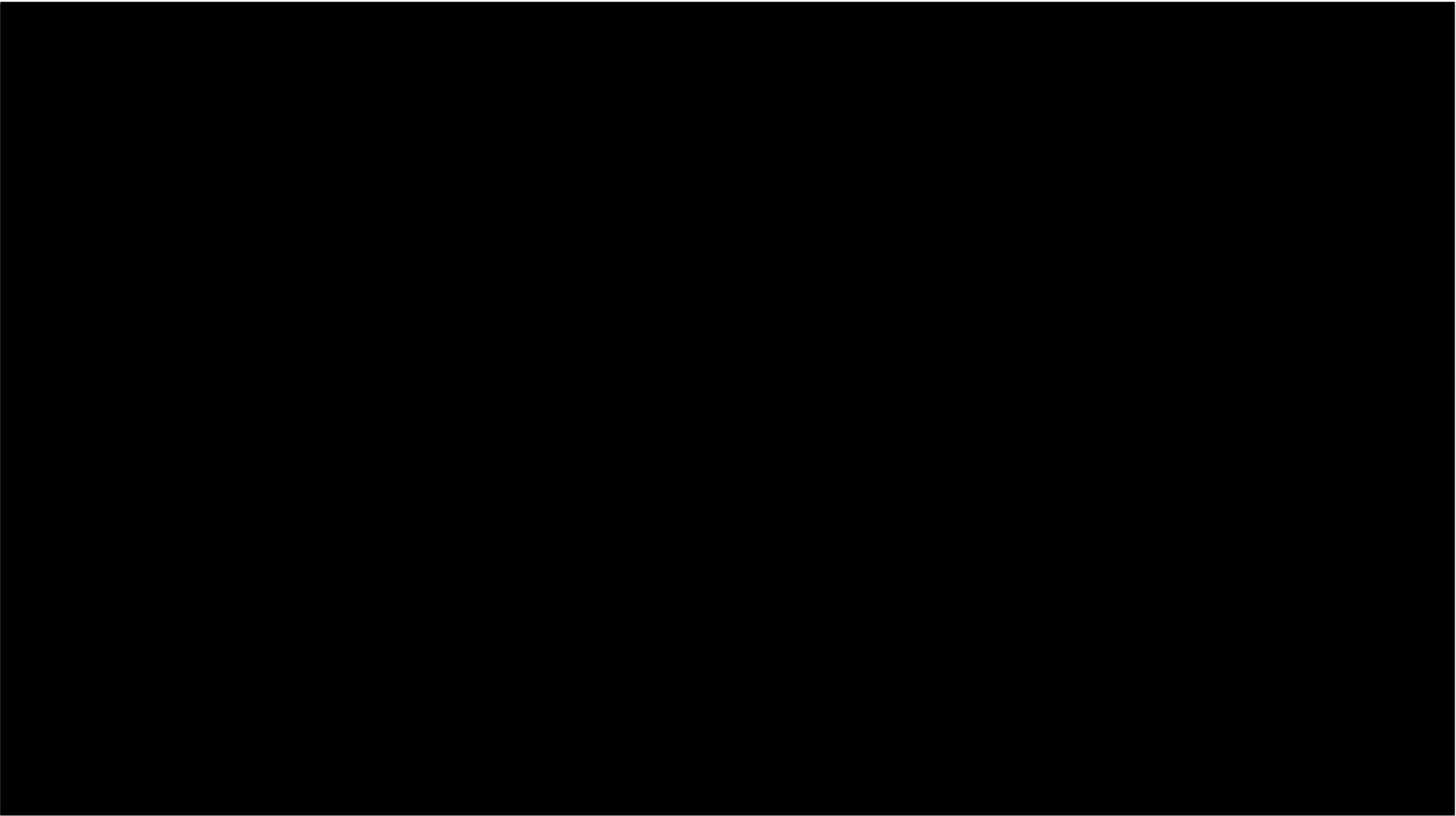


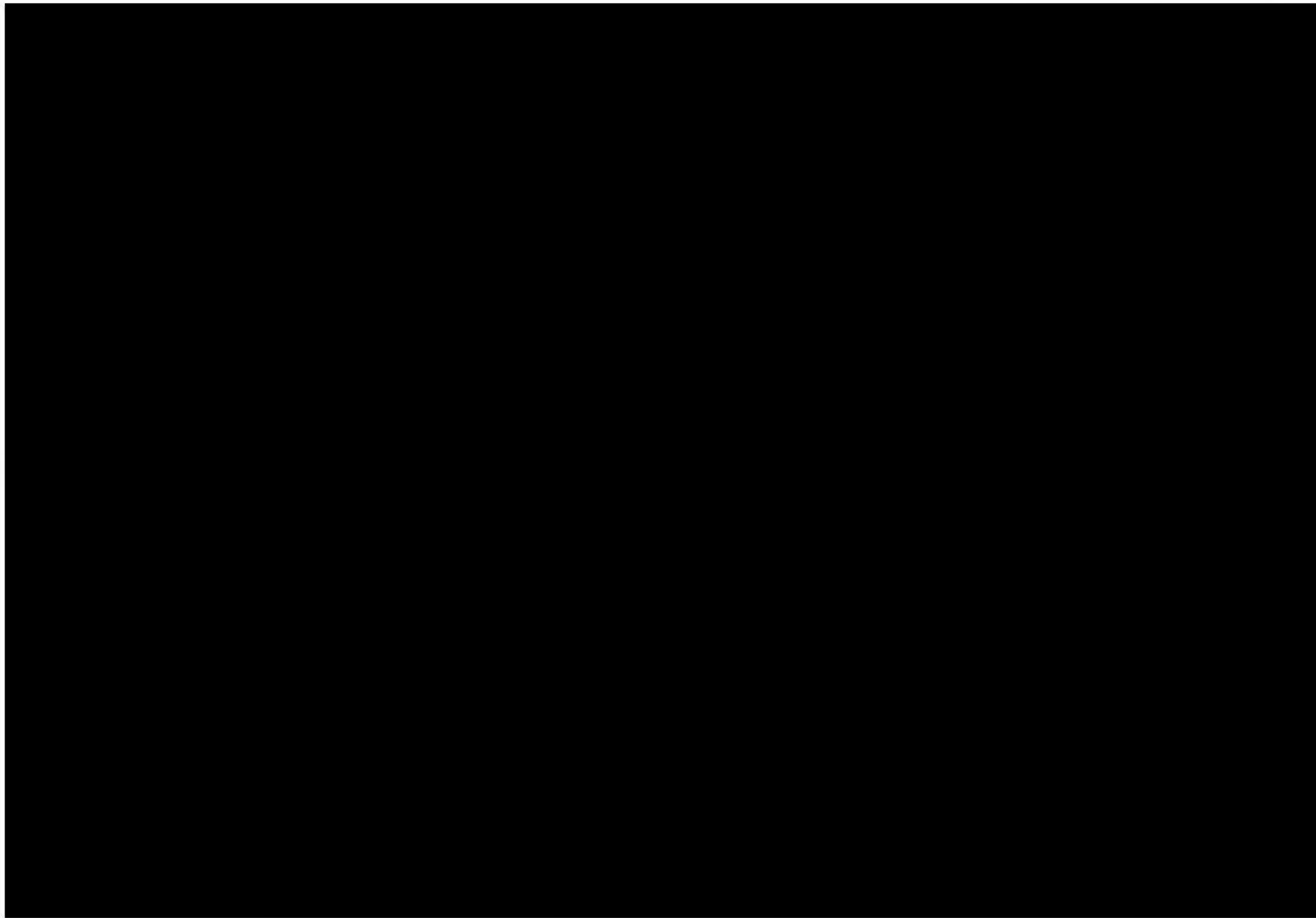






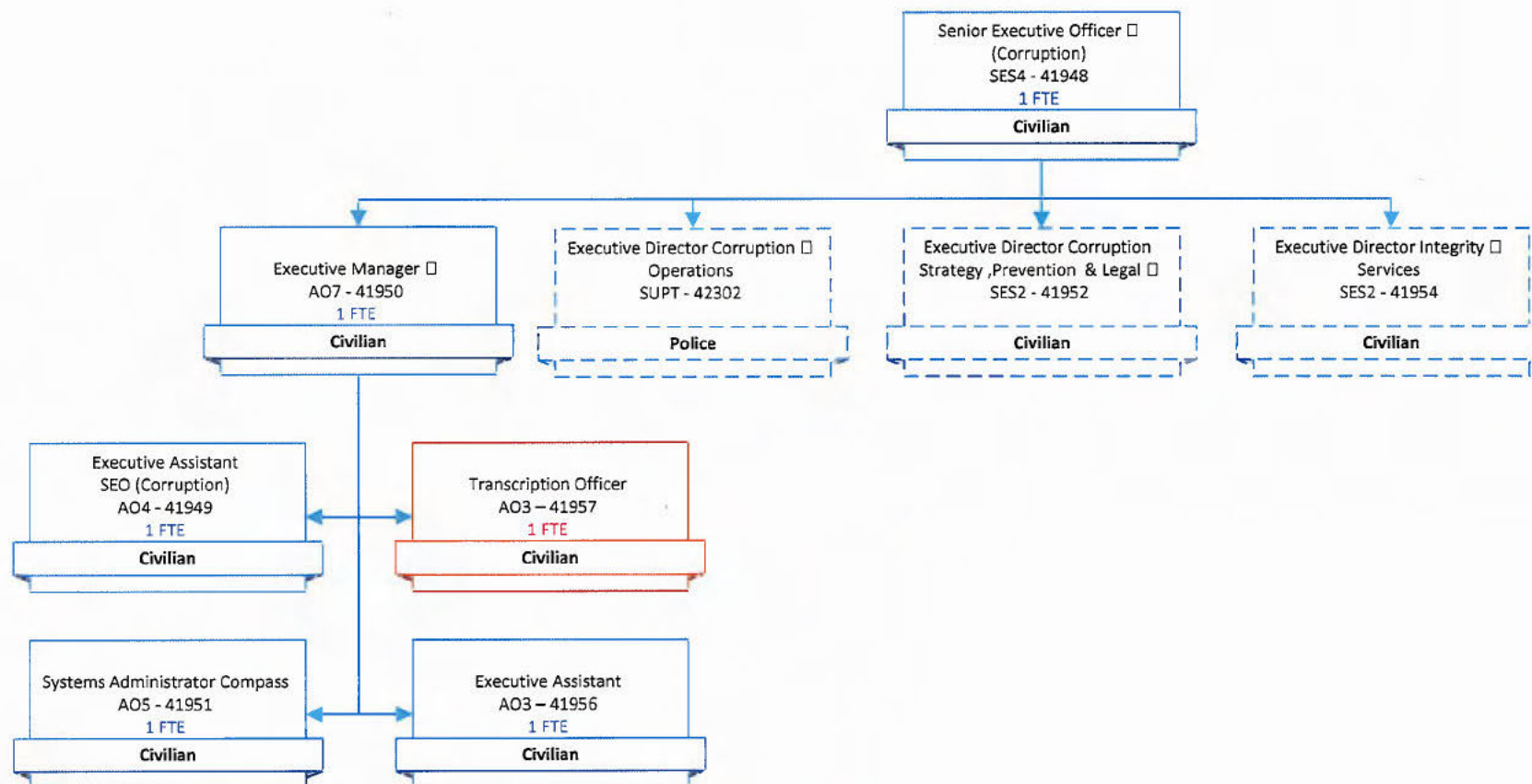






N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

Budgeted FTE: 0 QPS | 6 Civilian



POSITION STATUS

- Permanent Full Time
- Permanent Part Time
- Temporary Full Time
- Temporary Part Time
- Casual
- Contractor
- QPS Taskforce

CORRUPTION OPERATIONS

Budgeted FTE: 18 QPS | 28.8 Civilian

Budgeted FTE shown on this page: 1 QPS | 1 Civilian

□ Position holds HR decision making framework delegation

Ω Position holder is a civilian with a policing background

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

POSITION STATUS

Permanent Full Time

Permanent Part Time

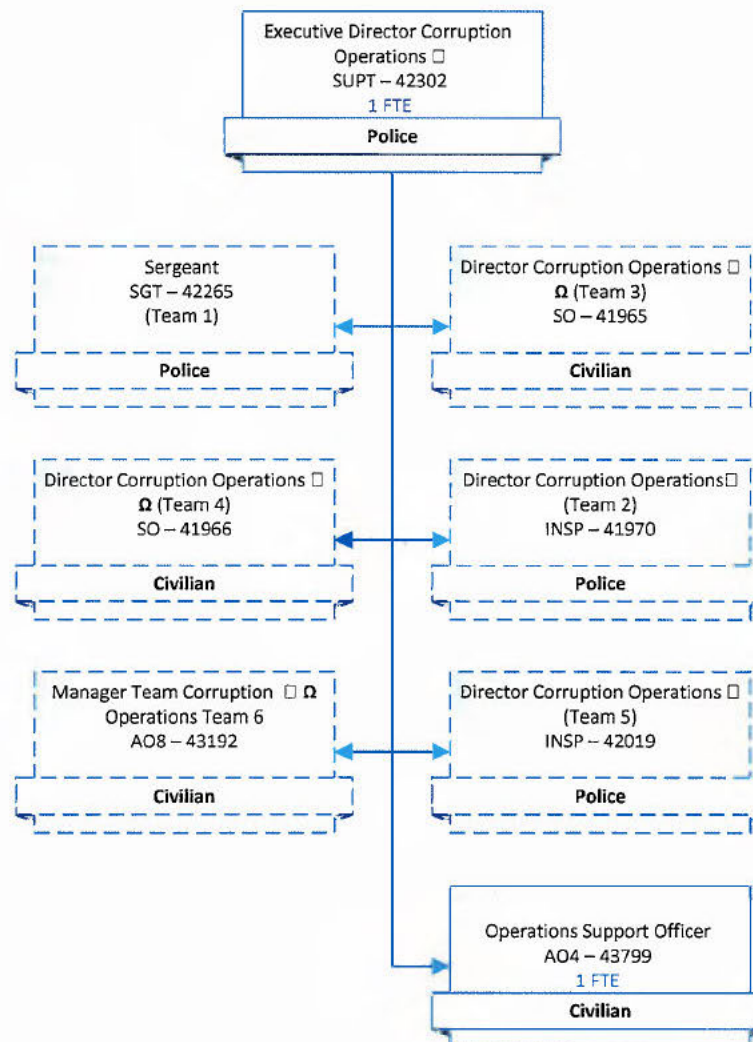
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



CORRUPTION OPERATIONS (TEAM 1)

Budgeted FTE: 18 QPS | 28.2 Civilian

Budgeted FTE shown on this page: 5 QPS | 0 Civilians

□ Position holds HR decision making framework delegation

Ω Position holder is a civilian with a policing background

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

POSITION STATUS

Permanent Full Time

Permanent Part Time

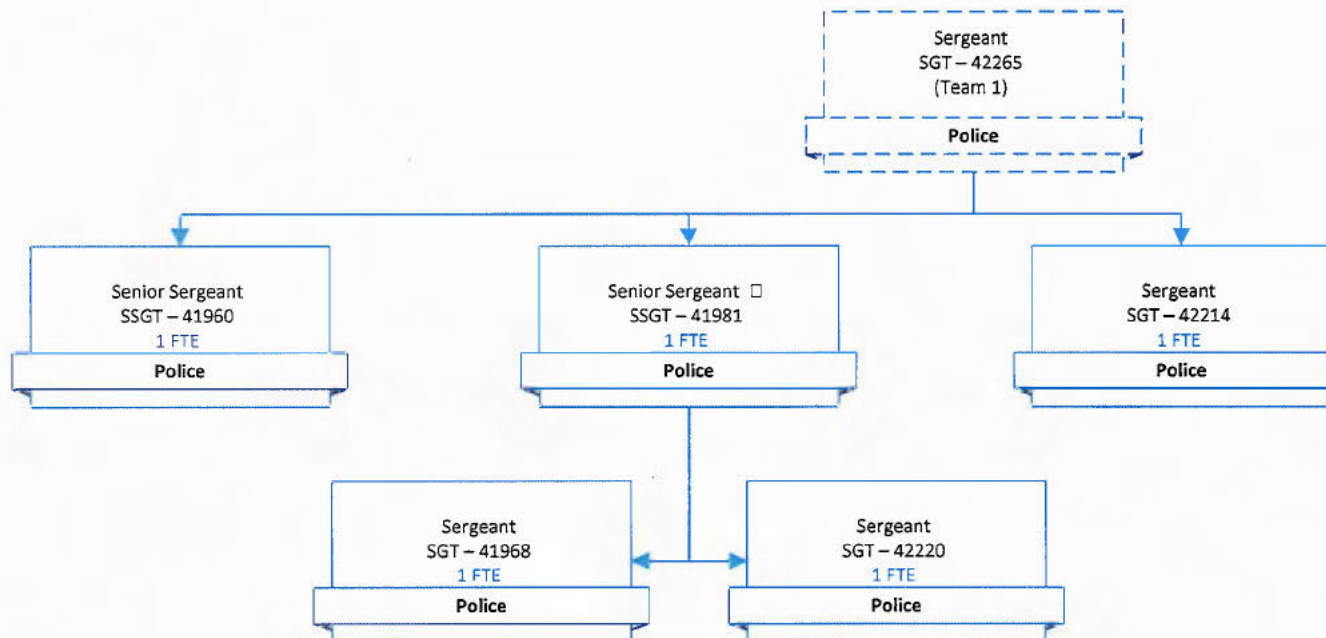
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



CORRUPTION OPERATIONS (TEAM 2)

Budgeted FTE: 18 QPS | 28.8 Civilian

Budgeted FTE shown on this page: 3 QPS | 6 Civilian

- Position holds HR decision making framework delegation
- Ω Position holder is a civilian with a policing background

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

POSITION STATUS

Permanent Full Time

Permanent Part Time

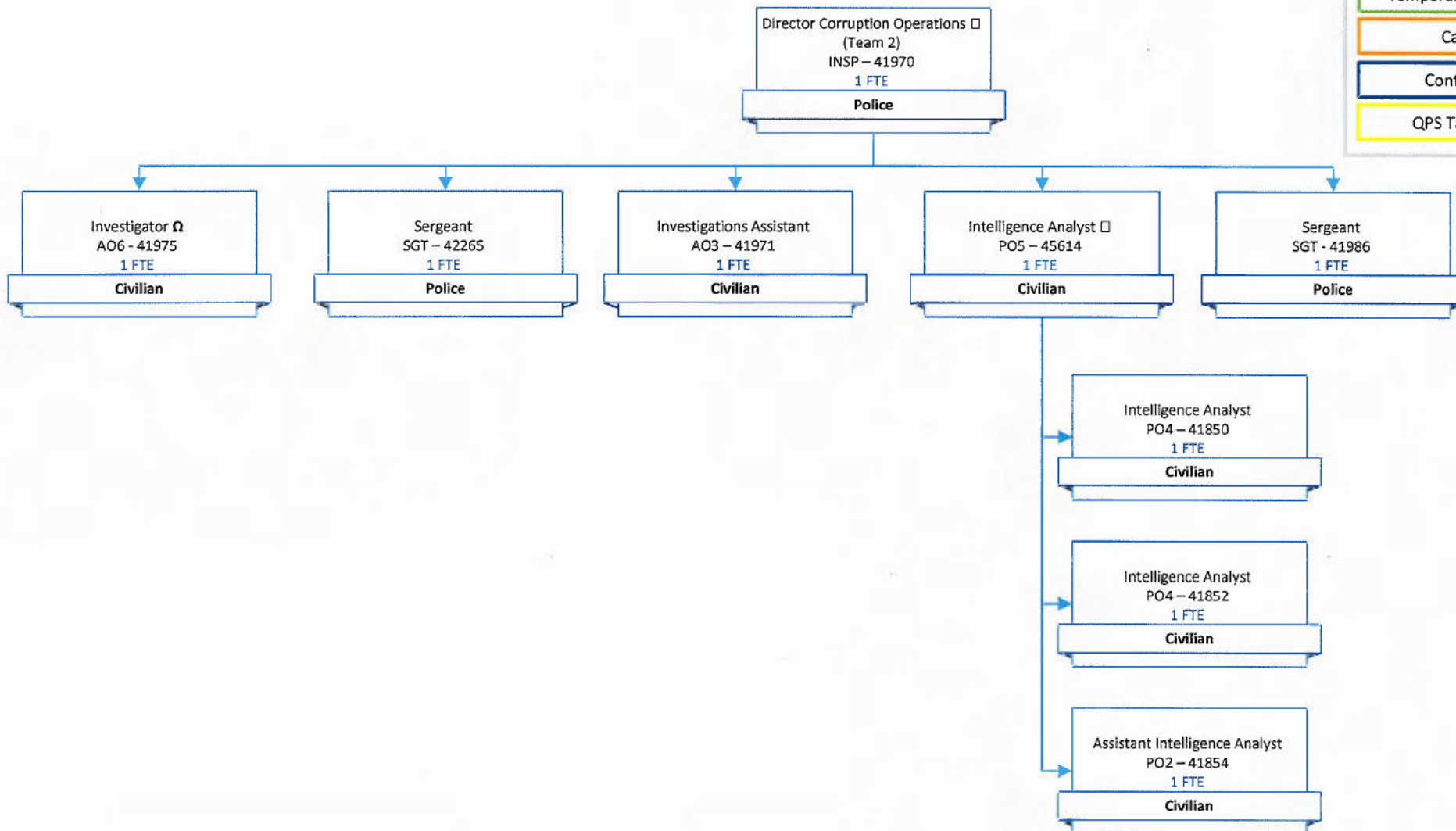
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



CORRUPTION OPERATIONS (TEAM 3)

Budgeted FTE: 18 QPS | 28.8 Civilian

Budgeted FTE shown on this page: 1 QPS | 10.8 Civilian

□ Position holds HR decision making framework delegation

Ω Position holder is a civilian with a policing background

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

POSITION STATUS

Permanent Full Time

Permanent Part Time

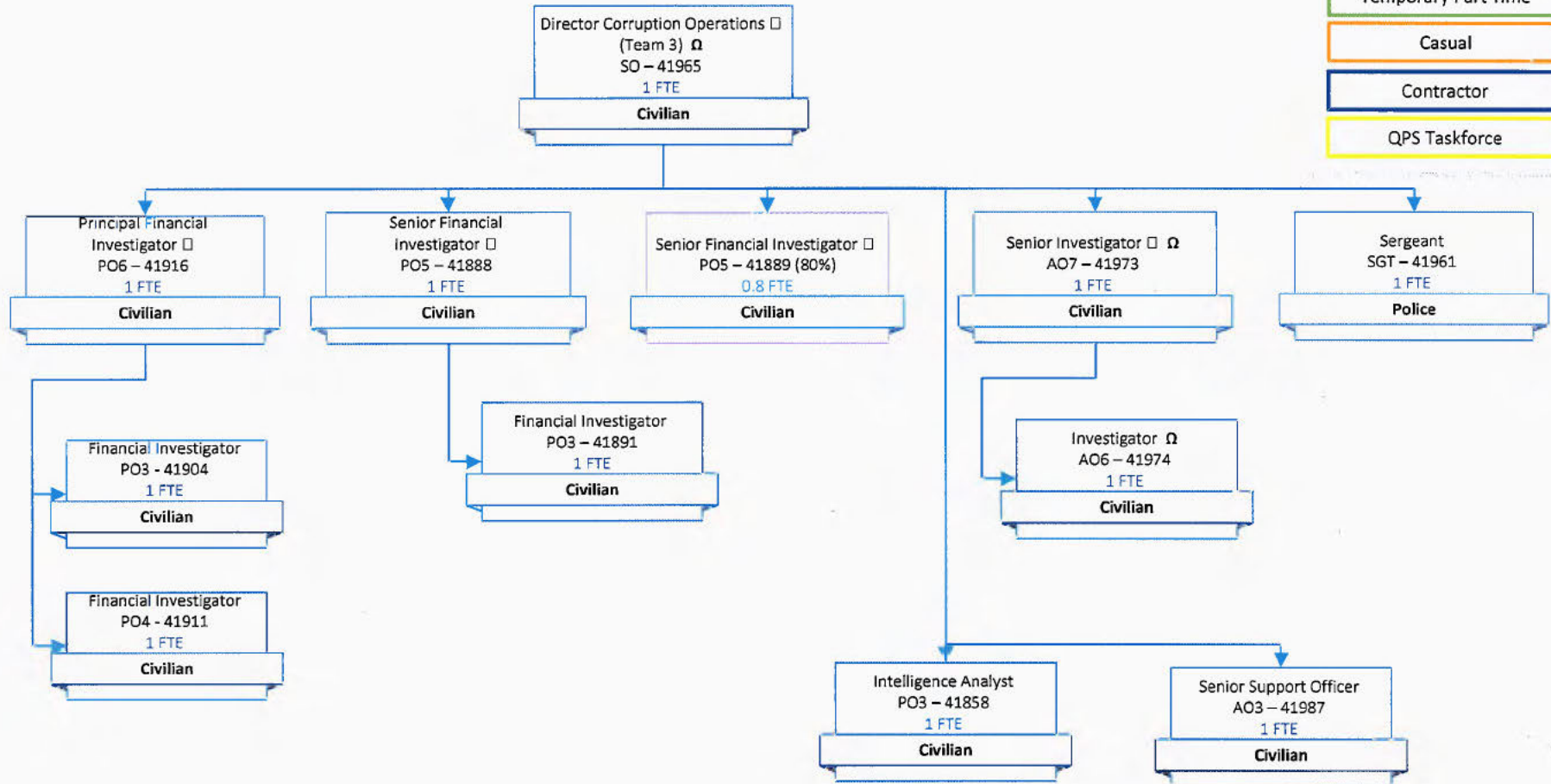
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



CORRUPTION OPERATIONS (TEAM 4)

Budgeted FTE: 18 QPS | 28.8 Civilian

Budgeted FTE shown on this page: 2 QPS | 6 Civilian

□ Position holds HR decision making framework delegation

Ω Position holder is a civilian with a policing background

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

POSITION STATUS

Permanent Full Time

Permanent Part Time

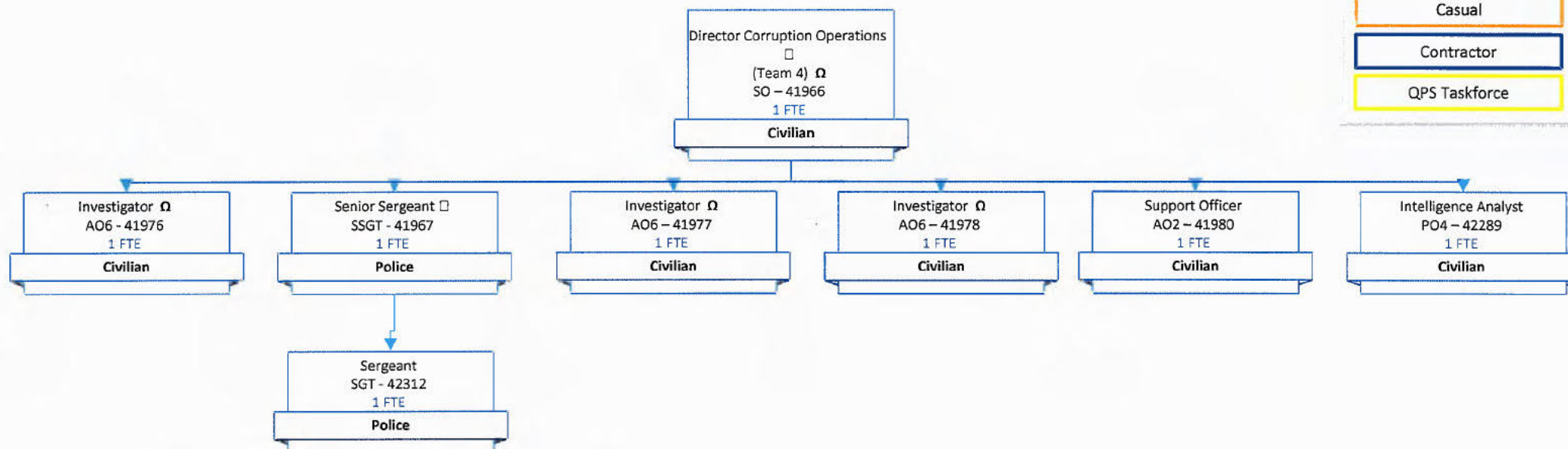
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



CORRUPTION OPERATIONS (TEAM 5)

Budgeted FTE: 18 QPS | 28.8 Civilian

Budgeted FTE shown on this page: 5 QPS | 2 Civilian

□ Position holds HR decision making framework delegation

Ω Position holder is a civilian with a policing background

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

POSITION STATUS

Permanent Full Time

Permanent Part Time

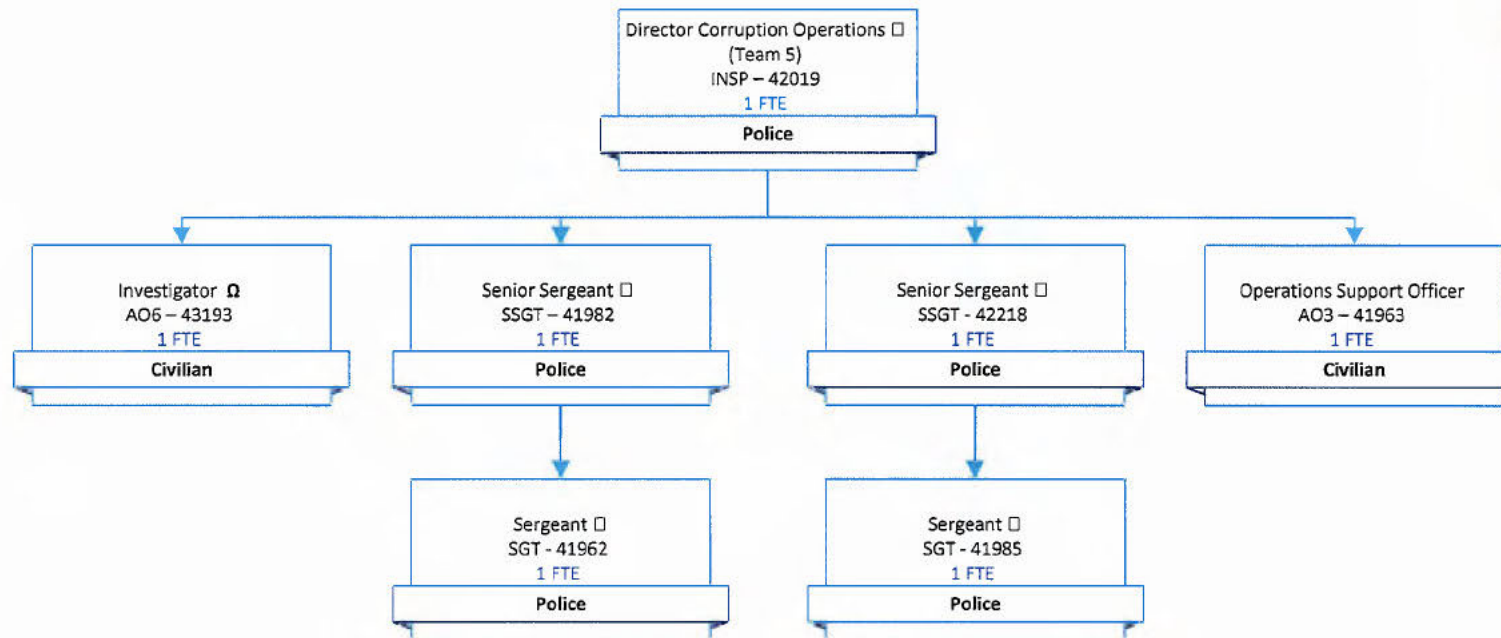
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



CORRUPTION OPERATIONS (TEAM 6)

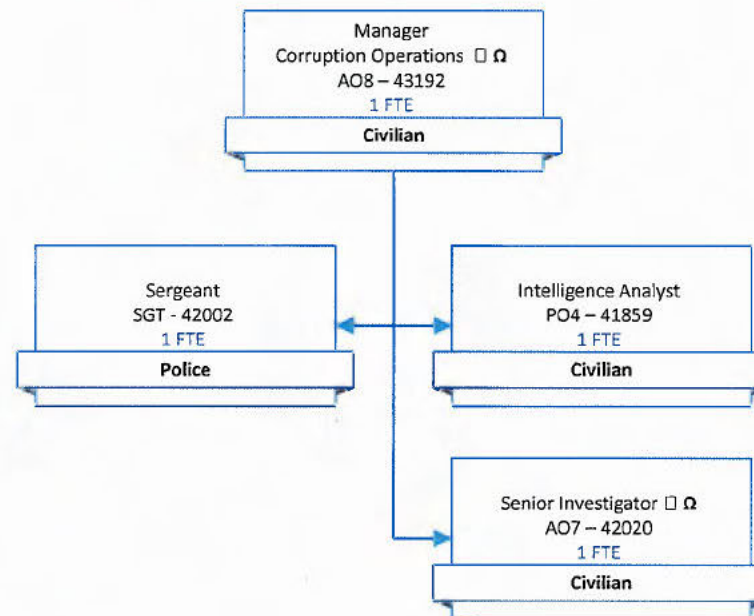
Budgeted FTE: 18 QPS | 28.8 Civilian

Budgeted FTE shown on this page: 1 QPS | 3 Civilian

□ Position holds HR decision making framework delegation

Ω Position holder is a civilian with a policing background

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.



POSITION STATUS

Permanent Full Time

Permanent Part Time

Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce

□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

CORRUPTION STRATEGY, PREVENTION AND LEGAL

Budgeted FTE: 0 QPS | 20 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

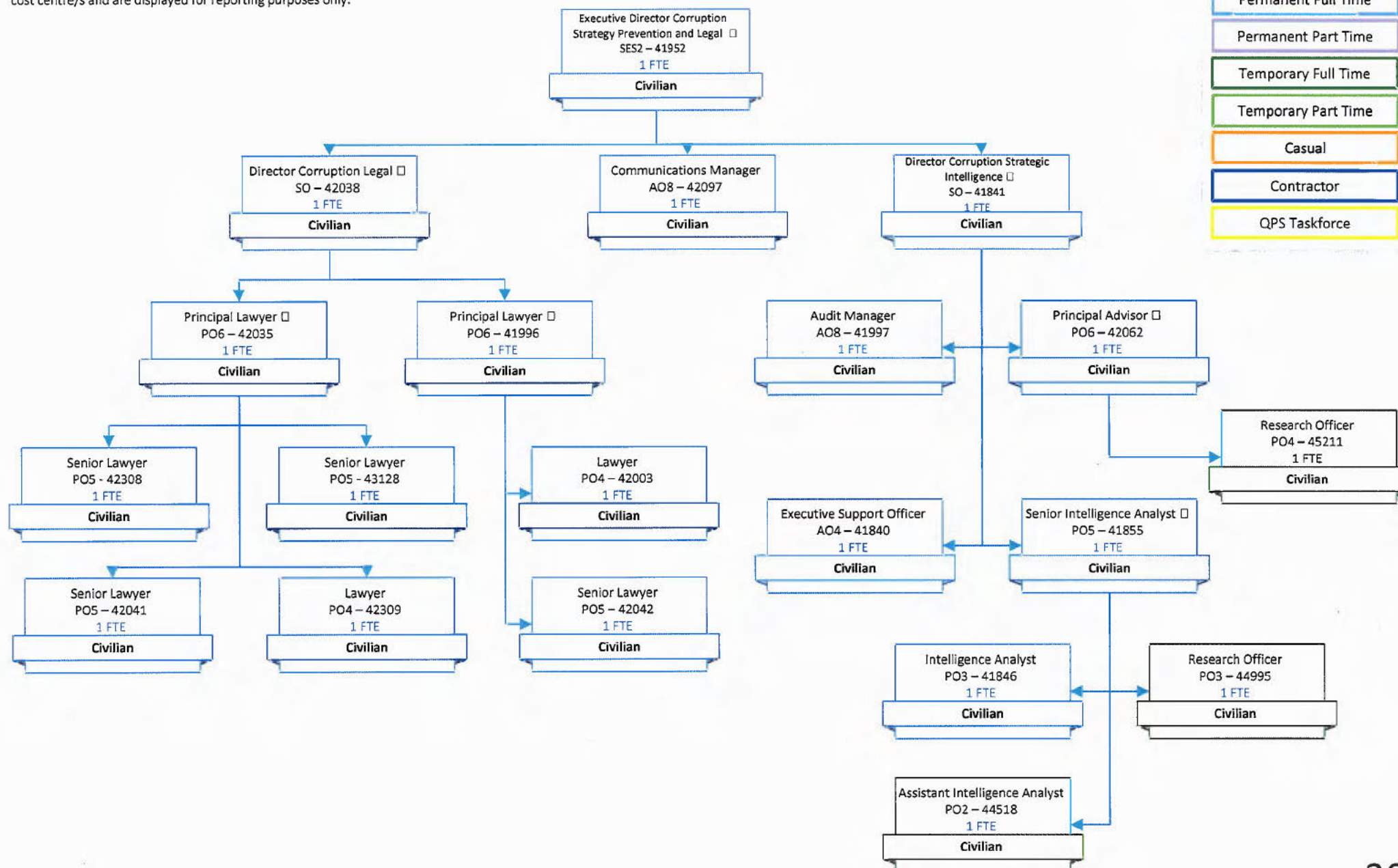
Temporary Full Time

Temporary Part Time

Casual

Contractor

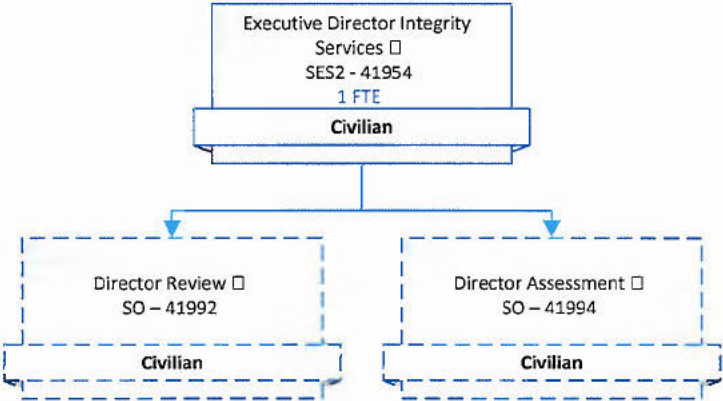
QPS Taskforce



☐ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

INTEGRITY SERVICES
Budgeted FTE: 0 QPS | 25 Civilian
Budgeted FTE shown on this page: 0 QPS | 1 Civilian



POSITION STATUS
Permanent Full Time
Permanent Part Time
Temporary Full Time
Temporary Part Time
Casual
Contractor
QPS Taskforce

□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

INTEGRITY SERVICES - ASSESSMENT UNIT Budgeted FTE: 0 QPS | 25 Civilian Budgeted FTE shown on this page: 0 QPS | 16 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

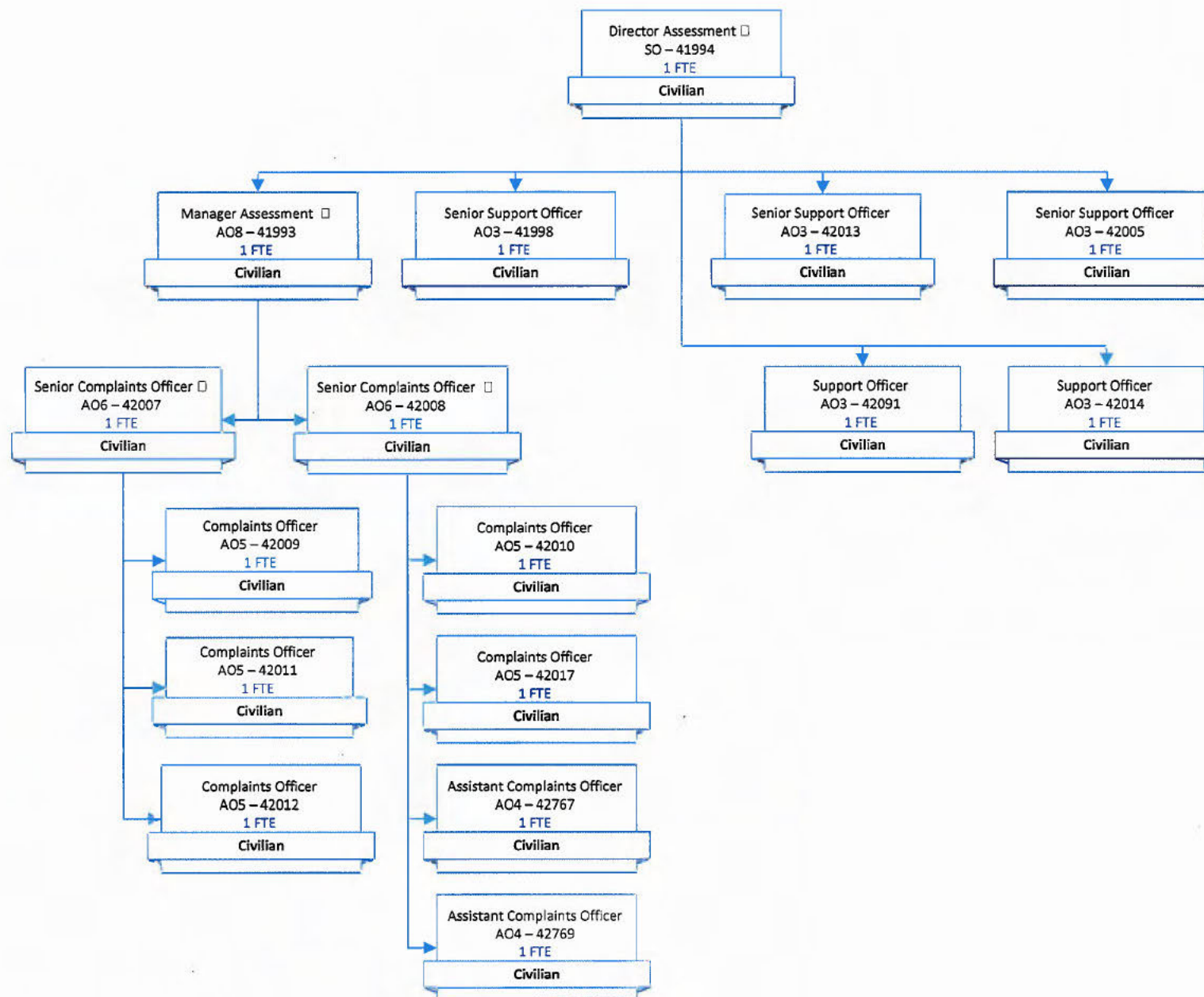
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

INTEGRITY SERVICES - REVIEW UNIT
Budgeted FTE: 0 QPS | 25 Civilians
Budgeted FTE shown on this page: 0 QPS | 8 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

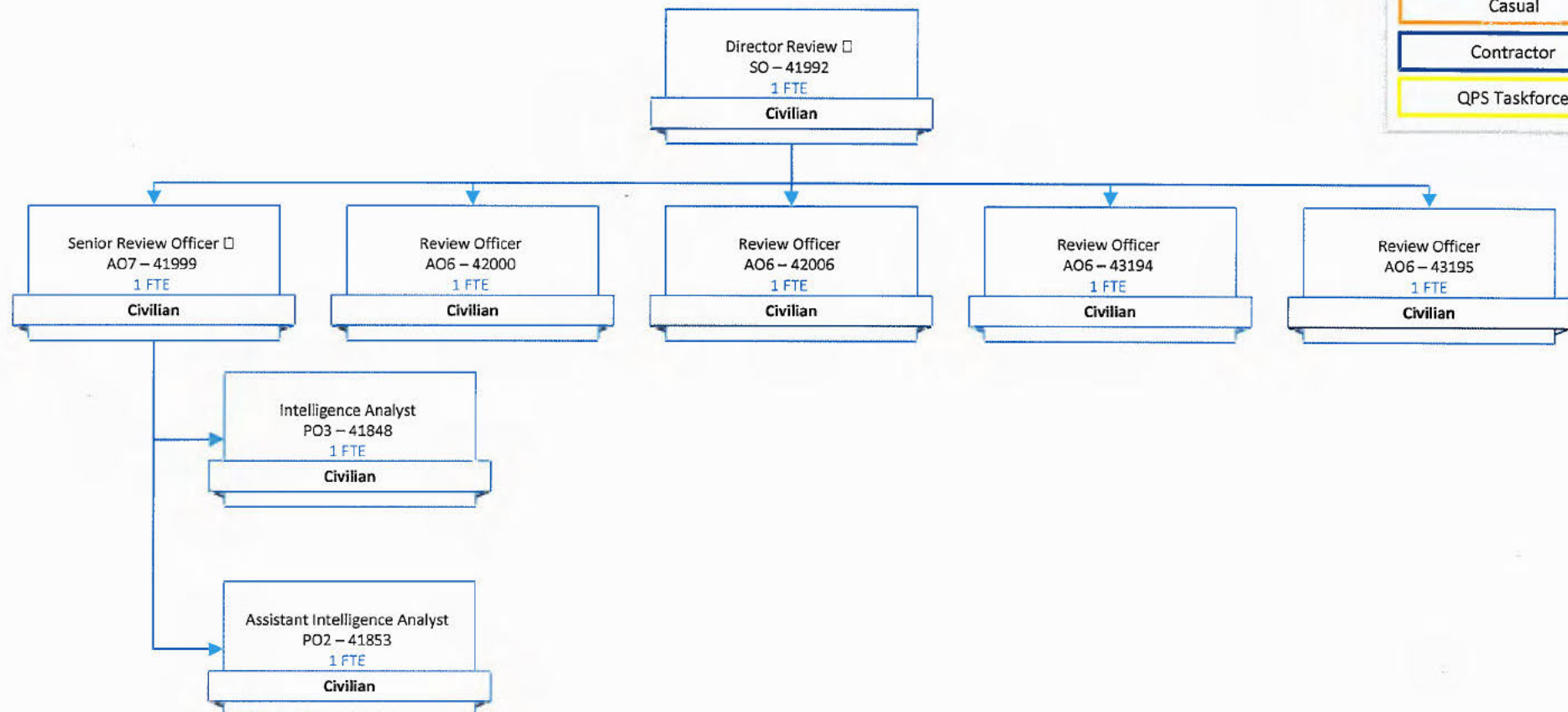
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce

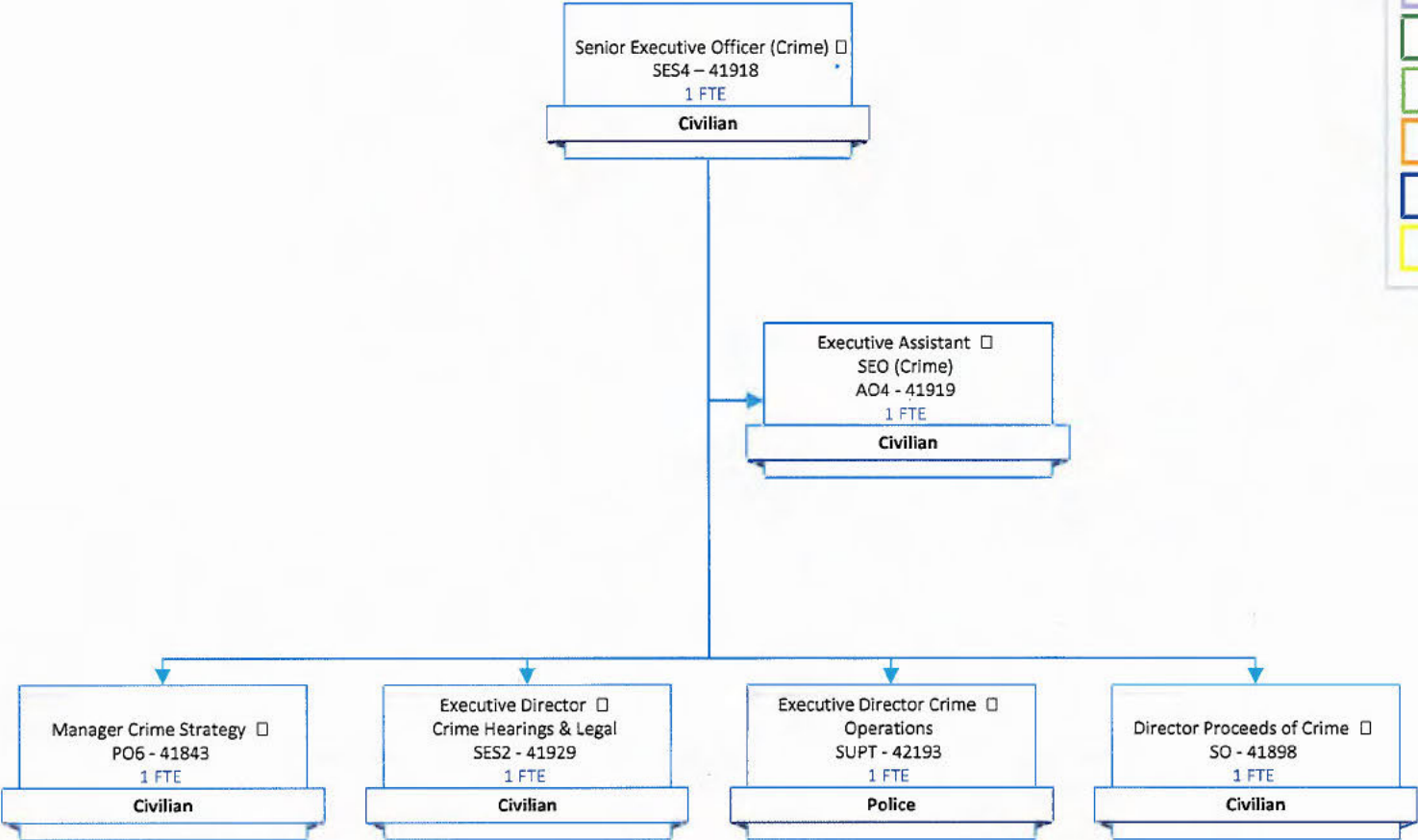


☐ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

OFFICE OF THE SENIOR EXECUTIVE OFFICER (CRIME)
Budgeted FTE: 1 QPS | 5 Civilian

POSITION STATUS	
Permanent Full Time	
Permanent Part Time	
Temporary Full Time	
Temporary Part Time	
Casual	
Contractor	
QPS Taskforce	

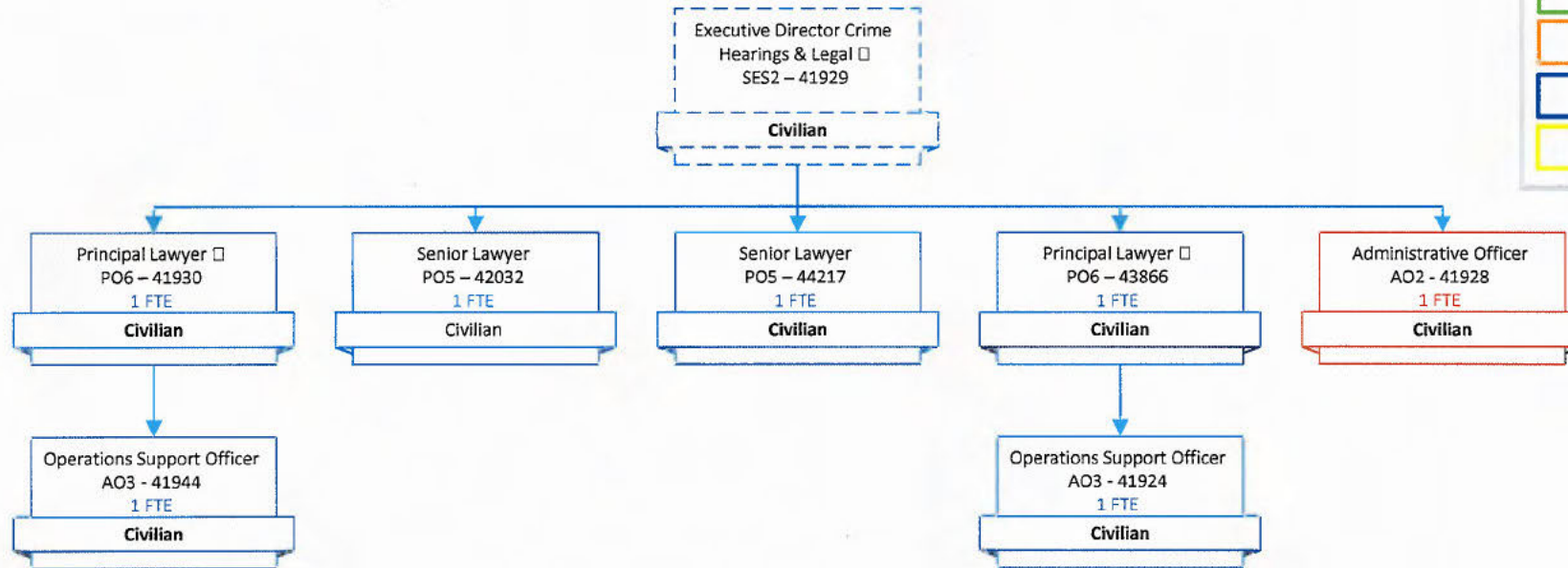


□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

CRIME HEARINGS AND LEGAL

Budgeted FTE: 0 QPS | 7 Civilian



POSITION STATUS

Permanent Full Time

Permanent Part Time

Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce

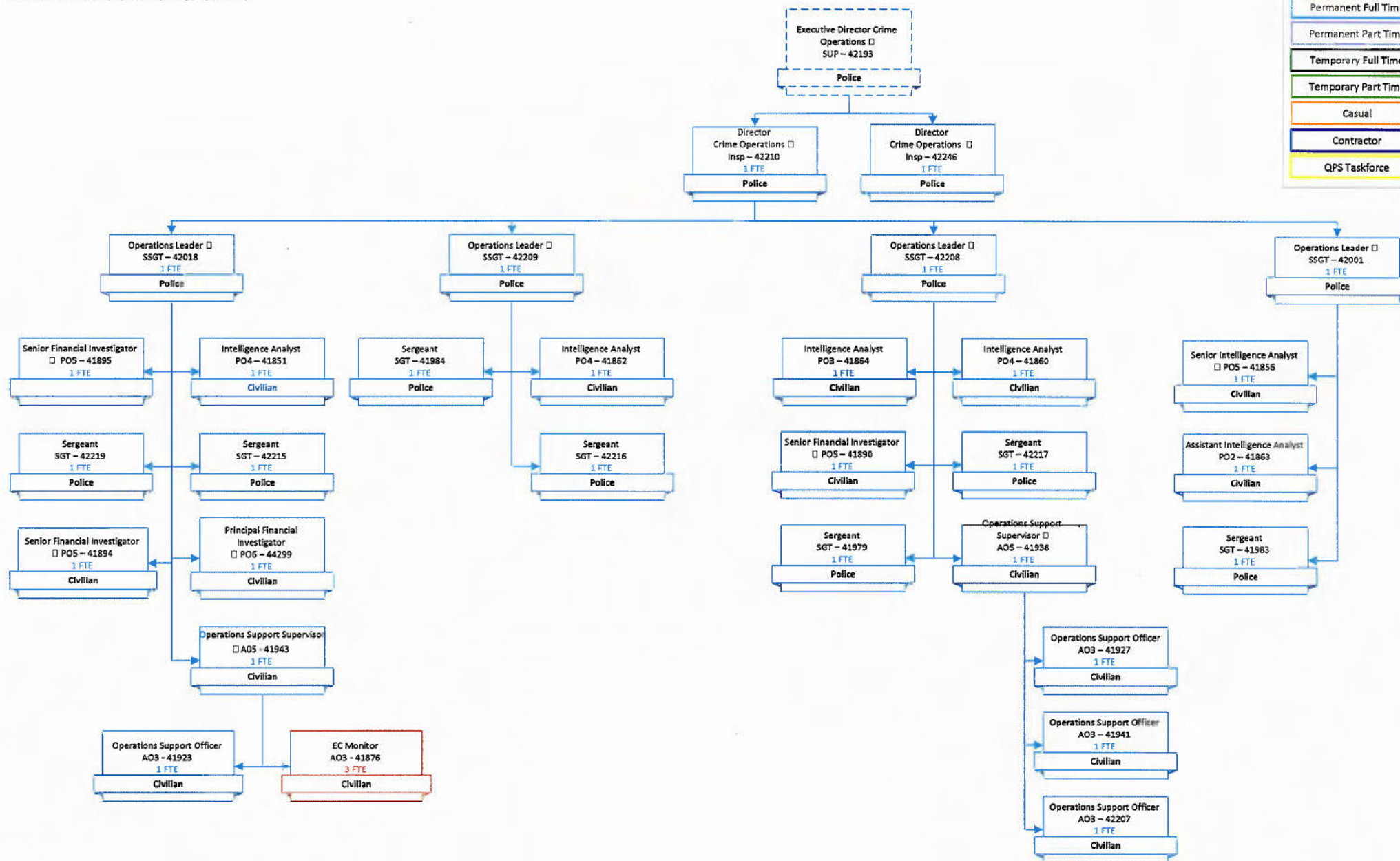
□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

CRIME OPERATIONS

Budgeted FTE: 13 QPS | 19 Civilian

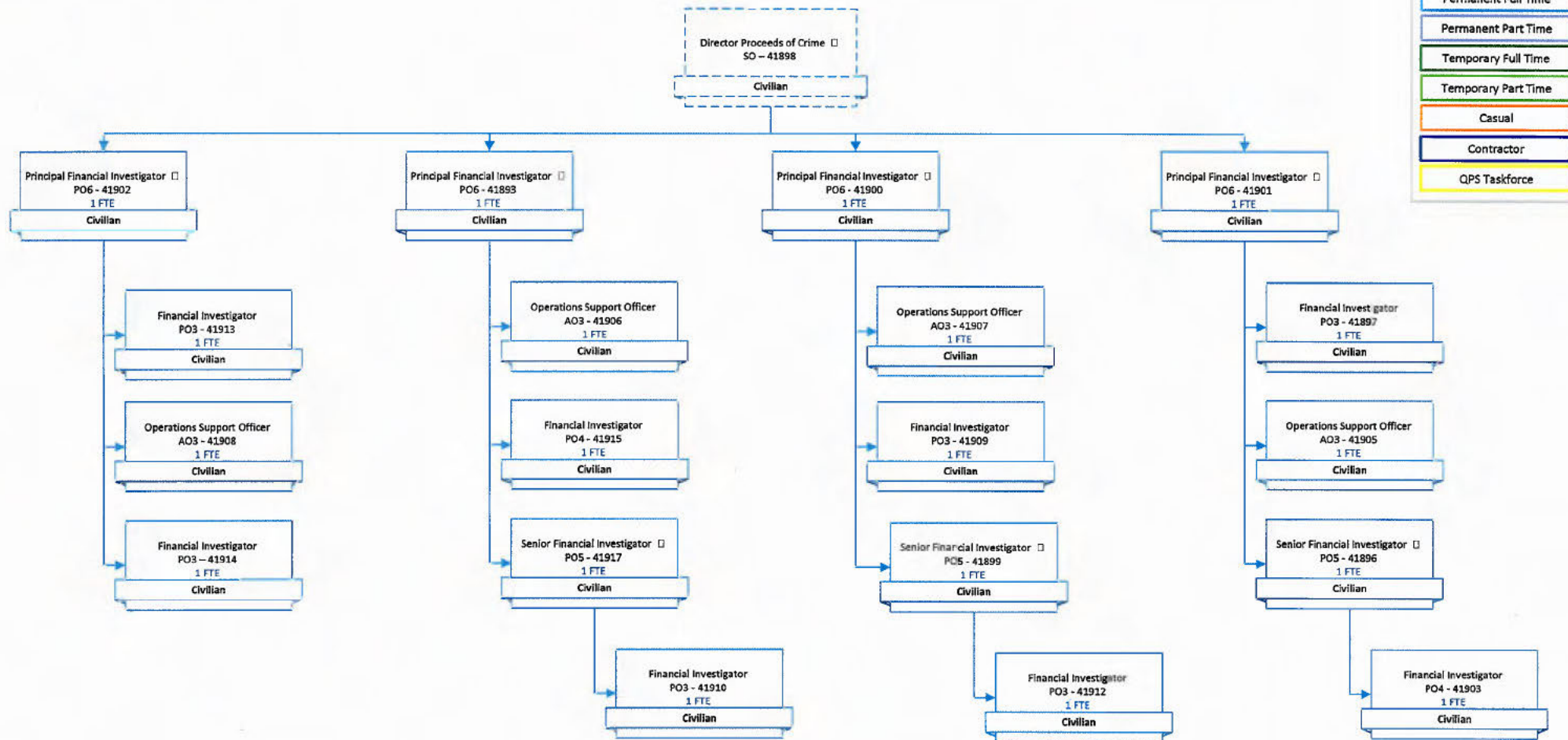
POSITION STATUS	
Permanent Full Time	
Permanent Part Time	
Temporary Full Time	
Temporary Part Time	
Casual	
Contractor	
QPS Taskforce	



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

PROCEEDS OF CRIME
Budgeted FTE: 0 QPS | 19 Civilian



□ Position holds HR decision making framework delegation

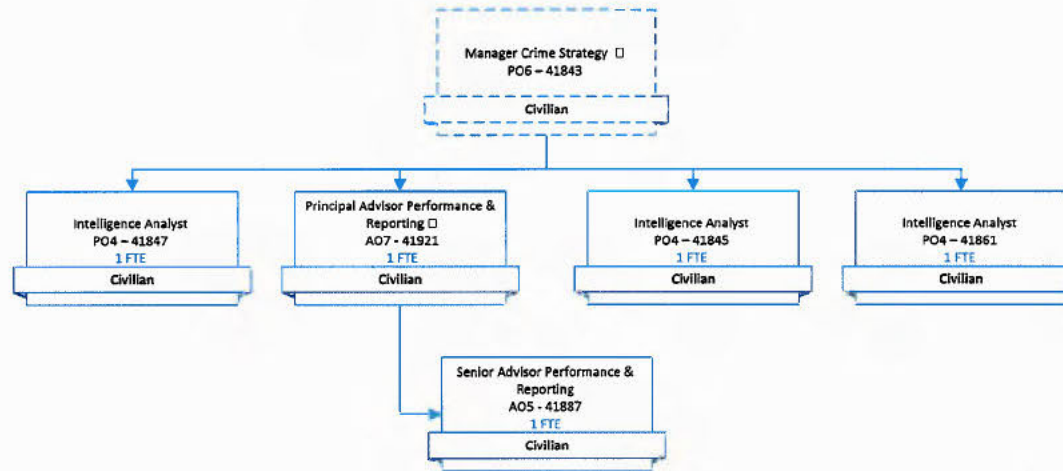
N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

CRIME STRATEGY

Budgeted FTE: 0 QPS | 5 Civilian

POSITION STATUS

Permanent Full Time
Permanent Part Time
Temporary Full Time
Temporary Part Time
Casual
Contractor
QPS Taskforce



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

OFFICE OF THE GENERAL MANAGER CORPORATE SERVICES
Budgeted FTE: 0 QPS | 2 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

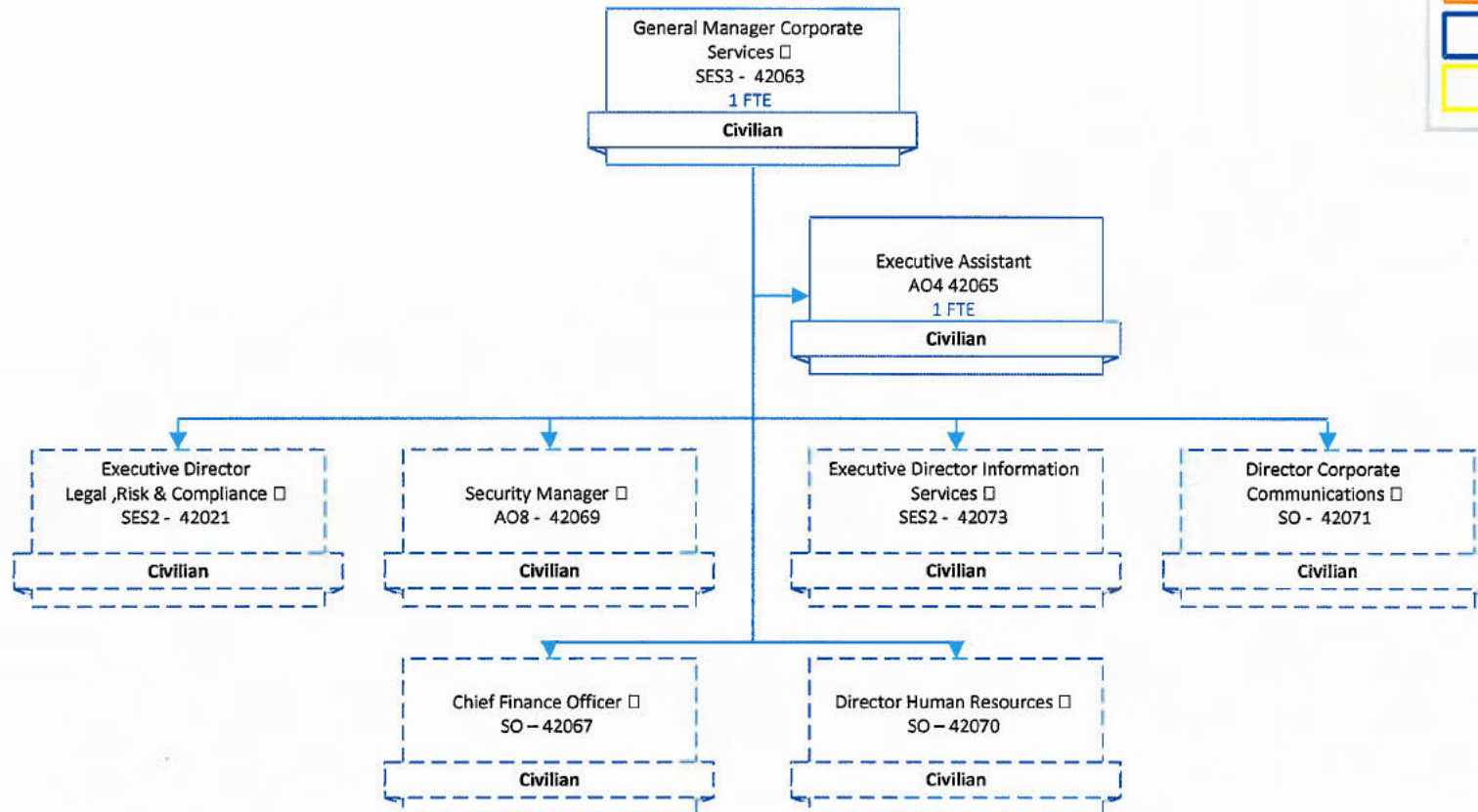
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

INFORMATION SERVICES
Budgeted FTE: 0 QPS | 27.8 FTE
Budgeted FTE shown on this page: 0 QPS | 5 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

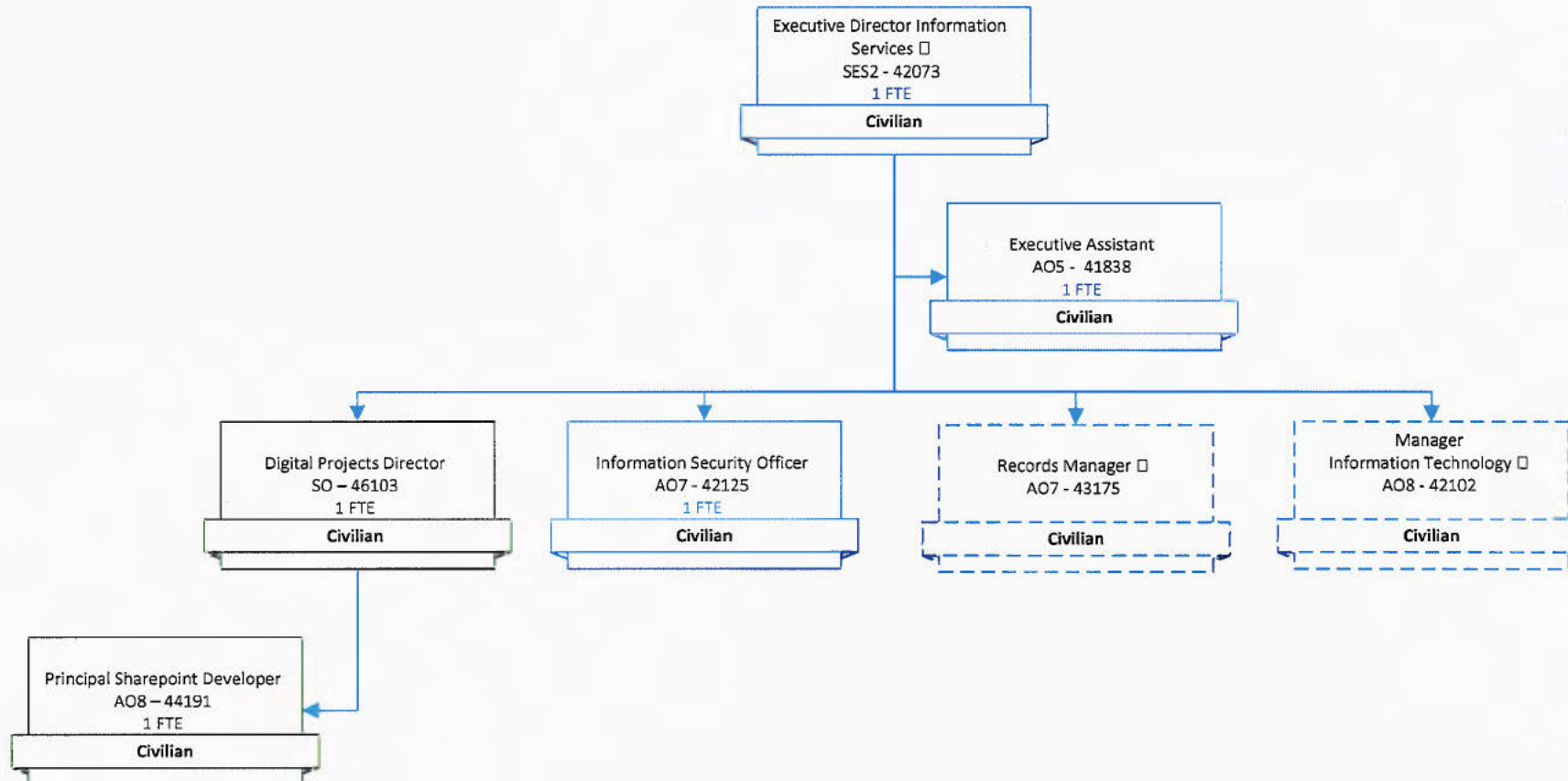
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

INFORMATION SERVICE – INFORMATION TECHNOLOGY

Budgeted FTE: 0 QPS | 27.8 Civilian

Budgeted FTE shown on this page: 0 QPS | 14 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

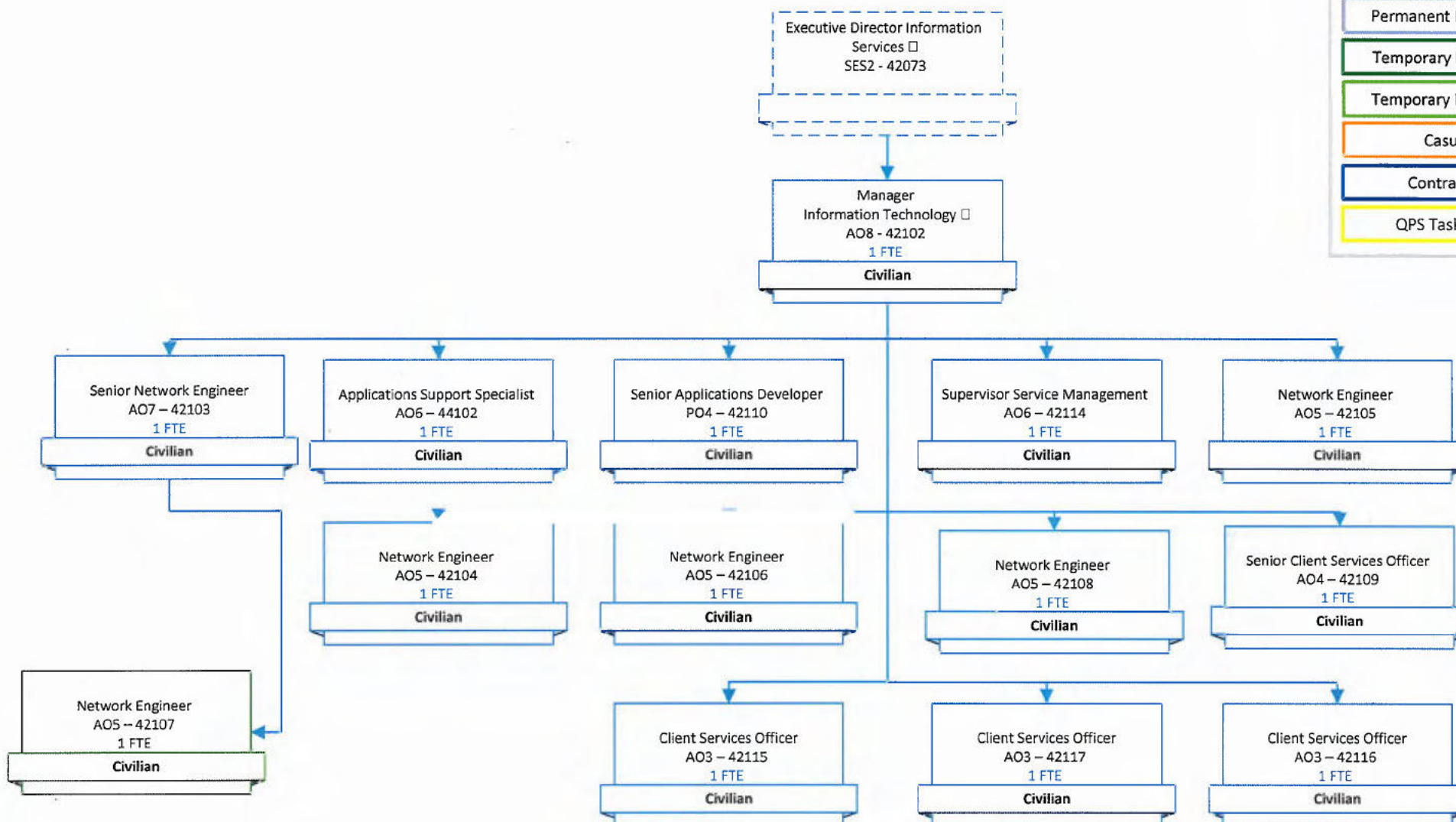
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce

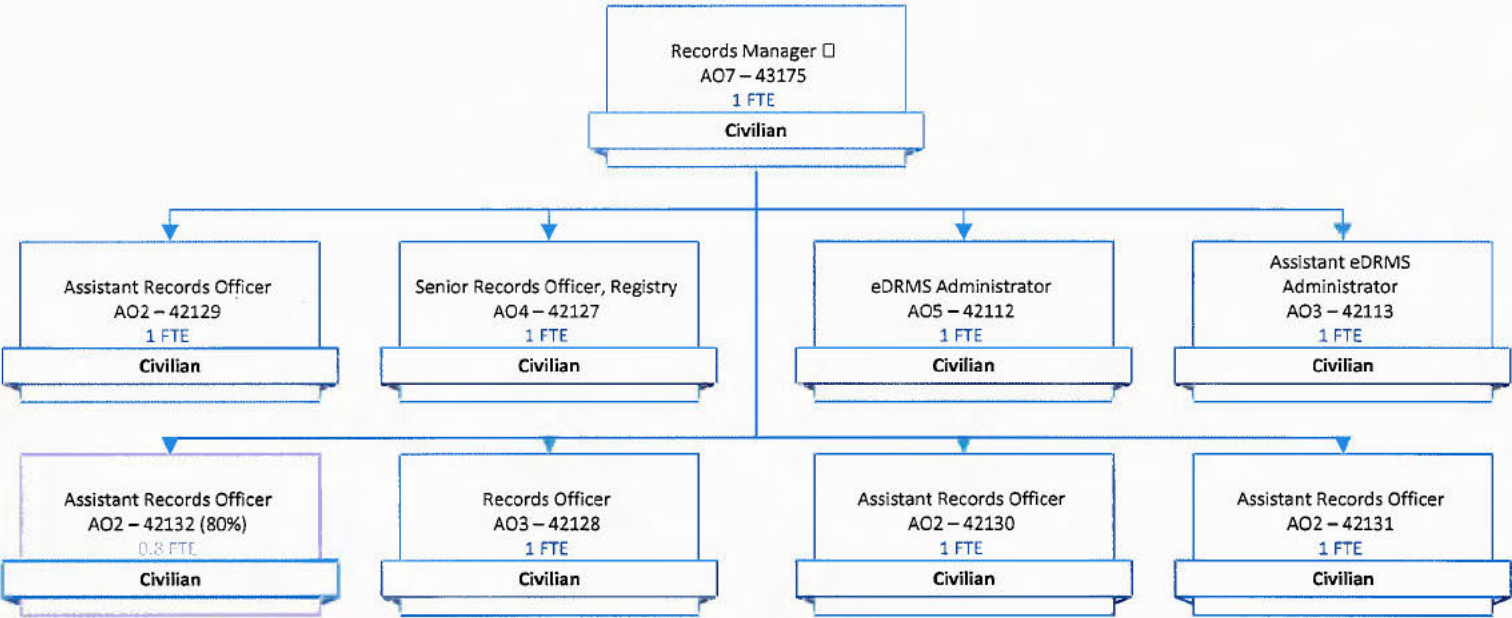


☐ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

INFORMATION SERVICES - RECORDS MANAGEMENT
Budgeted FTE: 0 QPS | 27.8 Civilian
Budgeted FTE shown on this page: 0 QPS | 8.8 Civilian

POSITION STATUS	
Permanent Full Time	
Permanent Part Time	
Temporary Full Time	
Temporary Part Time	
Casual	
Contractor	
QPS Taskforce	



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

HUMAN RESOURCES

Budgeted FTE: 0 QPS | 10.5 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

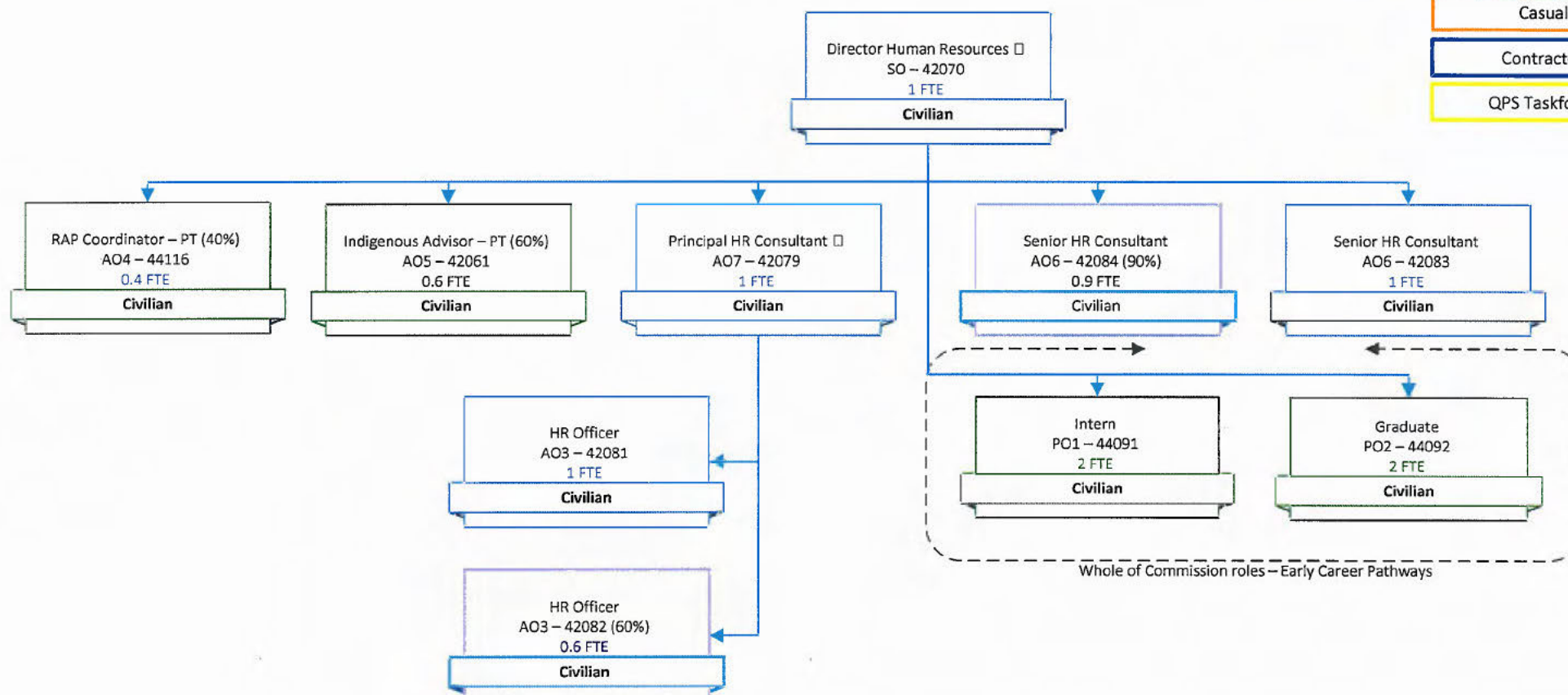
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



☐ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

FINANCE, PROCUREMENT AND OPERATIONS SUPPORT

Budgeted FTE: 0 QPS | 12 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

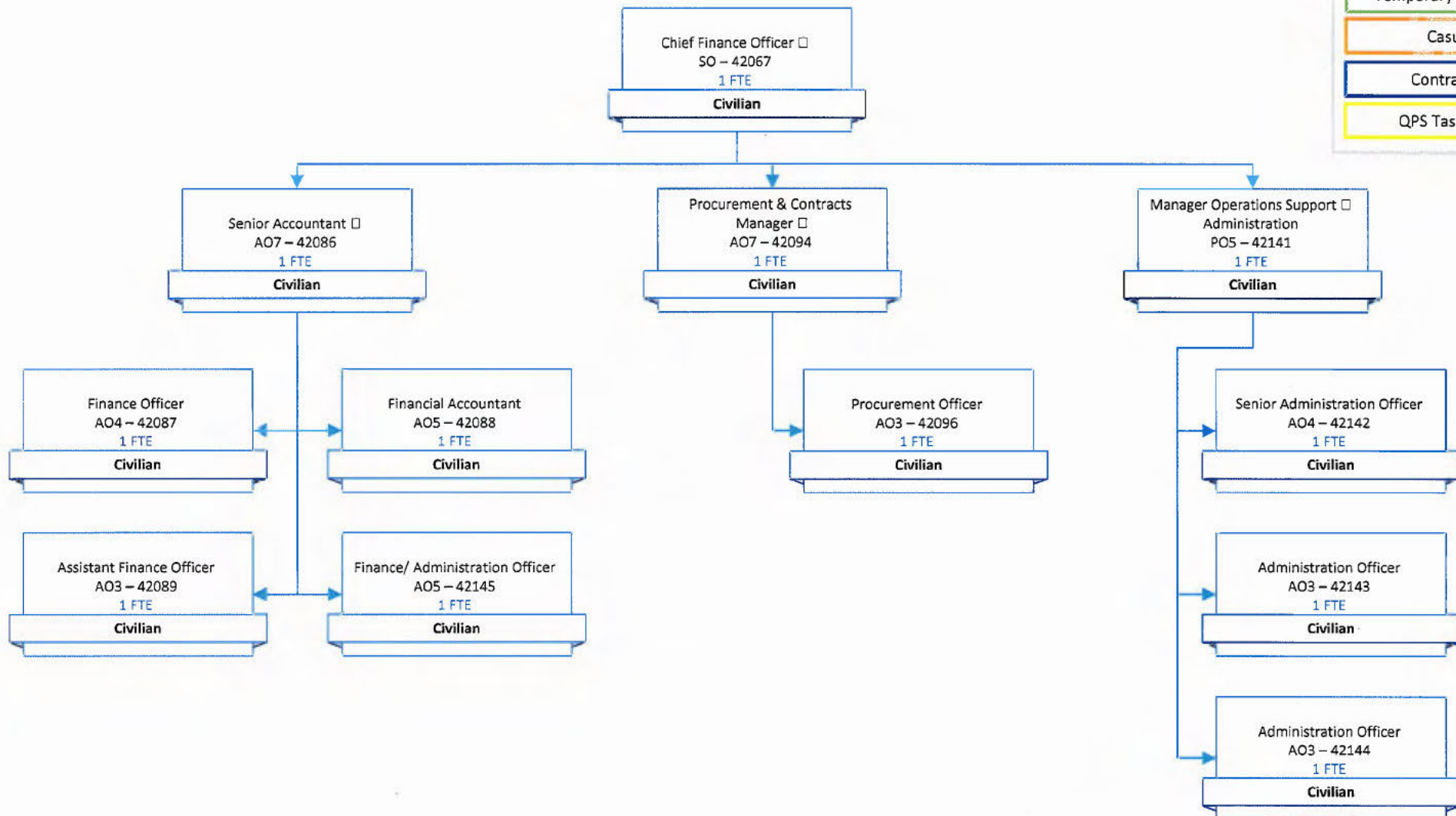
Temporary Full Time

Temporary Part Time

Casual

Contractor

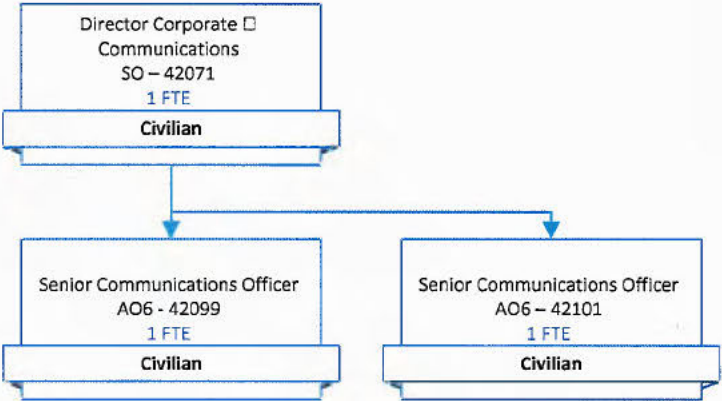
QPS Taskforce



☐ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

CORPORATE COMMUNICATIONS
Budgeted FTE: 0 QPS | 3 Civilian



POSITION STATUS
Permanent Full Time
Permanent Part Time
Temporary Full Time
Temporary Part Time
Casual
Contractor
QPS Taskforce

□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

SECURITY AND FACILITIES MANAGEMENT

Budgeted FTE: 0 QPS | 4.1 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

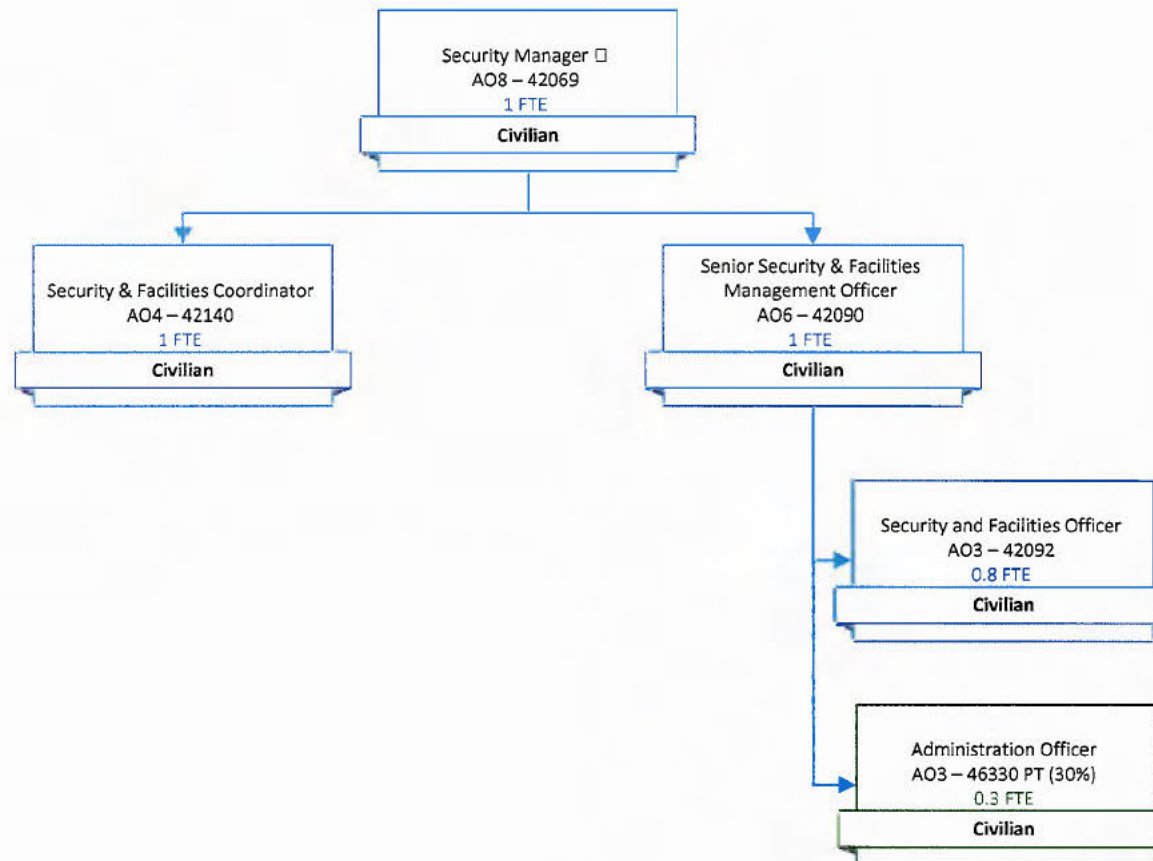
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



□ Position holds HR decision making framework delegation

N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

LEGAL, RISK & COMPLIANCE

Budgeted FTE: 0 QPS | 21.5 Civilian

POSITION STATUS

Permanent Full Time

Permanent Part Time

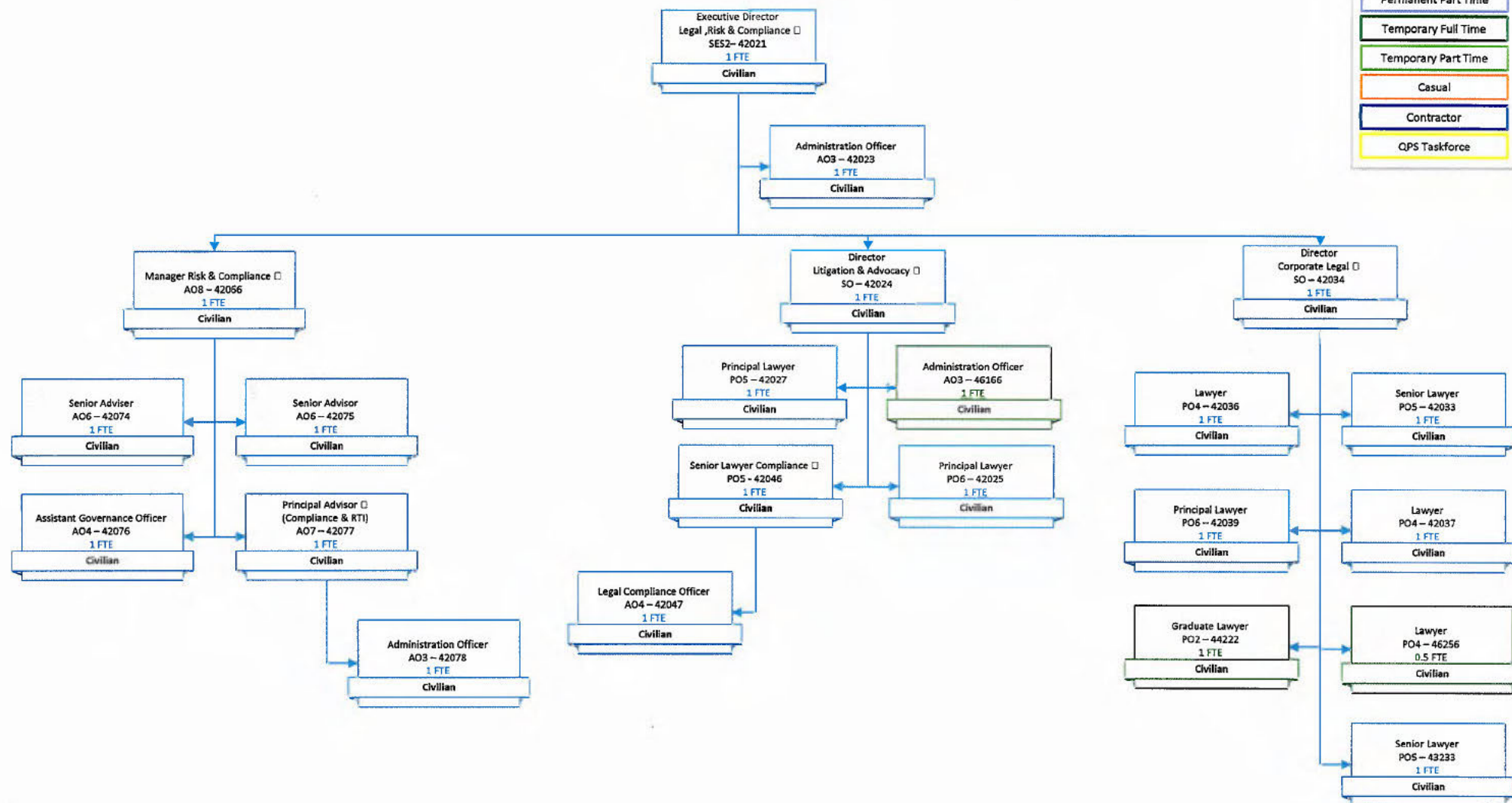
Temporary Full Time

Temporary Part Time

Casual

Contractor

QPS Taskforce



□ Position holds HR decision making framework delegation

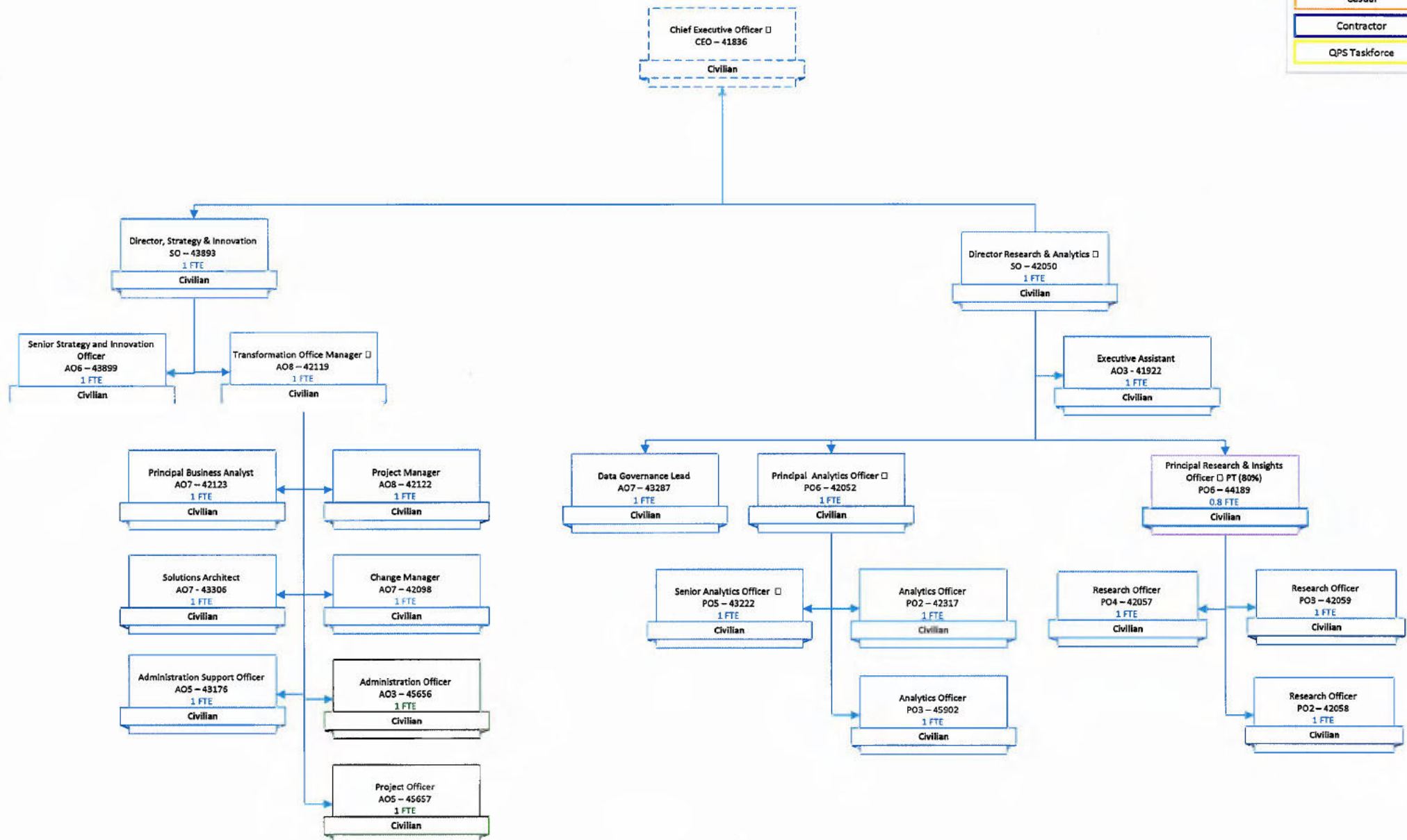
N.B. positions with a dotted outline do not appear within the listed cost centre/s and are displayed for reporting purposes only.

STRATEGY, INNOVATION & INSIGHTS

Budgeted FTE: 0 QPS | 20.8 Civilian

POSITION STATUS

Permanent Full Time
Permanent Part Time
Temporary Full Time
Temporary Part Time
Casual
Contractor
QPS Taskforce





Role Description

Role title:	Director Corruption Operations	Closing date:	
Job Ad Reference:		Basis of employment:	Contract (5 years)
Division:	Corruption	Classification:	SO
Unit:	Corruption Operations	Salary:	\$135,769 to \$148,951
Location:	Brisbane	Contact details:	(07) 3360 6060

Important Information

Certain classifications have mandatory qualifications, please refer to “About you” for further information if applicable. Applicants may be required to provide detailed information about their personal and financial circumstances as part of our comprehensive background checking process. More information can be found on our [Careers page](#).

About the CCC

The Crime and Corruption Commission (CCC) is an independent statutory body set up to combat and reduce the incidence of major crime and corruption in the public sector in Queensland. We investigate crime and corruption, and have oversight of the public sector including police. The CCC also has responsibility for restraining and recovering suspected proceeds of crime and administers Queensland’s witness protection program. Read more about our [functions and history here](#).

Working for the CCC

Working for the CCC is more than just a job – it’s about serving the people of Queensland and making a difference by combating major crime and reducing corruption. By working with us you can contribute your passion, unique skills, and talent to keep our community safe and deliver our vision – *Safe communities supported by fair and ethical public institutions*.

There are lots of reasons why you should work with the CCC. In addition to a great salary and up to 12.75% employer superannuation, the CCC offers a range of non-financial benefits. These include supported professional development, opportunities for career growth, job security, flexible working arrangements, including working from home, a great location, interesting and meaningful work and great leadership. Read more about our diverse professional roles, including lawyers, specialist investigators and intelligence analysts [working at the CCC here](#).

At the CCC our values – **People**; **Accountability**; **Integrity**; **Courage** and **Excellence** underpin everything we do. We live these values in our everyday work and recognise our people for demonstrating these values.



People



Accountability



Integrity



Courage



Excellence

The CCC acknowledges the Traditional Owners of the lands where we live and work and pay our respects to their Elders – past, present and emerging. We recognise and celebrate the vibrant and unique cultures of all Aboriginal and Torres Strait Islander peoples. At the CCC we demonstrate our commitment to reconciliation through our Reconciliation Action Plan (RAP). Read more about our [RAP here](#).



Leadership competencies for the role

The CCC has adopted the Queensland Public Service Leadership competencies for Queensland for all our positions. This role is mapped to the **Team Leader** profile which outlines the competency expectations and behaviours through the lens of vision, results, and accountability. The Leadership competencies for Queensland are [available here](#).

Your contribution

The primary purpose of this role is to provide leadership, strategic direction and effective management of an individual inter-disciplinary investigation team within the Corruption Operations business unit at the CCC, to ensure allegations of serious or systemic corruption within the Queensland public sector, including the Queensland Police Service are dealt with appropriately.

The Director Corruption Operations is responsible for:

- Providing strategic, professional and operational advice to the Executive Director, Corruption Operations, Executive Director Corruption Strategy, Prevention and Legal and the Senior Executive Officer, Corruption and the Commission in relation to:
 - Investigations and operations relating to allegations of serious or systemic corruption within the Queensland public sector, including the Queensland Police Service.
 - Identification of significant outcomes in relation to integrity and accountability issues, and corruption risks within the Queensland public sector, including the Queensland Police Service.
- Assisting the Executive Director in the management of Corruption Operations, including developing and refining business processes and policies.
- Managing a Corruption Operations inter-disciplinary investigation team conducting high level investigations into allegations of serious or systemic corruption utilizing high risk investigative methodologies, including telephone interception, covert physical and technical surveillance, human source activities, controlled operations, search warrants (covert / overt) and coercive hearings. Provide high quality advice to the relevant decision maker.
- Managing a Corruption Operations inter-disciplinary investigation team, being responsible for the leadership, management and professional development of staff in the team, establishing priorities, allocating resources, and reporting on target achievements.
- Conducting high level investigations (internal and external) into serious corruption allegations concerning senior officers within the Queensland public sector, including the Queensland Police Service and CCC officers as required.
- Attending crime scenes including where a death has occurred as a result of a police operation, attending autopsies, conducting and directing interviews, preparing affidavits and briefs for investigative hearings.
- Representing the CCC in a variety of forums, including on committees, working parties, task forces as required and presentations to external delegations as required.

About you

Appointments in the CCC are merit-based and will be assessed by looking at what you have done previously—the knowledge, skills and experience you have built, your potential for development, and your personal qualities which align with the leadership competencies and the CCC's values.

Possession of tertiary qualifications relevant to the position are highly desirable. Qualifications acquired from an overseas educational institution will only be accepted where the qualification has been recognised to an equivalent level in accordance with the [Australian Qualifications Framework](#).

For this role, we will consider how well you demonstrate the following:



- Demonstrated application of high level organizational, strategic and analytical skills to support the oversight of the investigation into serious and systemic corruption allegations and the ability to align operational activities to an organisation's objectives.
- Demonstrated ability to deal with complex operational, legal, policy and ethical issues to inform high quality decisions and provide expert advice in a high pressure and high volume work environment.
- Significant experience and high level knowledge of issues within a public sector context, including detailed knowledge, or the ability to rapidly acquire a detailed knowledge, of the Crime and Corruption Act 2001 and other relevant legislation, and the CCC's policies and procedures.
- Demonstrated ability to deliver consistent and high quality work (including operations) within required timeframes and with the achievement of agreed results, and with the initiative and drive to see that goals are achieved.
- Demonstrated ability to identify procedural or policy inadequacies and draft suitable recommendations to rectify those inadequacies.
- Demonstrated capacity to lead and motivate a multi-disciplinary team to deliver consistent and high quality results.
- Demonstrated ability to build and manage stakeholder partnerships at all levels internally and externally to the CCC.
- Knowledge and application of contemporary management practices, including equal employment opportunity, workplace health and safety and anti-discrimination practices, and social justice.
- Highly developed and effective oral and written communications skills, interpersonal skills, and an ability to adapt your communication style to your audience and the ability to prepare complex correspondence and reports.
- Demonstrated ability to liaise, consult and negotiate with people effectively, including on complex and sensitive issues.

How to Apply

Please provide the following information to the panel to assess your suitability:

- A supporting statement of **no more than two pages** which outlines your suitability for this position, referencing the "About you" section of this role description
- A detailed resume, including your work experience and at least two referees (one ideally being your supervisor from the past two years) who has a thorough knowledge of your work performance and conduct
- View more information on [applying for jobs with the CCC](#)
- Please apply via smartjobs.qld.gov.au

Additional information

- Certified copies of all qualifications and professional memberships must be produced at time of interview.
- This role description does not necessarily detail the full range of duties required of the position.
- The CCC seeks to employ people from a broad range of backgrounds recognising the benefits that arise from engaging a diverse and culturally aware workforce.
- The CCC has a zero tolerance for fraud and corruption activities, whether initiated within the agency or externally, and promotes a culture that will not tolerate any act of fraud, corruption or dishonest behaviour.
- The employment of an appointee who is not currently a permanent officer of the CCC to a permanent or contract position will usually be subject to a probationary period of not less than six (6) months, after which time confirmation of appointment will be dependent upon satisfactory performance review.
- An applicant recommended for appointment who is a current or previous public sector employee is required to disclose previous serious disciplinary action taken against them.



- Applicants considered for appointment are required to provide evidence of their right to work in Australia. This includes Australian citizenship, or evidence the applicant resides in Australia and has permission, under a Commonwealth law, to work in Australia.
- Applications for this role may be used to appoint to similar vacancies for up to 12 months after the closing date of the initial vacancy.

Organisational chart



Attachment C

Role description

Job Ad Reference VRN:		Salary: \$107,879 - \$115,523
Role Title:	Senior Investigator	Contact:
Division:	Corruption	
Status:	Contract (5 years)	Telephone: (07) 3360 6060
Location:	Brisbane	Apply online: Smartjobs.qld.gov.au
Classification:	A07	Closing Date:

Our vision

Safe communities supported by fair and ethical public institutions with an agency focus on those matters of highest threat to the Queensland community.

Our purpose

The CCC is an independent agency combating major crime and reducing corruption for the benefit of the Queensland community. Our functions and powers are set out in the *Crime and Corruption Act 2001*. We:

- investigate organised crime, paedophilia, terrorist activity and other serious crime referred to it for investigation
- receive and investigate allegations of serious or systemic corrupt conduct
- have a statutory function for crime and corruption prevention
- help recover the proceeds of crime
- provide the witness protection service for the state of Queensland, and
- conduct research on crime, policing and other relevant matters.

Our values



People



Accountability



Integrity



Courage



Excellence

Leadership competencies for the role

The Queensland Public Service Leadership competencies for Queensland applies to all positions within the CCC. This role is mapped to the **Individual contributor** profile:

Vision	Results	Accountability
<ul style="list-style-type: none">• Thinks critically and acts on the broader purpose of the system.• Gathers insights and embraces new ideas and innovation to inform future practice.• Embraces change and leads with focus and optimism in an environment of complexity and ambiguity.• Makes considered, ethical and courageous decisions based on insight into the broader context.	<ul style="list-style-type: none">• Strengthens and mobilises the unique talents and capabilities of the workforce.• Builds and sustains relationships to enable the collaborative delivery of customer-focused outcomes.• Inspires others by driving clarity, engagement and a sense of purpose.• Demonstrates accountability for the execution and quality of results through professionalism, persistence and transparency.	<ul style="list-style-type: none">• Fosters an inclusive workplace where health, safety and wellbeing is promoted and prioritised.• Pursues opportunities for growth through agile learning, and development of self-awareness.• Maintains a high standard of practice through governance and risk management.

Key duties and responsibilities

The **Senior Investigator** is responsible for:

- Investigating and reporting on serious, complex and sensitive cases of alleged corruption on the part of members of the QPS and officers of other units of public administration.
- Liaising closely with Commission staff from other disciplines including legal officers, financial investigators, intelligence analysts, complaints officers, monitoring officers, police officers and prevention advisers to achieve significant investigative and preventative results.
- Liaising with officers and senior managers from other public sector agencies to obtain evidence relating to the investigation of allegations of corruption.
- Provide recommendations for procedural reforms in the public sector to limit the opportunities for and to detect official corruption.
- Assist legal officers of the Commission in the conduct of hearings undertaken for the purpose of investigations.
- Prepare briefs of evidence in relation to matters arising from investigations for presentation in courts and tribunals.
- As required, appear as a witness for the Commission or the Crown in relation to hearings or prosecutions, as appropriate, arising from Commission investigations.
- Where required, assist the Operations Co-ordinator with the planning and development of innovative and effective investigations into allegations of official corruption.

Key accountabilities of the role

- Analytical and investigative skills in complex matters, using investigative techniques and technologies and utilising specialist contributions to investigations.
- Ability to coordinate and manage complex investigations, demonstrated by substantial experience as an investigator in a law enforcement agency or within the public sector.
- Highly developed interpersonal and oral communication skills including ability to negotiate effectively, conduct investigative interviews and operate as an effective team member.
- High level of written communication skills including ability to prepare detailed reports, briefs of evidence and correspondence dealing with complex issues.
- A demonstrated knowledge of criminal or administrative law and its application. Knowledge of, or ability to acquire knowledge of, the *Crime and Corruption Act 2001* and other relevant legislation and the Commission's policies and procedures.

Conditions and benefits of the role

The CCC provides access to an employee assistance program and a range of learning and development opportunities. The CCC supports employee professional development and is committed to maintaining a healthy work-life balance.

Qualifications/professional registration/other requirements

- Certified copies of all qualifications must be produced at time of interview
- Possession of tertiary qualifications are not required although experience as an investigator in a law enforcement agency or within the public sector and who holds a Certificate IV in Investigations would be looked upon favourably.

How to apply

Applications should include:

- a supporting statement of **no more than 2 pages** which outlines your suitability for this position, with examples of how your knowledge, abilities and experience:
 - address the key accountabilities of the role
 - relate to the leadership competencies, and
 - demonstrate the CCC's values.
- A detailed resume, including your work experience and two referees from the last two years, who have a thorough knowledge of your work performance and conduct.
- **Please apply via smartjobs.qld.gov.au**

Additional information

- Applications will remain current for 12 months and may be used to fill other similar vacancies.
- This position description does not necessarily detail the full range of duties required of the position.
- Applicants may be required to furnish detailed information about their personal and financial circumstances.
- The CCC seeks to employ people from a broad range of backgrounds recognising the benefits that arise from engaging a diverse and culturally aware workforce.
- The CCC has a zero tolerance for fraud and corruption activities, whether initiated within the agency or externally, and promotes a culture that will not tolerate any act of fraud, corruption or dishonest behaviour.
- The employment of an appointee who is not currently a permanent officer of the CCC to a permanent or contract position will usually be subject to a probationary period of not less than three (3) months, after which time confirmation of appointment will be dependent upon satisfactory performance review.
- A non-smoking policy is effective in CCC premises, vehicles and facilities.
- An applicant recommended for appointment who is a current or previous public sector employee is required to disclose previous serious disciplinary action taken against them.

Organisational structure



Attachment D

Role Description

Role title:	Investigator	Closing date:	
Job Ad Reference:		Basis of employment:	Contract – Temporary (Full-time)
Division:	Corruption	Classification:	AO6
Unit:	Corruption Operations	Salary:	
Location:	Brisbane	Contact details:	(07) 3360 6060

Important Information

Certain classifications have mandatory qualifications, please refer to “About you” for further information if applicable.

Applicants may be required to provide detailed information about their personal and financial circumstances as part of our comprehensive background checking process. More information can be found on our [Careers page](#).

About the CCC

The Crime and Corruption Commission (CCC) is an independent statutory body set up to combat and reduce the incidence of major crime and corruption in the public sector in Queensland. We investigate crime and corruption, have oversight of the public sector including police. The CCC also has responsibility for restraining and recovering suspected proceeds of crime and administers Queensland’s witness protection program. Read more about our [functions and history here](#).

Working for the CCC

Working for the CCC is more than just a job – it’s about serving the people of Queensland and making a difference by combating major crime and reducing corruption. By working with us you can contribute your passion, unique skills, and talent to keep our community safe and deliver our vision – *Safe communities supported by fair and ethical public institutions*.

There are lots of reasons why you should work with the CCC. In addition to a great salary and up to 12.75% employer superannuation, the CCC offers a range of non-financial benefits. These include supported professional development, opportunities for career growth, job security, flexible working arrangements, including working from home, a great location, interesting and meaningful work and great leadership. Read more about our diverse professional roles, including lawyers, specialist investigators and intelligence analysts [working at the CCC here](#).

At the CCC our values – **People**; **Accountability**; **Integrity**; **Courage** and **Excellence** underpin everything we do. We live these values in our everyday work and recognise our people for demonstrating these values.



People



Accountability



Integrity



Courage



Excellence

The CCC acknowledges the Traditional Owners of the lands where we live and work and pay our respects to their Elders – past, present and emerging. We recognise and celebrate the vibrant and unique cultures of all Aboriginal and Torres Strait Islander peoples. At the CCC we demonstrate our commitment to reconciliation through our Reconciliation Action Plan (RAP) read more about our [RAP here](#).

Leadership competencies for the role

The CCC has adopted the Queensland Public Service Leadership competencies for Queensland for all our positions. This role is mapped to the **Individual contributor** profile which outlines the competency expectations and behaviours through the lens of vision, results, and accountability. The Leadership competencies for Queensland are [available here](#).

Your contribution

The Investigator is responsible for:

- Investigating and reporting on cases of alleged corruption on the part of members of the QPS and officers of other units of public administration through the effective and efficient use of investigative techniques, systems, processes and technologies.
- Using their investigative skills and knowledge to monitor and report on investigations of corruption undertaken by the QPS or other UPAs under the direction of the CCC. You may also at times be involved with audits into matters relevant to corruption investigations undertaken by UPAs.
- Liaising closely with Commission staff from other disciplines including legal officers, financial investigators, intelligence analysts, complaints officers, monitoring officers, police officers and prevention officers to achieve significant investigative and preventative results.
- Liaising with officers and senior managers from other public sector agencies to obtain evidence relating to the investigation of allegations of corruption.
- Providing recommendations for procedural reforms in the public sector (including QPS) to limit the opportunities for and to detect corrupt conduct.
- Assisting legal officers of the Commission in the conduct of hearings undertaken for the purpose of investigations.
- Preparing briefs of evidence and/or correspondence in relation to matters arising from investigations and assessment and monitoring outcomes for presentation in courts and tribunals.
- Carry out on call duties on a rostered basis to attend and overview police investigations into police related deaths, (or likely death and other significant events), with a nexus to the Queensland Police Service.
- As required, appearing as a witness for the Commission or the Crown in relation to hearings or prosecutions, as appropriate, arising from Commission investigations.

About you

Appointments in the CCC are merit-based and will be assessed by looking at what you have done previously—the knowledge, skills and experience you have built, your potential for development, and your personal qualities which align with the leadership competencies and the CCC's values.

Possession of tertiary qualifications in qualifications are not required although experience as an investigator in a law enforcement agency or within the public sector and who holds a Certificate IV in Investigations would be looked upon favourably. Qualifications acquired from an overseas educational institution will only be accepted where the qualification has been recognised to an equivalent level in accordance with the [Australian Qualifications Framework](#).

For this role, we will consider how well you:

- High level skills in analysing and investigating complex matters and using contemporary investigative techniques and technologies, demonstrated by experience as an investigator in a law enforcement agency or within the public sector.
- Well developed interpersonal and oral communication skills including the ability to negotiate effectively, to conduct investigative interviews, to effectively liaise with external stakeholders and to operate as an effective team member, as well as the ability to operate with minimal supervision in overt and covert situations.
- High level of written communication skills including the ability to prepare detailed reports, briefs of evidence and correspondence dealing with complex issues.
- Demonstrated sound knowledge of criminal or administrative law and its application. Knowledge of, or ability to rapidly acquire knowledge of, the Crime and Corruption Act 2001 and other relevant legislation and the Commission's policies and procedures.

How to Apply

Please provide the following information to the panel to assess your suitability:

- A supporting statement of **no more than two pages** which outlines your suitability for this position, referencing the “About you” section of this role description
- A detailed resume, including your work experience and at least two referees (one ideally being your supervisor from the past two years) who has a thorough knowledge of your work performance and conduct
- View more information on [applying for jobs with the CCC](#)
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Additional information

- Certified copies of all qualifications and professional memberships must be produced at time of interview.
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- The employment of an appointee who is not currently a permanent officer of the CCC to a permanent or contract position will usually be subject to a probationary period of not less than three (3) months, after which time confirmation of appointment will be dependent upon satisfactory performance review.
- An applicant recommended for appointment who is a current or previous public sector employee is required to disclose previous serious disciplinary action taken against them.
- Applicants considered for appointment are required to provide evidence of their right to work in Australia. This includes Australian citizenship, or evidence the applicant resides in Australia and has permission, under a Commonwealth law, to work in Australia.
- Applications for this role may be used to appoint to similar vacancies for up to 12 months after the closing date of the initial vacancy.

Organisational structure



Code of Conduct

For the Crime and Corruption Commission

December 2019



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Revised and updated December 2019

The Crime and Corruption Commission supports and encourages the dissemination and exchange of information. We are committed to routinely and proactively sharing information to the maximum extent possible.

Review date 2021 - Human Resources is responsible for review

Brisbane GPO Box 3123, Brisbane QLD 4001
Level 2, North Tower Green Square, Fortitude Valley, QLD 4006
Tel: (07) 3360 6060 | Fax: (07) 3360 6333 | Email: mailbox@ccc.qld.gov.au

About the Crime and Corruption Commission

Our vision:

Safe communities supported by fair and ethical public institutions with an agency focus on those matters of highest threat to the Queensland community.

Our purpose:

The Crime and Corruption Commission (CCC) is an independent agency combating major crime and reducing corruption for the benefit of the Queensland community. Our functions and powers are set out in the *Crime and Corruption Act 2001*. We:

- investigate organised crime, paedophilia, terrorist activity and other serious crime referred to us for investigation
- receive and investigate allegations of serious or systemic corrupt conduct
- have a statutory function for crime and corruption prevention
- help recover the proceeds of crime
- provide the witness protection service for the state of Queensland, and
- conduct research on crime, policing and other relevant matters.

Our values:



CCC Strategic Plan 2019-2023

A model for ethical decision making

Ask yourself these six questions:

1. Is the action legal and consistent with CCC policy?
2. Is it consistent with the CCC's values, code of conduct and policies?
3. Is it the 'right' thing to do? (What is your 'gut-feeling'?)
4. What will the consequences be for –
 - the CCC?
 - your colleagues?
 - others?
 - yourself?
5. Can you provide sound reasons for your decision or action?
6. What would happen if your conduct was subjected to public scrutiny?

If you are unsure of the answer or what to do, you should speak to your supervisor, manager or Human Resources.



Message from the Chairperson

To everyone at the Crime and Corruption Commission:

We work together in a unique organisation that possesses a wide range of functions and responsibilities. As an organisation, we are required under the *Crime and Corruption Act 2001* to act at all times independently, impartially, fairly and in the public interest.

Working at the CCC, we are called upon every day to make decisions. These decisions may vary considerably in complexity and impact; however, whatever our work involves, we will frequently encounter situations with an ethical dimension. The purpose of this Code of Conduct (the Code) is to guide us and help us in dealing with such situations.

A code of conduct is particularly important at the CCC given that our role involves us in providing advice and direction to the public sector generally on ethical issues. The community therefore expects us to be above reproach and to adhere to high standards of ethical conduct — both in carrying out our duties in our working relationships and in our private lives.

A code of conduct cannot sensibly provide a comprehensive set of rules that stipulate how we should behave in every conceivable circumstance. Rather, it provides us with a set of guiding standards, principles and values to determine the right or best course of action and then gives us the responsibility to use judgment and common sense in resolving ethical issues in the public interest.

Our Code has the endorsement and commitment of the Commission and has been approved by the Attorney-General as the responsible Minister. I commend it to you and expect you to be committed to the ethical principles upon which it is based and the ethical values of respect, integrity, excellence and cooperation which it embodies.

While the Code is written in an inclusive tone (i.e. using “we”, “our” wording in many parts), it must be understood that the obligations and standards that it imposes apply to each of us as individuals.

Alan MacSporran QC

Chairperson



Part 1 How the Code Functions

Why we have a Code of Conduct

The purpose of the Code is to:

- set out the standards of conduct expected of us, consistent with the ethics principles and values outlined in the *Public Sector Ethics Act 1994*
- guide and assist us to identify and resolve ethical dilemmas that may arise in the course of our duties
- foster and maintain an ethical culture within the CCC
- promote public confidence in the CCC

Applying the Code

We should read the Code in conjunction with the *Crime and Corruption Act 2001*, the *Public Sector Ethics Act 1994* and CCC's policies and procedures, as amended.

The CCC has evolved a complex set of policies, guidelines and procedures which govern how we conduct our daily activities. The Code does not override policies, but rather seeks to augment them by providing a general summary, coupled with an explanation of the ethical principles underlying them and of the organisational goals and objectives to which they contribute.

The CCC policies, guidelines and procedures provide the details of the standards which this Code summarises and any action or conduct which breaches those standards may equally constitute a breach of the Code and result in disciplinary action.

If you have doubts about a particular course of conduct, you are encouraged to consult the Code, relevant policies, your manager or Human Resources. Help and advice are always available within the CCC.

Public Sector Ethics Act 1994

The Code is based upon the *Public Sector Ethics Act 1994*, which sets out four ethics principles that are fundamental to good public administration:

- Integrity and impartiality
- Promoting the public good
- Commitment to the system of government
- Accountability and transparency

The principles acknowledge the responsibility of all public sector employees to serve the public interest, which means the best interests of the Queensland community. The principles represent an attempt to encapsulate the standards of conduct expected of us and our obligations to each other, the agencies we deal with and the public.

We have a shared responsibility to create a working environment which is ethical, professional and rewarding.

At the CCC, we hold a special position of trust by virtue of our unique role in society and because our work is funded and resourced from the public purse. The community expects that we will honour the trust which is placed in us.



The Code applies to everyone

The Code covers and is binding upon everyone who works for or at the CCC, whether on a permanent, temporary or casual basis, including:

- the Chairperson
- Commissioners
- all people employed at or seconded to the CCC (civilian and police)
- anyone engaged by the CCC to provide services, information or advice, either as a contractor or a consultant.
- students on placements, external members of committees and advisory panels and voluntary workers

When you agreed to work here, you agreed to be bound by the Code.

The Code directly covers our behaviour at all times when we are working for or representing the CCC. It also covers any disgraceful or improper conduct in our private capacity which might be perceived as undermining public confidence in the good name or integrity of the CCC.

If we leave the CCC, we have an ongoing obligation to respect confidentiality of information and ownership of intellectual property to which we had access in the course of our work here.

Breaches of the Code

While the CCC will make every effort to provide information, access and training about the Code, it is your responsibility to be familiar with it and observe its provisions.

If it is alleged or suspected that your conduct may have breached the Code, the matters will be examined and determined in accordance with the CCC *Discipline policy*.

Examples of disciplinary action that may be taken for breaches of the Code include a reprimand, reduction of classification level and change of duties, transfer to another unit of the CCC, forfeiture or deferment of a remuneration increment or increase, reduction of remuneration, monetary penalty deducted from periodic salary payments and termination of employment.

Breaches that could constitute criminal offences may be referred to the police. Breaches that amount to improper conduct must be referred to the Parliamentary Crime and Corruption Committee (PCCC). The PCCC may choose to refer matters to the Parliamentary Commissioner, the Queensland Police Service or the CCC for investigation.

Note that where breaches of the code are suppressed or not managed appropriately, vicarious liability may attach to the CCC and to managers who have not fulfilled their duties.

Refer to legislation: *Crime and Corruption Act 2001* and CCC policies: Discipline; Reporting improper conduct; Management and resolution of complaints made by CCC commission officers.

Reporting suspected breaches

If you become aware of, or suspect any breach of this Code, you have an obligation to report the matter immediately. This includes any formal or informal complaints that you may receive from any person either inside or outside the CCC, or any conduct of your own that may breach the Code. You do not need to provide evidence or proof, it is sufficient to report a breach where you have a suspicion based upon reasonable grounds.

A breach, or suspected breach, of the Code also constitutes “improper conduct” (refer S.329(4)(g) of the CC Act). Therefore, you must report it to the appropriate notifier in accordance with the *Reporting improper conduct procedure*. Reporting to the notifier can be undertaken by completing



the *Suspected improper conduct notification report* and emailing it to improperconductnotificationreport@ccc.qld.gov.au

The CCC aims to ensure that the management and resolution of suspected breaches is conducted in a fair, effective and consistent manner. The CCC fosters an open reporting environment and will support you and protect you from any reprisals if you report suspected breaches of the Code or improper conduct in accordance with CCC policy.

You also have an obligation to cooperate with and assist any investigation into alleged improper conduct or other breaches of the Code to the best of your ability. This does not limit your rights as a citizen against self-incrimination.

Frivolous, vexatious or knowingly false complaints may result in disciplinary action.

Refer also to section 2.4 Disclose wrongdoing.

Refer to CCC procedure: *Reporting improper conduct*.

Role of managers and supervisors

The CCC expects supervisors and managers to go beyond the minimum standards of conduct and to lead by example in setting and encouraging the highest possible standards.

If you are a supervisor or manager, you should closely observe your workplace to ensure appropriate standards of behaviour and provide constructive support at all times. If you become aware of inappropriate conduct, you are required to address the situation.

Refer also to section 1.15 Managers and supervisors.

Where to go for advice

Usually your manager or supervisor will be able to help if you have any questions regarding your ethics obligations or the contents of this Code.

If you are unsure whether your own, or someone else's conduct or proposed conduct is in conflict with the Code, seek advice from your supervisor or manager as soon as possible.

If that is not practicable or comfortable for you, contact Human Resources for advice and assistance.



Part 2 Principles and standards

Principle 1 – Integrity and impartiality

The values

In recognition that public office involves a public trust, public service agencies, public sector entities and public officials seek to promote public confidence in the integrity of the public sector and—

- (a) are committed to the highest ethical standards; and*
- (b) accept and value their duty to provide advice which is objective, independent, apolitical and impartial; and*
- (c) show respect towards all persons, including employees, client and the general public; and*
- (d) acknowledge the primacy of the public interest and undertake that any conflict of interest issue will be resolved or appropriately managed in favour of the public interest; and*
- (e) are committed to honest, fair and respectful engagement with the community.*

Public Sector Ethics Act 1994, s.6

These values are expressed in the following standards:

1.1 - Official powers

As holders of public office, we are custodians of public property, powers and resources and occupy a position of trust.

We have an obligation to ensure that our official powers, position, resources or influence are not used improperly or for personal or private advantage. Our actions and decisions are expected to serve the public interest — that is, the overall good of the community as a whole.

1.2 – Conflict of interest

As public officials we are expected to be impartial. Conflicts of interest, or the perception that they have arisen or been mismanaged can do significant damage to the reputation of the CCC.

In some circumstances, our personal financial or other private interests may have the potential to influence our decisions or our actions in our official capacity. If this occurs, or if there is even the barest possibility that it might be perceived by others as occurring, then we are in a 'conflict of interest' situation. These must be formally declared in writing to your manager and either resolved in favour of the public interest or managed appropriately without delay.

Private interests may include social and professional activities and the interests of individuals or groups with which we are associated, including family and friends, as well as financial interests. A conflict of interest situation most commonly involves potentially gaining an advantage for yourself or your associates, but it can also include avoiding some disadvantage and occasionally, causing a disadvantage or detriment to others.

Conflicts of interest may involve a direct conflict between our current duties and responsibilities and existing private interests, or a potential conflict where such private interests could conflict with our official duties in the future. It is also important to recognise that a perceived or apparent conflict of interest – whether or not it actually exists – can be just as damaging as an actual conflict of interest.



A conflict of interest is not in itself necessarily wrong and the CCC acknowledges that their occurrence is a normal part of life. What is important is that in order to maintain public confidence in the integrity of the CCC, all conflicts of interest must be disclosed and addressed without delay.

You have an ongoing obligation to:

- monitor and assess your private and personal interests and whether such interests may conflict or have the potential to conflict with our official duties
- regularly update your statement of personal particulars and private interests (which is maintained by the Security Manager and stored in your Personal Security File), especially when there is any change in your circumstances
- avoid, where possible, situations that may give rise to a conflict of interest or an apparent conflict of interest
- formally disclose all conflicts of interest according to the CCC's policy: Conflicts of interest and other disclosures
- manage any conflicts of interest effectively and transparently where such conflict of interest cannot be avoided.

Once you have declared a possible conflict of interest, your manager or supervisor will consult with you and determine the most appropriate course of action.

In some instances, the Chief Executive Officer, Senior Executive Officer or General Manager may wish to refer the matter for further consideration. The Chairperson has the final decision on what action is appropriate in these situations.

Commissioners must update their pecuniary interests register and register of personal and political associations annually in accordance with section 238 of the *Crime and Corruption Act 2001*.

Refer to CCC policy: Conflicts of interest and other disclosures.

1.3 – Gifts and benefits

We should never create the impression that the CCC, or any commission officer, is being improperly influenced by any person or organisation. The acceptance of gifts and other benefits has the potential to compromise our position by creating a sense of obligation in the receiver and therefore can undermine our impartiality. It may also affect the public perception of our integrity and independence. A benefit may include money (or anything readily converted into money), gifts, travel, hospitality, entertainment and competition or door-prizes.

You cannot solicit or accept the giving of any form of gift or benefit which might be perceived as influencing or affecting the performance of your official duties. Further, you should take all reasonable steps to ensure that your spouse, family and close personal associates also refuse to accept any benefit and never solicit any benefit in any way related to the carrying out of your functions. Gifts and benefits may sometimes be accepted where they are given openly and where there is no risk that they may be perceived as imposing an obligation relating to the work of the CCC, or where refusal may give unnecessary offence.

A Gift or benefit notification form needs to be completed for any gift or benefit received which is other than a token or memento. The gift will then be dealt with according to the CCC Gifts and benefits policy and entered as appropriate in the Gifts and benefits register. All gifts to commission officers are the property of the CCC, although gifts of minimal value will normally be permitted to be retained by the receiving officer, unless they are items of cultural or historical significance.

Notwithstanding the above, police officers who are officers of the CCC should act in accordance with the Queensland Police Service Procedural Guidelines (HRM Manual).

Refer to CCC policy: Gifts and benefits.



1.4 – Political activities

Working at the CCC does not limit your normal rights as a citizen to participate in community and party political activities. However, you should take care to ensure that you are perceived as acting solely in your private capacity and not in your professional role. You have an ongoing obligation to:

- take care not to misrepresent the intent or facts of the CCC
- avoid saying or doing anything which might raise doubts about your willingness to implement CCC policy objectively and carry out CCC operational activities impartially
- never participate in private political activities in the work environment, or use CCC resources for non-business purposes
- be sure to declare in writing any political association that may be perceived as creating a conflict of interest.

Refer to legislation: *Human Rights Act 2019* and also to section 1.2 Conflict of Interest.

1.5 – Public Comment

You are not authorised to deal with or release information or material to the media or comment in any forum about the activities or business of the CCC unless you are specifically approved to do so. You should refer any approach by the media to the Corporate Communications Unit.

While you retain the normal rights of citizens to have opinions on social and community issues, you need to exercise particular care that your personal opinions are not interpreted as being attributable to the CCC. If you cannot be certain that your personal views will be seen as solely your own, it may be wiser to refrain from public comment.

We should also be mindful that, in some situations, mere attendance at an activity (such as a rally, march or public forum) may be perceived as indicating support for a particular view or standpoint. We must always make it clear that we are acting in our private capacity.

Any public comment which may adversely affect the CCC's reputation or the exercise of its functions and responsibilities could constitute a breach of the Code.

Refer to legislation: *Human Rights Act 2019* and to CCC policy: Communications

1.6 – Factual accuracy

We share a professional and personal obligation to be honest, factual, impartial, balanced and complete when compiling reports and summaries relating to the work of the CCC. We must not deliberately make false or misleading assessments of the material available to us. This obligation applies across all aspects of our work, including:

- advice given internally or to other units of public administration
- investigation reports
- inquiry and hearing reports
- research papers, reports and publications
- selection and referee reports
- performance reports
- reports provided to the PCCC and the Parliamentary Commissioner.

1.7 – Respect

The CCC is committed to valuing its commission officers and to demonstrating respect between and for commission officers at all times. This means that we may expect to be treated with dignity, courtesy, honesty, and fairness, both professionally and personally. Inseparable from this is our



obligation to treat our fellow workers and everyone we may come into contact with in the course of our duties with the same respect and dignity we expect to receive.

We share a commitment to the importance of working constructively and with goodwill to resolve both professional and personal differences and tensions. We can best serve the public interest by creating a work environment which is harmonious and satisfying.

1.8 – Respecting diversity

The CCC is committed to creating a working environment which is free from unfair or unlawful discrimination and where all commission officers are treated with dignity, courtesy and respect. We have an obligation to extend the protection offered by this environment to others, regardless of ethnic, cultural and lifestyle differences.

This includes respecting differing beliefs and opinions. Our view of the truth or moral ‘rightness’ of others’ opinions is not the issue. Freedom of belief is paired with an obligation not to impose our beliefs on others and not to belittle beliefs which do not coincide with our own.

The CCC is a workplace where fairness, openness and diversity are valued. We must strive to eliminate all forms of discrimination which might lead to one person being treated less favourably than another because of a characteristic which is irrelevant in the circumstances.

You must take care to avoid using offensive or discriminatory language.

Refer to legislation: *Anti-Discrimination Act 1991; Human Rights Act 2019; Australian Human Rights Commission Act 1986* and other Federal legislation relating to age, race and disability discrimination; and CCC policy: Bullying, harassment, sexual harassment and discrimination in the workplace.

1.9 – Sexual harassment and workplace bullying

The CCC is committed to ensuring that the working environment is free from bullying, harassment, sexual harassment and discrimination and that everyone is treated with courtesy, dignity and respect. Bullying, harassment, sexual harassment and discrimination is unlawful and unacceptable and will not be tolerated. Detailed definitions of these behaviours are given in the Glossary.

If you experience or witness behaviour which is unwelcomed and offensive, or which makes you feel intimidated, uncomfortable or humiliated, it is likely to be a form of harassment and you have an obligation to report it. You should not delay in seeking the advice of a suitable manager, Human Resources, or a Peer Support Officer (a current list of Peer Support Officers is available on the intranet). All complaints will be handled in accordance with the CCC’s policy: Management and resolution of workplace complaints made by commission officers.

Bear in mind that reasonable management action carried out in a reasonable way in connection with a person’s employment is not bullying.

Refer to legislation: *Anti-Discrimination Act 1991; Human Right Act 2019; Work Health and Safety Act 2011; and Sex Discrimination Act 1984;* and CCC policies: Bullying, harassment, sexual harassment and discrimination in the workplace.

1.10 – Health and safety

We have a duty to ourselves and others under work health and safety legislation to ensure our workplace is safe and secure for everyone. You have a duty to identify and report any health and safety risks, hazards, incidents or near misses to the Safety Advisor, Human Resources, a Workplace Health and Safety Representative, or an appropriate manager without delay.

Refer to legislation: *Work Health and Safety Act 2011;* and CCC policy: Work health, safety and wellbeing; Rehabilitation.



1.11 – Natural justice

As part of the CCC's duty to act fairly and equitably, the principles of natural justice (procedural fairness) apply to all commission officers and processes when decisions are made concerning peoples' actions or future prospects. Procedural fairness (see Glossary) requires an absence of bias, the presentation of substantial reliable evidence and the right of the person affected to hear all the material evidence and be given adequate time and a fair and reasonable opportunity to respond.

These principles are particularly important if the decision has negative consequences for the people involved, as in discipline and diminished work performance cases.

1.12 – Recruitment and selection

Selection of people for employment at the CCC must always be in accordance with the CCC's recruitment and selection policy. Merit based selection requires a fair and impartial assessment of each applicant's abilities, aptitude, skills, knowledge, experience, personal qualities, potential for development and qualifications relevant to the requirements of the vacant position.

Refer to CCC policy: Recruitment and selection.

1.13 – Collaboration

Commission officers share a mutual commitment to work together collaboratively, providing each other with cooperation and all practicable assistance in the workplace for the optimum performance of our duties.

We have a shared responsibility to regulate and manage our behaviour so as not to interfere with or distract others from the performance of their duties and we may reasonably expect the same courtesy from others.

1.14 – Personal standards

Unless otherwise authorised, we are required to dress in a clean, tidy and inoffensive manner consistent with our position, job requirements, reasonable community expectations and health and safety requirements. While what we choose to wear is generally a matter of personal discretion, our work attire and personal presentation can affect the CCC's reputation. As commission officers, we are obliged to behave in a way that upholds the good reputation of the CCC and dress in a way that demonstrates respect.

Cleanliness and personal hygiene in the workplace are important from a health and safety perspective and also for the comfort and wellbeing of our colleagues.

Supervisors have a responsibility to monitor the personal presentation of commission officers who report to them and to provide advice or issue instructions as appropriate in the circumstances.

1.15 – Managers and supervisors

Managers and supervisors have a particular responsibility to:

- set an example of ethical conduct, treating all commission officers fairly and equitably, with consistency and respect
- encourage and promote ethical behaviour among their commission officers
- maintain open, honest and thorough communication with and among commission officers
- ensure that the demands made on commission officers are reasonable in the circumstances and that health and safety requirements are always met
- ensure commission officers understand the performance standards expected of them
- monitor commission officers performance and provide constructive feedback



- support professional development
- respect divergent thinking, different ideas and working styles
- ensure that commission officers are recognised and rewarded for ideas or suggestions that improve productivity and performance.

Each of us has a corresponding obligation to accept managerial advice, guidance and direction in a responsive, constructive and cooperative manner.

1.16 – Outside the office

When we attend meetings, conferences, seminars, training sessions, work-related social functions or other outside activities which are connected to our work, we are representing the CCC. We must accordingly maintain appropriate standards of behaviour and personal conduct.

At any social event where we may be perceived by the public as representing the CCC, we must also maintain appropriate standards of behaviour and personal conduct. Functions might include:

- the CCC Social Club Christmas party or other events
- work unit social gatherings such as farewell lunches, drinks to mark the end of a project and work unit Christmas parties
- gatherings of work colleagues for coffee, drinks, sporting activities, meals and the like.

Refer also to section 1.17 Drugs and medications below.

1.17 – Drugs and medications

Alcohol

We have an obligation to ensure that our personal use of alcohol does not affect the performance or safety of ourselves or others and that it does not reflect adversely on the good name and reputation of the CCC.

You must not consume alcohol while performing CCC duties. The consumption of alcohol is also discouraged during lunch or other short breaks from duty. You will not be permitted to perform your duties or use CCC equipment if your manager or supervisor considers you are unable to do so diligently and safely.

While there are instances where limited consumption of alcohol may be socially acceptable or an expected courtesy, we must exercise restraint at all times and common sense to protect the CCC's interests, its professional image and our own welfare.

You should be aware that you may be held personally liable for any damage or injury you may incur or cause, consequent upon consuming alcohol.

If you are convicted of driving under the influence of alcohol or drugs in any motor vehicle (CCC or private) at any time, you may be subject to disciplinary action for a breach of the Code. For example, if the conviction is considered to compromise the integrity of the CCC. Any such charge or conviction must be reported to your manager without delay.

Tobacco and smoking

Smoking is prohibited in all CCC premises, vehicles and facilities.

Smoking breaks are not recognised. Meal breaks and rest pauses may be used for this purpose in suitable locations and time spent travelling to and from the permitted zones is considered part of the break. Smoking must not interfere with the functioning of the work area.



Prescription medications

If you are taking prescription medications which may affect your behaviour or work performance, you should inform your supervisor so that the condition can be appropriately managed while you are at work.

If you have an allergy or medical condition which may require urgent treatment in the workplace, you should talk to your supervisor and make suitable arrangements to ensure that you and your colleagues are safe and prepared.

Illegal Drugs

It is a criminal offence to possess or use illegal drugs. Unless sanctioned by the CCC for operational purposes, we must abstain from any involvement or contact with illegal drugs whether on or off duty. Any charge or conviction relating to prohibited drugs must be reported to your manager without delay.

Principle 2 – Promoting the public good

The values

In recognition that the public sector is the mechanism through which the elected representatives deliver programs and services for the benefit of the people of Queensland, public service agencies, public sector entities and public officials-

- (a) accept and value their duty to be responsive to both the requirements of government and to the public interest; and*
- (f) accept and value their duty to engage the community in developing and effecting official public sector priorities, policies and decisions; and*
- (g) accept and value their duty to manage public resources effectively, efficiently and economically; and*
- (h) value and seek to achieve excellence in service delivery; and*
- (i) value and seek to achieve enhanced integration of services to better service clients.*

Public Sector Ethics Act 1994, s.7

These values are expressed in the following standards:

2.1 – Responsible working

We have an obligation to perform our duties competently, responsibly and with proper diligence, care and attention to all facets of our work. We should also aspire to the highest standards of excellence and we must be prepared to take ownership of and responsibility for our actions and decisions.

We should constantly aim to achieve the CCC's goals together with our individual performance objectives and targets. You should discuss any potential barriers or difficulties in achieving these standards with your supervisor as soon as they arise and take action to resolve them.

Whatever our role, we should contribute to the continuous improvement of ourselves, others and our work unit by sharing information and skills, seeking out challenging tasks to attain a wider diversity of experience and exploring a broader range of work and development opportunities.



2.2 – Responsiveness

Our duty to the public interest requires that in performing our official duties we must respond to all requests to the best of our ability in a timely, helpful and courteous manner. We are entitled to ask for and expect the same responsiveness from others in the workplace.

2.3 – Setting an example

Respect for people must be demonstrated in everyday conduct. It is not sufficient to have a policy in place or to claim to be an ethical organisation. We have an obligation towards the other units of public administration and the general public with whom we deal to set an example of ethical and professional conduct.

The CCC is committed to the highest standards of excellence in conduct and teamwork and is continuously subject to public scrutiny. Accordingly, we must be constantly aware of the need to behave in an exemplary fashion.

Any behaviour which may be perceived by the public as undermining the good name and integrity of the CCC, whether or not it is a criminal offence, may be a breach of this Code. Examples might include participation in socially disruptive public behaviour or public nuisance behaviour, domestic violence or public intoxication.

Refer also to sections: 1.16 Outside the office; 1.4 Political activities; and 1.14 Personal standards; and CCC policy: Protocols governing the reporting of improper conduct complaints against officers of the Crime and Corruption Commission.

2.4 – Disclose wrongdoing

You have an obligation to disclose any fraud, corruption, maladministration, corrupt conduct, improper conduct, waste of public funds, risk to health and safety, reprisal, or any other breach of the law or this Code of which you become aware.

As commission officers, it is our responsibility to lead by example in reporting suspected wrongdoing.

You do not require concrete evidence of the wrongdoing and should not attempt to collect evidence. If you have a suspicion based upon reasonable grounds, you must make your disclosure to your immediate supervisor, manager or team leader or, if they appear to be implicated, some other senior manager. You may be asked to put your allegations in writing. The disclosure will be referred to the relevant delegate in the policy. If you choose to make your complaint anonymously, it will still be dealt with to the best of the CCC's ability.

Any supervisor or manager who receives a report of suspected wrongdoing is to ensure that it is responded to confidentially, fairly, quickly and in accordance with established procedures and the provisions of the *Public Interest Disclosure Act 2010* (PID Act).

The CCC is committed to ensuring that no commission officer feels they will suffer reprisal as a consequence of raising complaints about any wrongdoing or unprofessional behaviour in the workplace. The *Public Interest Disclosures Act 2010* also provides certain protections against reprisal for commission officers who report unacceptable conduct and makes it an offence for detrimental action to be taken against a person for making a public interest disclosure.

If circumstances warrant, you may make a public interest disclosure to someone outside the CCC and the Commission will support you in this action. Further details can be found in sections 17 and 20 of the *Public Interest Disclosures Act 2010*.

Refer to legislation: *Public Interest Disclosures Act 2010*; and CCC policies: Public interest disclosures against commission officers; Reporting improper conduct; Management and resolution of complaints made by CCC commission officers; Fraud and corruption control.



2.5 – After you leave

Certain obligations to the public and the CCC persist even when you are no longer employed at the CCC. These include:

- maintaining the confidentiality of any information obtained in the course of your employment
- respecting the CCC's intellectual property rights
- not misusing your official powers by attempting to influence people or agencies on the strength of your former position
- providing honest and fair referee reports for former colleagues
- refraining from public comment about CCC business.

Refer to CCC policies: Resignation; Information security; Intellectual property.

Principle 3 – Commitment to the system of Government

The values

In recognition that the public sector has a duty to uphold the system of government and the laws of the State, Commonwealth and local government, public service agencies, public sector entities and public officials-

- (a) accept and value their duty to uphold the system of government and the laws of the State, the Commonwealth and local government; and*
- (j) are committed to effecting official public sector priorities, policies and decisions professionally and impartially; and*
- (k) accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.*

Public Sector Ethics Act 1994, s.8

These values are expressed in the following standards:

3.1 — Lawful conduct

Both in our public and our private lives, we are required to uphold and to conduct ourselves in accordance with all Commonwealth, State and local laws.

In addition to those directly relating to our work, this includes laws such as the *Anti-Discrimination Act 1991*, the *Human Rights Act 2019* and the *Workplace Health and Safety Act 2011*.

In order to do this, we have a responsibility to make every effort to keep our knowledge and understanding of relevant laws as complete and up-to-date as possible.

If you are charged with or convicted of any offence (even if a conviction is not recorded), you must report it without delay to the Chief Executive Officer, Senior Executive Officer or General Manager.

3.2 – Implementing policies

We have an obligation to carry out and implement the policies and decisions of the CCC to the best of our ability, regardless of our personal feelings or opinions. Ethical decisions are seldom clear-cut, with many uncertainties and shades of opinion. We should always be aware that we may not have all the relevant information. The decisions of the CCC are binding on us and must be conscientiously implemented.



3.3 – Neutrality

In our work we are required to carry out the obligations of our position independently, impartially and fairly and with regard to the importance of protecting the public interest (as prescribed by section 57 of the *Crime and Corruption Act 2001*).

We are frequently called upon to make decisions and apply laws that can have a far-reaching impact on the lives of people in Queensland. We must be free and be seen to be free from undue or improper political or ideological considerations in making operational and policy decisions. We must never allow our personal preferences and opinions to influence the discharge of our duties.

We must provide the CCC with professional and impartial advice at all times.

Refer also to section 1.4 Political activities for related information.

3.4 – Lawful instructions

We are required to comply with all reasonable and lawful work instructions. You are always entitled to seek clarification of an instruction and to challenge it if you believe it is either unlawful or unreasonable. Such matters should be addressed promptly with the person issuing the instruction, or through their manager.

However, you should do nothing deliberate to delay or prevent the implementation of a lawful instruction and you will generally be required to carry out the instruction pending the outcome of your objection unless there is a serious risk to health and safety, the CCC's reputation, or the public interest.

There is a consequent obligation on managers and supervisors to take care that the instructions they give are lawful and reasonable and to be open to constructive questions and suggestions.

3.5 – If professional codes and personal values conflict

In addition to our personal values and beliefs, many professions also have codes of conduct which are specific to them, including lawyers, accountants and police officers. Circumstances may occasionally arise where lawful instructions in the workplace are not compatible or conflict with your personal values and beliefs or professional code.

If you find yourself in this position, you should discuss the matter with an appropriate manager and seek a solution which will neither impede the business of the CCC, nor compromise your own integrity. It may be necessary to stand aside from some activities or responsibilities to do so. You have an obligation to respect the CCC's right to determine the course of action.

If you still experience difficulty, you should immediately seek advice from your General Manager or Human Resources.

Refer also to section 1.2 Conflict of interest and other disclosures.



Principle 4 – Accountability and transparency

The values

In recognition that public trust in public office requires high standards of public administration, public service agencies, public sector entities and public officials -

- (a) are committed to exercising proper diligence, care and attention; and*
- (b) are committed to using public resources in an effective and accountable way; and*
- (c) are committed to managing information as openly as practicable within the legal framework; and*
- (d) value and seek to achieve high standards of public administration; and*
- (e) value and seek to innovate and continuously improve performance; and*
- (f) value and seek to operate within a framework of mutual obligation and shared responsibility between public service agencies, public sector entities and public officials.*

Public Sector Ethics Act 1994, s.8

These values are expressed in the following standards:

4.1 – Confidentiality and Information security

By the nature of our work, we frequently handle information which is sensitive in varying degrees and whose unauthorised release could damage individuals, organisations or the public interest. There is a great public trust placed in us to protect this information against misuse and it is a criminal offence under the *Crime and Corruption Act 2001* to wilfully disclose CCC information improperly.

We should take particular care not to access, use or release information without an approved official purpose related to the performance of our duties. We must:

- give close attention to the classification of information as sensitive, protected and secret and rigorously uphold the integrity of those classifications
- access only such information as we are specifically authorised to access
- exercise discretion and caution in discussing information with other officers
- ensure no information can be accessed by unauthorised people
- comply with all confidentiality and security procedures of the CCC (including the clean desk policy)
- never use CCC information to further our personal interests, financial or otherwise.

As a general rule, materials which can be released outside the CCC have already been published, either on our website or in some other form, such as published reports and discussion papers, annual reports, media releases and public addresses. Any request for information that is not already available publicly should be directed to your manager or supervisor for a decision.

When we cease employment with the CCC we have an obligation to maintain confidentiality regarding official information formerly available to us.

Refer to legislation: *Human Rights Act 2019* and CCC policy: Information security; Information security classification; Disclosure of Information; Information Access: Right to information and information privacy; Privacy.

4.2 – Record keeping

We must conscientiously protect the accuracy, integrity and confidentiality of CCC information at all times.



This includes a requirement to make and keep full and accurate records of all business transactions and official activities and to ensure that such records are adequately tracked, preserved and made accessible for as long as they are of value.

When giving advice, we should provide written advice or confirmation wherever possible, otherwise we should keep well documented notes about advice we have provided.

Records should be destroyed only when they are of no further value and in a secure manner in accordance with CCC procedures. Before destroying any documents, we must consult with the Records Management section.

Refer to legislation: *Public Records Act 2002* and CCC policies: Recordkeeping; Retention and disposal of records.

4.3 – Self development

We should take responsibility for developing our skills and knowledge, keeping up to date with advances and changes within our areas of expertise and taking reasonable initiatives to identify and apply for self-development opportunities. The CCC has a number of learning and development programs designed to support self-development including the Leadership capability roadmap, Future leaders program, Career development pathways and CCC Learning professional.

Your supervisor or Human Resources will provide assistance and advice as required.

Refer to CCC policies: Learning and development; Performance and Development Agreement.

4.4 – Resource management

We all share the responsibility for ensuring that CCC resources are safeguarded and not wasted, abused, or used improperly or extravagantly.

Public resources include intangibles such as skills, knowledge, work time, intellectual property, corporate knowledge and information. All should be used responsibly and with care. In particular:

- all purchasing or tendering activity must be conducted in accordance with State Procurement Policy and the CCC's Procurement policy. Probity, accountability and value for money must be an integral part of any purchasing or tendering process
- consumable resources such as office stationery must only be used for official purposes and should be used as economically as possible
- office equipment, furniture and fittings and CCC premises may only be used for official purposes

The CCC's mail and email addresses must not be used for personal or business affairs that are not related to CCC activities (although limited occasional personal use of email is permitted, see section 4.6). You may include your private mail for posting by the CCC provided it has the correct postage, but you must not use any office stationery for private mail or post any unauthorised or offensive items using CCC facilities.

Time is our most expensive resource. We should take care to ensure that we manage our time responsibly.

Official assets and resources must never be used for personal business or benefit.

Refer to CCC policy: Procurement; Mail services.

4.5 – Information and communication technologies

The CCC owns and provides a range of information and communication technologies (telephones, faxes, computers, printers, copiers and related devices). These technologies:



- should be used for work related and operational purposes as determined by individual work areas
- may be used in support of approved study (under the Study Assistance Scheme) and professional development activities
- may be used away from work premises on a short-term basis to do official work at home or under an approved telecommuting arrangement. In such circumstances, we must ensure that the equipment (and any official information contained in the equipment) is secure
- may be used subject to prior clearance from the Chief Executive Officer, Senior Executive Officer or General Manager for activities that are not strictly official but warrant support. For example, CCC social club activities or meetings of professional associations relevant to the CCC
- are vulnerable to external damage and we have an obligation to protect them by not importing or downloading software from any source without the express approval of the Executive Director Information Services.

Limited and occasional personal use of these technologies is permitted. You must ensure that any personal use happens on your own time and does not affect the performance of your work, incur significant cost, breach any CCC policy or this Code, or damage the reputation of the CCC.

Refer to CCC policy: Use of ICT facilities and devices.

4.6 – Internet and email

Internet and email facilities are owned and provided by the CCC and should be used for official purposes, although limited and occasional personal use is permitted.

Personal use must not affect the performance of our work, incur significant cost, contravene any law, CCC policy or this Code, or damage the reputation of the CCC. In particular, we must not access or transmit:

- pornography or other offensive material
- computer games or online gambling
- chain letters or spam emails
- auction sites, social networking sites or chat-rooms, or personal web mail (such as Hotmail accounts).

It is important to understand that our use of Internet and email (including web connected mobile phones) will be monitored, logged and inspected by the Information Technology Section and/or the Security Manager. There should be no expectation of privacy in respect of any transaction through these media. To ensure proper accountability, you must never share your passwords.

Excessive or improper use of these technologies may result in restricted access, disciplinary action, or prosecution. Those found to be intentionally accessing, downloading, storing or distributing pornography may be dismissed.

Refer to CCC policies: Use of ICT facilities and devices.

4.7 – Copyright and Intellectual Property

Anything we develop, invent or create, either alone or in collaboration with others in the course of our employment or engagement, such as reports, notes, research papers, art works, teaching and training materials, remains the intellectual property of the CCC.

We must obtain prior permission from the Chief Executive Officer, Senior Executive Officer or General Manager before entering into arrangements regarding publication or other use of any



articles or materials that we have produced as part of our official duties, or that the CCC otherwise owns.

If we leave the CCC, we cannot take or download intellectual information unless otherwise authorised.

Refer to CCC policy: Intellectual property.

4.8 – Secondary employment

We are not prohibited from engaging in other employment while we are working at the CCC. However (except in the case of Commissioners), approval must be obtained before engaging in such employment or immediately upon commencing duty in the CCC.

We must take great care to ensure that any secondary employment does not interfere with the performance of our normal duties, give rise to a conflict of interest, or involve any use of CCC time or resources.

A conflict of interest may exist, particularly in relation to private consultancies, in areas in which the CCC is already operating or has indicated that it may be operating in the future.

The granting of approval for secondary employment is not and must not be represented as an indication that the CCC endorses your outside work activities.

Refer to CCC policy: Outside employment; and section 1.2 Conflict of interest.

4.9 – Work arrangements

We must conform to the CCC's policies in relation to attendance and absences, working hours, attendance recording, leave applications and leave approval.

Timesheets must furnish an accurate account of the time you actually spent working and the breaks you took. If urgent operational needs require that you skip a break or work abnormal hours, this should be shown on your timesheet and any departure from proper working hours as stipulated in the policy must be approved by your supervisor.

You must not be absent from work without approval. In the event of unscheduled absences (illness, emergency, family emergency) you must make every reasonable effort to notify your supervisor, preferably by telephone. An appropriate leave application must be submitted for approval by the delegate for every absence from duty as soon as is practicable.

The CCC encourages commission officers to preserve their health and wellbeing. We should only report for duty when we believe we are fit to perform our functions to a satisfactory standard. If you believe that you are not in a condition to perform your duties (e.g. due to ill health or the effect of prescribed medication), or that you present a risk of spreading illness in the workplace, advise your supervisor and remain absent from duty until fit.

The CCC's Employee Assistance Program or the Peer Support Officer network is freely available where a personal or work related issue may have the potential to affect our health or wellbeing and impact our work performance.

Refer to CCC policies: Work health, safety and wellbeing; Hours of duty; Overtime, TOIL and on-call; Employee Assistance Program; and policies relating to various types of leave, especially Sick leave.

4.10 – Motor vehicles

CCC vehicles are to be used for official purposes only unless a private use arrangement applies.

Refer to CCC policy: Motor vehicles.



4.11 – Financial responsibility

We may only claim or accept out-of-pocket or other expenses arising out of matters that are directly attributable to CCC business or as provided for in our employment conditions.

Any Frequent Flyer points accrued as a result of official travel are the property of the CCC and must be used for official purposes only. In particular, you should take care to ensure that points accruing from official travel are not credited by the airline to your personal account.

Corporate credit cards are issued on the basis that the card is both a necessary and convenient facility for meeting commitments incurred in the course of our official business. Holders of corporate credit cards have a responsibility to use the card in a proper and appropriate manner and in accordance with the corporate credit card manual. Holders are to account fully for all transactions.



Glossary

In this Code of Conduct unless the context otherwise permits or requires:

the Act	the <i>Crime and Corruption Act 2001</i> (includes Regulations, Proclamations and Orders in Council made pursuant thereto)
the CCC	the Crime and Corruption Commission
the Commissioners	members of the Commission, including the Chairperson as defined by the Act
Improper conduct	<p>means:</p> <ul style="list-style-type: none">• is disgraceful or improper conduct in an official capacity; or• is disgraceful or improper conduct in a private capacity that reflects seriously and adversely on the CCC; or• would, if the officer were an officer in a unit of public administration, be corrupt conduct• disclosure of confidential information without the required authorisation, whether or not the disclosure contravenes an Act; or• failure to ensure-<ul style="list-style-type: none">i. a register kept by the CCC under an Act is up to date and complete; orii. all required documentation is on a file kept by the CCC and correctly noted on a register kept by the CCC under an Act; or• exercise of a power without obtaining the required authorisation, whether inadvertently or deliberately; or• noncompliance with a policy or procedural guideline set by the CCC, whether inadvertently or deliberately, that is not of a minor or trivial nature; or• exercise of a power conferred on the person under this or another Act in a way that is an abuse of the power.
Material evidence	Evidence relating to the allegation which will be a factor in the decision-making process.
Peer Support Officer	A commission officer, trained to provide advice and support to other commission officers experiencing harassment, conflict, stress or personal difficulties. A current list of Peer Support Officers is available on the Human Resources page of the intranet
Policy	includes any CCC policy, procedure, directive, ruling, protocol, or administrative practice
Procedural fairness (natural justice)	<p>requires that:</p> <ul style="list-style-type: none">• a person whose interests will be adversely affected by a decision should be given adequate time and a fair and reasonable opportunity to be heard and to hear the case made against them (the hearing rule)• the decision maker be unbiased (the bias rule)• the decision be made on findings of fact which are based on logically probative material (the no evidence rule)



Public interest	the overall good of the community as a whole
Sexual harassment	As defined in s.119 of the <i>Anti-Discrimination Act 1991</i> .
Workplace bullying	As defined in the <i>Guide for Preventing and Responding to Workplace Bullying</i> (Worksafe Australia).



Crime and Corruption Commission

QUEENSLAND

Contact details

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More information

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- f CrimeandCorruptionCommission
- i CCC email updates
www.ccc.qld.gov.au/subscribe



Risk management framework

September 2020



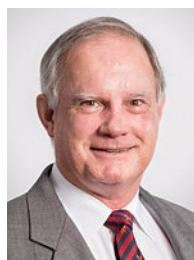
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CCC Commissioners



Alan MacSporran QC
Chairperson



Sydney Williams QC
Deputy Chairperson



Marshall Irwin
Commissioner



Deborah Holliday
Commissioner

A message on behalf of the Commission

CCC Risk Appetite Statement (the Statement). The Statement articulates the amount of risk the Commission is willing to tolerate or retain in pursuit of our values and strategic vision for safe communities supported by fair and ethical public institutions. I encourage all commission officers to read the Statement.

Risk management (policy and procedure) and other resources on the Governance, Risk and Compliance system.

Alan MacSporran QC
Chairperson

Context

Risk management is fundamental to good governance. Governance is all the things we do (our processes and behaviours) to ensure we deliver our strategic objectives and meet community expectations. The CCC's *Governance Framework* describes the CCC's commitment to good governance and continuous improvement (see figure 1).

Figure 1: CCC Governance Framework.



Purpose

This Risk Management Framework (RM Framework) provides an overview of the CCC's risk environment and the internal processes in place to support effective risk management. The RM Framework has been developed in tandem with the CCC's *Risk management policy and procedure*.

Why manage risk?

Although it is not possible to eliminate all risk, the CCC actively identifies and manages risk to achieve better business outcomes. Risk management drives continuous improvement and can help prevent:

- loss of life or injury
- disruption to CCC operations
- financial loss, including theft and fraud
- legal liability
- damage to the CCC's reputation.

Effective risk management is an integral part of everyday decision-making and business activity. It is also integrated within broader business planning and strategy development.

Our risk environment

The CCC operates in a complex environment with unique statutory governance and accountability requirements documented in the *Crime and Corruption Act 2001*. Complexity is amplified by increasingly sophisticated criminal and corruption activities, financial constraints and changing social and political contexts.

These factors mean the CCC needs to take calculated risks when exploiting opportunities to fight crime and corruption.

The Commission's risk appetite

The CCC's Risk Appetite Statement articulates the amount of risk the CCC is willing to accept in order to meet its strategic objectives. The CCC's Risk Appetite Statement describes the CCC's tolerance for specific risks.

The CCC's lowest appetite is for risks associated with:

- safety and wellbeing
- governance and compliance
- fraud, corruption and financial
- information security.

The CCC is however, willing to accept a higher level of risk where there is an opportunity for innovation exists.

Types of Risk

The CCC has three types of risk, strategic, operational and program/project.

Figure 2: Hierarchical risk types and their oversight.



Strategic risks

Strategic risks are risks that may significantly affect the achievement of the CCC's vision and strategic objectives, as detailed in the strategic plan. These risks may relate to external or internal factors e.g political and economical environments or internal business strategy and execution. The ELT and Commission are generally responsible for the identification and management of these risks.

Operational risks

Operational risks are risks that may impact on divisional service delivery outcomes. The responsibility for overseeing risks up to a level of 'high' that affect the divisional portfolio, rests with the Divisional Head. The ELT and Commission are responsible for overseeing risks rated 'Very high'.

The risk owner, responsible for the management of an operational risk, is determined by the level the risk is rated.

- Low = manager
- Medium = manager, senior manager or director
- High = senior executive officer or general manager of the relevant division
- Very High = CEO.

Program/project risks

Program/project risks are owned by the program/project boards who have oversight and direction for these risks. For Very high risks associated with strategic programs/projects these risks are overseen by the Commission.

The level of risk is determined by a risk establishment process using the CCC's Risk appetite statement and risk analysis matrix. This process is outlined in detail in the CCC's Risk management policy and procedure.

Resourcing risk management

The CCC is committed to providing resources to support effective risk management. This includes:

- risk management training for all commission officers (including contractors)
- Governance Risk and Compliance system (GRC)
- publication of print-based resources and supporting materials
- establishment of an Audit and Risk Management Committee (ARMC)
- independent assessment of the RM Framework (Internal Audit / Queensland Audit Office).

Policies and procedures

The CCC maintains internal controls – policies, procedures, guidelines and delegations – which are at the core of our risk management system. These documents record the detail of how risks are identified, analysed, evaluated, treated and monitored in accordance with relevant Australian standards. They provide clear direction on roles and responsibilities, and reference related legislation, Queensland Government policy and CCC systems.

More information:

- Risk Management Policy and Procedure
- ISO 31000:2018: Risk management – Guidelines
- Financial Risk Management Policy and Procedure
- Business Continuity Policy
- Fraud and Corruption Control Plan
- Risk Appetite Statement

Training and communication

Effective training and communication is used to raise risk awareness, drive effective decision-making, and help embed effective risk management at all levels of the CCC. Key stakeholders and subject matter experts are involved in risk identification, risk assessment and risk treatment activities.

Training resources provided to Commission officers includes:

- on-line mandatory training modules

- face-to-face meetings and workshops
- links to internal publications and external web material
- notification of audit outcomes and recommendations
- risk presentations.

Risk assurance

To provide a reasonable assurance that the CCC's risks are being managed effectively, the CCC has systems in place to monitor the efficacy of processes and controls. The responsibilities detailed above, when executed, provide an assurance that:

- risks have been identified and assessed in accordance with the CCC's risk appetite
- risks are regularly monitored and reported
- emerging risks are escalated to the appropriate level of management
- formal assurance mechanisms are in place (e.g. risk management performance measures and internal and external audits).

Measuring risk management performance

At a minimum, the measurement of risk management performance involves two distinct activities:

- **Measuring compliance:** This measures whether the CCC is complying with risk management policy directives e.g. internal or external audits of the RM Framework and policy.
- **Measuring maturity:** This measures the maturity of the RM Framework against industry best practice e.g. internal or external evaluations such as a Maturity Model Assessment.

Audit and Risk Management Committee

The CCC's Audit and Risk Management committee (ARMC) is responsible for reviewing the adequacy of the CCC's RM Framework and its application.

More information:

- Audit and Risk Management Committee Charter
- Audit Committee Guidelines – Improving Accountability and Performance (Queensland Treasury)

Specific to risk management, the ARMC evaluates whether processes are in place to address key roles and responsibilities in relation to risk management, and evaluate the adequacy of the control environment to provide reasonable assurance that the systems of internal control are of a high standard and functioning as intended.

Internal audit

Internal audit reviews the CCC's strategic, operational and program/project risks. Internal Audit may periodically conduct reviews of the RM Framework and report on its effectiveness. This provides the Commission with independent assurance about the effectiveness of risk management.

More information:

- Internal Audit Charter

Reporting

A system of regular reporting is in place to ensure the Commission, ELT and ARMC are regularly appraised of the CCC's risk profile, and familiar with emerging issues. Regular risk reporting is used to communicate the results of risk processes and to secure endorsement of treatment activities.

Very high risks and their treatment plans are reviewed:

- monthly by the Executive Leadership Team
- quarterly by the Commission and
- quarterly by the ARMC.

Roles and responsibilities

All commission officers have a responsibility to practice active risk management. This includes remaining vigilant to changes in the operating environment which could result in new risks or escalated risks. Specific responsibilities are set out below.

Position	Responsibility
All commission officers	<p>All commission officers have responsibility for managing CCC risks. This includes:</p> <ul style="list-style-type: none"> • Compliance with the CCC Risk Management Framework. • Being actively involved in risk management activities across the CCC. • Ensuring key risks relating to their work function/unit are identified, recorded (where appropriate) and managed in a timely manner.
Commission	<p>The Commission is responsible for the governance activities of the agency, deriving its authority from the <i>Crime and Corruption Act 2001</i>. Broadly, the risk management functions of the Commission include:</p> <ul style="list-style-type: none"> • Ensuring risk management systems are in place across the CCC. • Overseeing the operation of systems for compliance and risk management reporting to stakeholders. • Leading and fostering an organisational culture that values open, fair and accountable behaviours, and that encourages staff members to proactively manage risks and maximise safety.
Chief Executive Officer (CEO)	<p>The CEO is the Accountable Officer for all risk management activities and is responsible for:</p> <ul style="list-style-type: none"> • Ensuring that management systems are established that align with the CCC Risk Management Framework. • Ensuring that risk management is integrated into all business activities and decision-making across the CCC. • Approving the design and implementation of the CCC Risk Analysis Matrix. • Assuming or delegating the role of Risk Owner for all Very High risks and ensuring appropriate officers responsible for management strategies to mitigate risk are established.

Position	Responsibility
Audit and Risk Management Committee	<p>The Committee is an advisory committee of the Commission. Although the committee has no executive powers, in discharging its responsibilities, the committee has the authority to advise the Commission about the following risk-related matters:</p> <ul style="list-style-type: none"> • Ensuring the CCC has an effective and integrated risk management system and that significant or material risks are identified and made known to the Commission. • Reviewing the effectiveness of internal audit and risk management functions, including compliance with the Institute of Internal Auditing and ISO 31000:2018 Risk Management – Guidelines. • Reviewing, through the internal and external audit functions, the adequacy of internal controls, including whether policies, procedures and other instruments of delegation are in place, up-to-date and complied with. • Monitoring the effectiveness of the CCC's compliance management systems.
Internal Audit	<p>The Internal Audit function may be engaged to:</p> <ul style="list-style-type: none"> • Evaluate compliance with the CCC Risk Management Framework. • Provide advice to enhance risk management. • Examine the effectiveness of risk management contributions required to support internal controls. <p>Risk control and mitigation will also inform the CCC annual internal audit plan. Risk and internal audit representatives should work collaboratively in the development of this plan.</p>
Executive Leadership Team (ELT)	<p>The ELT assists the Commission in fulfilling its oversight responsibilities by:</p> <ul style="list-style-type: none"> • Integrating risk management into all organisational activities • Ensuring effective risk management systems and robust organisational governance practices are in place to support the delivery of strategic objectives. • Analysing exposure to risk and, if required, referring matters to the Audit and Risk Management Committee to determine how to best handle such exposure. • Communicating the importance of risk management across CCC.
General Manager Corporate Services	<p>The General Manager Corporate Services is responsible for:</p> <ul style="list-style-type: none"> • Developing the governance frameworks, policies and processes necessary to ensure that risk systems are well designed and aligned with best practice. • Providing high quality support and strategic advice to the CEO and CCC Executive on key issues impacting risk management across the CCC. • Developing and reporting metrics to provide an assurance that risks are being effectively managed. • Providing clear and effective leadership and mentoring to support effective risk management practices.

Position	Responsibility
Senior Executive Officers / General Managers	<p>Senior Executive Officers and General Managers are responsible for:</p> <ul style="list-style-type: none"> • Overseeing risk management activities within their area of accountability, ensuring alignment with the CCC Risk Management Framework. • Regularly identifying, assessing, managing and reporting on portfolio risks in accordance with the CCC Risk Analysis Matrix. • Ensuring that risk management is effective and consistently embedded into all relevant planning activities and decision-making processes in their area of responsibility. • Actively championing risk management across the CCC and creating a supportive environment for effective risk management.
Divisional Management Committees	<p>Divisional Management Committees are responsible for:</p> <ul style="list-style-type: none"> • Reviewing divisional risks to ensure the efficacy of risk ratings and risk treatment risk plans in accordance with the CCC Risk Analysis Matrix. • Ensuring risks are considered as part of all decision-making and planning processes. • Actively championing risk management across the CCC.
Strategic Programs Board	<p>Strategic Programs Board is responsible for:</p> <ul style="list-style-type: none"> • Providing appropriate governance of strategic programs • Ensuring program/project risks are managed in accordance with the CCC Risk Management Framework.
Project Boards	<p>Project Boards are responsible for ensuring that risks are considered as part of all project decision-making processes and align with the CCC Risk Management Framework.</p>
Risk Owners	<p>Risk Owners are responsible for monitoring and reviewing risks (including treatment plans) in accordance with the CCC Risk Management Framework.</p>
Managers	<p>Managers are responsible for the implementation and maintenance of sound risk management practices in their area of accountability, including creating a culture of accountability and risk awareness. Managers are responsible for integrating risk management into general management processes such as:</p> <ul style="list-style-type: none"> • Standing agenda items for meetings. • In development/review of strategic, operational and business plans. • In new or revised project plans or submissions. • When managing incidents.
Risk and Compliance	<p>Risk and Compliance is responsible for the overall coordination of the risk management function across the CCC as directed by the General Manager Corporate Services. This includes:</p> <ul style="list-style-type: none"> • Ensuring the application of integrated risk management across the CCC, including oversight of the risks monitored by the Commission

Position	Responsibility
	<p>and provision of reports to the Commission (and other stakeholders as required).</p> <ul style="list-style-type: none">• Supporting Risk Owners to ensure risks are managed effectively in accordance with the CCC Risk Management Framework.• Coordinating risk management training and development activities across the CCC.

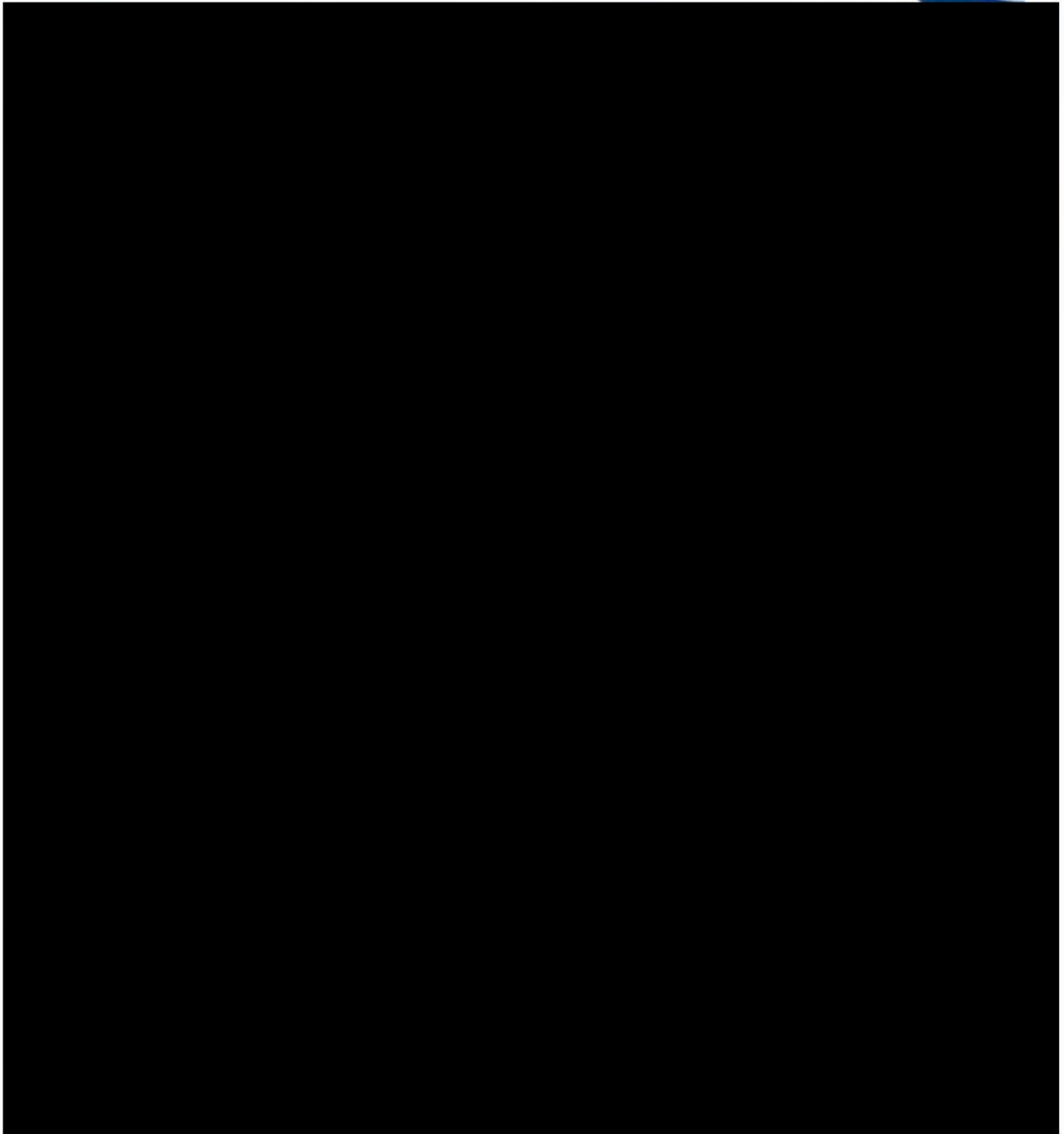
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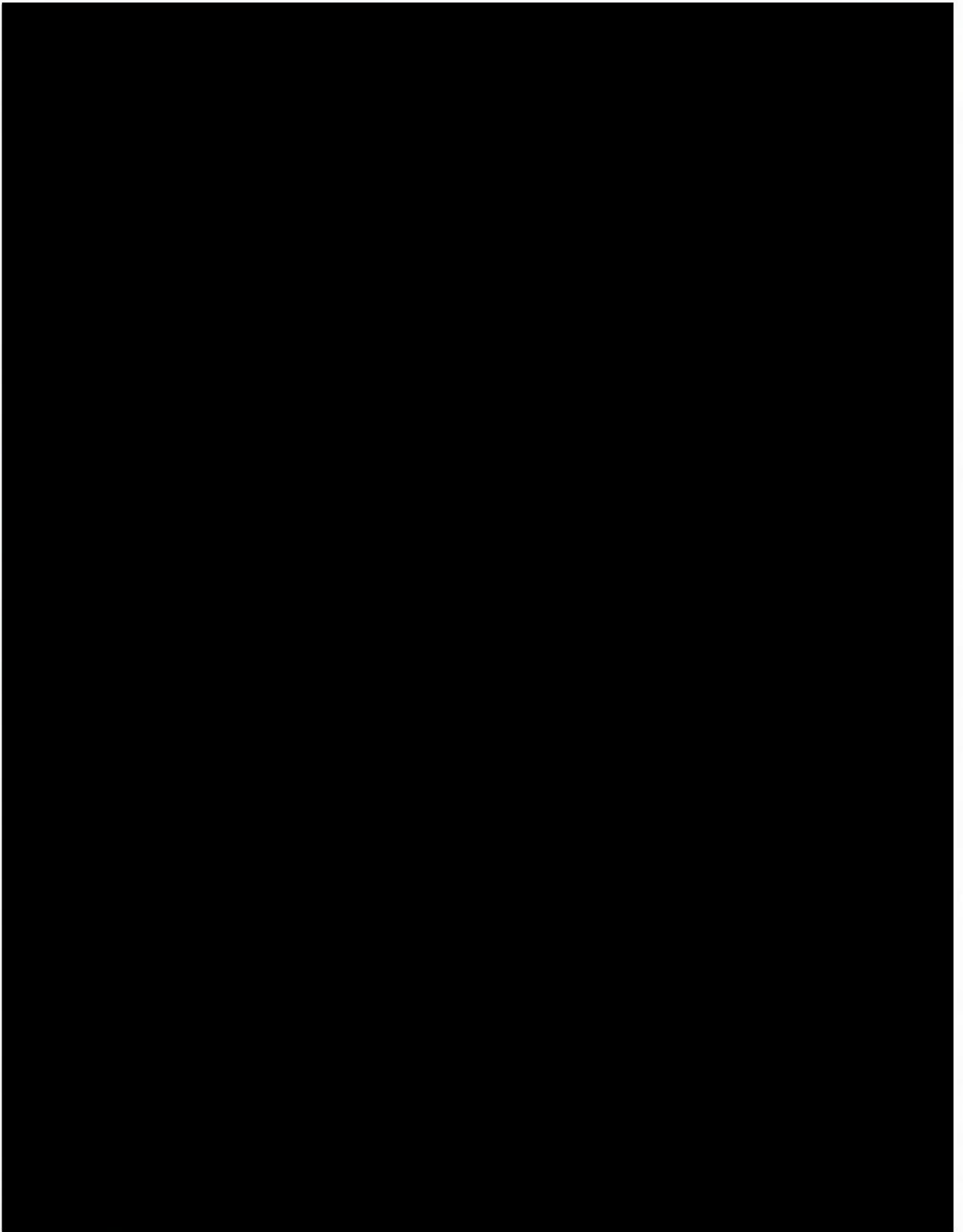
Responsible officer:	Manager, Risk and Compliance	Accountable officer:	Commission
Date approved:	25 September 2020	Review date:	25 September 2023
HP-RM reference:	20/231008	Human rights compatibility review HP-RM reference:	20/230977
Category:	Operational	Keywords:	Risk, risk management, risk appetite, risk register, compliance, assurance, governance, internal controls, audit

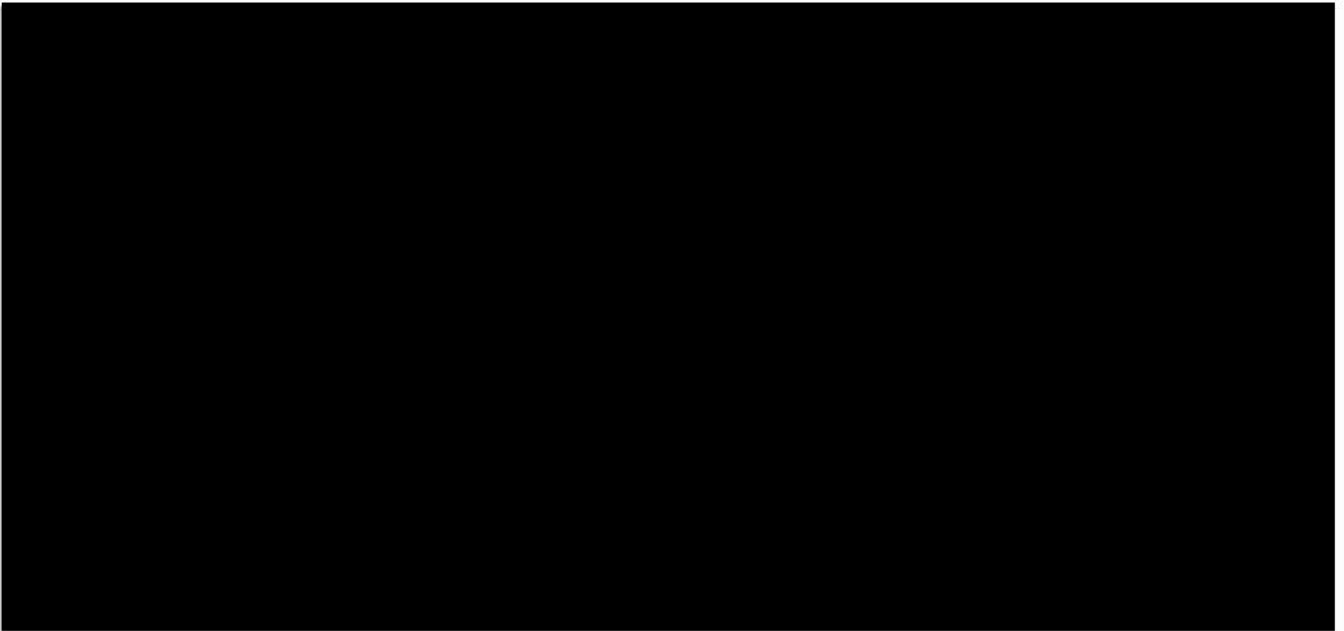
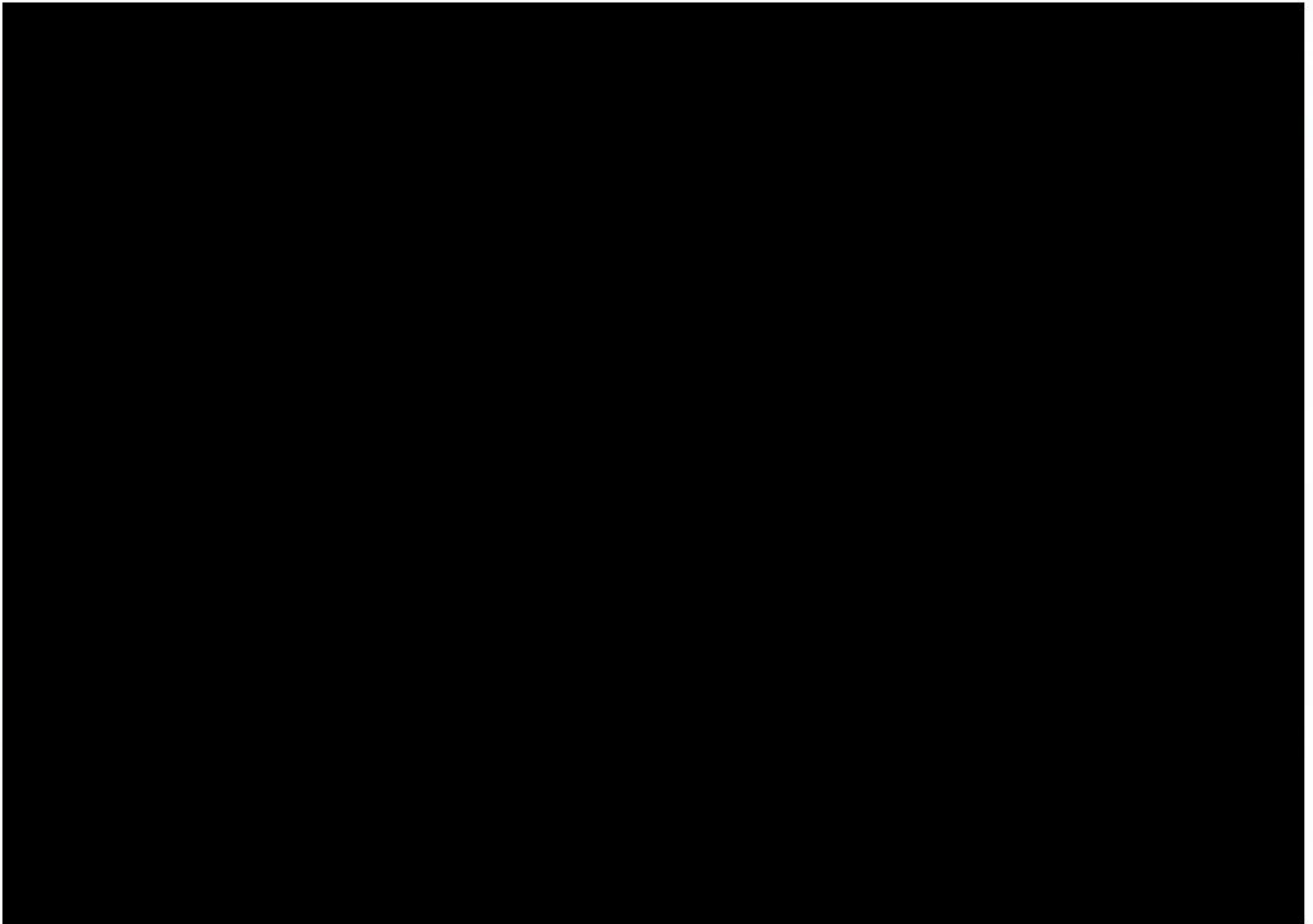


**Crime and Corruption
Commission**

QUEENSLAND









Complaints against commission officers - policy and procedure

1. Objective

The purpose of this policy and procedure is to establish a uniform process for dealing with complaints about the conduct of commission officers. It is intended to provide a system for dealing with complaints consistent with the CCC's obligations under s219A of the *Public Service Act 2008* (Qld), s329 of the *Crime and Corruption Act 2001* (Qld), the *Human Rights Act 2019* (Qld), and general workplace obligations.

2. Application

This policy and procedure applies to all commission officers.

3. Relevant legislation

Crime and Corruption Act 2001 (Qld)

Public Service Act 2008 (Qld)

Human Rights Act 2019 (Qld)

Public Interest Disclosure Act 2010 (Qld)

Definitions

Administrative decision	A decision made by a Commissioner or other commission officer relating to the management of the CCC's business, including the failure to make a decision.
Commission officer	A commission employee or secondee, as provided in s257 of the <i>Crime and Corruption Act 2001</i> (CC Act), but also commissioners, senior officers, the CEO, agents, and officers appointed under a taskforce.
Complaint service review	A review of a CCC decision with respect to the assessment of a complaint concerning suspected corrupt conduct.
Customer service complaints register	<p>The CCC's system for recording external complaints, including the details of the complaint, outcome, and any business improvement actions as part of the resolution of the complaint.</p> <p>The register is located on the digital Governance, Risk and Compliance (dGRC) system.</p>
Disciplinary action	This has the meaning provided by the CCC's <i>Discipline (policy and procedure)</i> .

Executive Manager	As defined in the Human Resource Decision Making Framework.
Formal resolution	The process of managing and resolving a workplace complaint after a reasonable effort has been made to deal with the matter through the informal resolution process.
Human rights complaint	A complaint by an individual about an alleged contravention of section 58(1) of the <i>Human Rights Act 2019</i> (HR Act) by a public entity in relation to an act or decision of the public entity.
Improper conduct	Improper conduct is defined in s329(4) of the CC Act.
Informal resolution	The process of managing and resolving a workplace complaint at a stage before the requirements of formal resolution come into effect.
Lodging officer	The person who lodges a workplace complaint for the purpose of formal resolution.
Manager	A commission officer with responsibility for dealing with such matters as requests for leave and the performance management of other commission officers.
Mediation	A process of dispute resolution between two or more parties in which a third party, the mediator, assists the parties to negotiate their own settlement.
Natural justice	Requires that the commission officer acting to resolve a workplace complaint: <ul style="list-style-type: none"> • acts fairly, in good faith and without bias (actual, perceived or potential) • provides a commission officer a reasonable opportunity to respond to concerns raised about them prior to making a decision that may adversely affect them.
Notifier	<p>In relation to suspected Improper Conduct, the commission officer who is required to report suspected improper conduct to the Parliamentary Crime and Corruption Committee (PCCC).</p> <p>Each of the following may be a Notifier:</p> <ol style="list-style-type: none"> 1. If the improper conduct is that of a Commissioner or the Chief Executive Officer (CEO), then the Notifier is the Chairperson; 2. If the improper conduct is that of the Chairperson, then the Notifier is the Deputy Chairperson; 3. If the improper conduct is by a commission officer other than in (1) and (2) above, then the Notifier is the Chief Executive Officer.



Public interest disclosure (PID)	This has the meaning provided by the CCC policy and procedure— <i>Public interest disclosures against commission officers</i> —and the <i>Public Interest Disclosure Act 2010</i> .
Receiving officer	The manager of the commission officer making the workplace complaint, or if the complaint is about that manager, a more senior commission officer.
Serious complaint	In relation to a Customer Service Complaint means a service delivery complaint that is significant or complex, with a medium to high level of risk to the complainant or the CCC (eg significant delays, challenge to the conduct or competency of the officer).
Service delivery complaint	A customer complaint about any aspect of the CCC's services (eg complaints about delays, communication or responsiveness).
Straightforward complaint	A service delivery complaint that is likely to have minimal risk or detriment to the complainant or the CCC (eg minor delays, incorrectly addressed correspondence).
Sexual harassment	This has the meaning provided by the CCC policy, <i>Sexual harassment, workplace bullying and unlawful discrimination in the workplace</i> .
Subject officer	A commission officer against whom a complaint is made.
The Act	The <i>Crime and Corruption Act 2001</i> , unless otherwise stipulated.
Unlawful discrimination	This has the meaning provided by the CCC policy, <i>Sexual harassment, workplace bullying and unlawful discrimination in the workplace</i> .
Workplace bullying	This has the meaning provided by the CCC policy, <i>Sexual harassment, workplace bullying and unlawful discrimination in the workplace</i> .
Workplace complaint	Complaints about conduct and/or decisions made in the workplace e.g. interpersonal issues between colleagues.

4. Policy statement

The CCC's complaints management process provides for complaints against commission officers to be dealt with in a consistent manner, and to provide clarity about the obligations, responsibilities and rights of those involved in the complaints process.

Broadly speaking, our complaints management principles are to:

- Treat complainants with respect and ensure they do not suffer reprisal
- Protect privacy and confidentiality
- Communicate in a way that is appropriate to the matter
- Afford natural justice and provide suitable avenues for review
- Ensure there is clear accountability for complaints handling
- Ensure compliance with the CCC's legal obligations, including regarding workplace health and safety, anti-discrimination, human rights and dealing with public interest disclosures
- Ensure mechanisms are in place to record and report on complaints related matters to meet reporting requirements



- Ensure actions and decisions in respect of complaints properly consider human rights implications
- Use complaints information to inform business improvements, including improvements to workplace culture

A flowchart, providing an overview of the complaints management process is located at Schedule A.

This policy and procedure does not deal with complaints service reviews, as those are complaints about the CCC's decision-making processes, rather than the conduct of a commission officer.

An officer must self-report suspected improper conduct. As that does not involve a complaint, that is not dealt with under this policy.

5. Complaints

5.1 Types of complaints

5.1.1 *Improper conduct complaint*

Improper conduct is conduct of a commission officer that involves:

- (a) disgraceful or improper conduct in an official capacity; or
- (b) disgraceful or improper conduct in a private capacity that reflects seriously and adversely on the commission; or
- (c) conduct that would, if the person were an officer in a unit of public administration, be corrupt conduct; or
- (d) disclosure of confidential information without the required authorisation, whether or not the disclosure contravenes an Act; or
- (e) failure to ensure—
 - (i) a register kept by the commission under an Act is up to date and complete; or
 - (ii) all required documentation is on a file kept by the commission and correctly noted on a register kept by the commission under an Act; or
- (f) exercise of a power without obtaining the required authorisation, whether inadvertently or deliberately; or
- (g) noncompliance with a policy or procedural guideline set by the commission, whether inadvertently or deliberately, that is not of a minor or trivial nature; or
- (h) exercise of a power conferred on the person under this or another Act in a way that is an abuse of the power.

5.1.2 *Workplace complaint*

A workplace complaint is a complaint by a commission officer about the conduct, or a decision of another commission officer or officers. This can include interpersonal issues between colleagues but can also include complaints about administrative decisions they consider to be unfair or inequitable.

5.1.3 *Customer service complaint*

A customer service complaint is a complaint by a member of the public about the conduct or actions of a commission officer or officers. This does not include a complaint about a decision of a CCC officer, or the CCC generally – that is a complaint service review.



Human rights complaints and considerations

In dealing with a Workplace Complaint, Customer Service Complaint, or an Improper Conduct Notification, the relevant officer *must* also consider whether the complaint alleges a breach of human rights – either explicitly or implicitly. Any complaint involving a breach of human rights must consider whether human rights have been breached, and deal with the complaint consistently with the requirements under the HR Act. Human rights complaints have specific reporting requirements under the HR Act.

5.2 Channels for receiving complaints

5.2.1 Informal channels

Informal complaints are those which are not made through formal complaints channels. An informal complaint could be raised verbally by a commission officer about another officer's conduct, or by an external party in the course of another matter.

A complainant does not need to formally state that they wish to make 'a complaint' for it to be treated as a complaint and dealt with under this policy.

At the same time, a person or entity challenging or seeking a review of a decision or action by the CCC, or making a complaint about corrupt conduct in a UPA will not ordinarily be regarded as a complaint against a commission officer. The exception is where the challenge or review application involves an allegation that the CCC (or an officer) acted improperly. For example, if a defendant in a criminal proceeding alleges that commission officers concealed or altered evidence, that would amount to an allegation of improper conduct and must be reported.

In considering whether a matter should be treated and progressed as a complaint, due regard should be had to the wishes of the person raising the issue. In some circumstances a commission officer may not wish to 'make a complaint' about a matter. In those circumstances, the relevant officer (generally the officer's manager) should consider all competing considerations, which may include:

- The complainant's wishes and the impact of proceeding or not proceeding on their health and safety in the workplace
- The impact of proceeding or not proceeding on the health and safety of the workplace as a whole
- The need to correct or address unacceptable behaviour
- The need to promote a culture of appropriate workplace behaviour
- The need to ensure compliance with any legal obligations

Generally speaking, the balance will generally favour proceeding with the matter as a complaint.

Where a matter involves suspected improper conduct, the balance will always favour proceeding with a complaint, and reporting the matter to the notifier.

An internal complaint will either be a report of suspected improper conduct or a workplace complaint. An external complaint, whether from the PCCC or other external stakeholder, will be an improper conduct notification or a customer service complaint. Any of these may involve a human rights complaint.

5.2.2 Formal channels

A formal complaint may arise through one of several established channels:

- Improper conduct notification
- Customer service complaint



- Workplace complaint
- Human rights complaint
- From the Parliamentary Crime and Corruption Committee (PCCC) via the Office of the Commission.

A complaint may fall within one or more of these categories. A complaint, whether formal or informal may be made in person, via telephone, through the web portal, or by email.

5.3 Public Interest Disclosures

A person may make a Public Interest Disclosure ('PID') about the conduct of a commission officer.

PIDs are dealt with under the *Public Interest Disclosures Against Commission Officers (policy and procedure)* and are generally matters which relate to:

- a substantial and specific danger to the health or safety of a person with a disability, or to public health and safety
- a substantial and specific danger to the environment
- maladministration that adversely affects a person's interests in a substantial and specific way
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- reprisal because of a belief that a person has made, or intends to make a disclosure

A PID must be made to the "proper authority" to receive disclosures of the type being made. The CCC is the proper authority for complaints about commission officers.

If a disclosure is both a PID and suspected improper conduct, it will be managed in accordance with both this policy and the *Public Interest Disclosures Against Commission Officers (policy and procedure)*.

6. Procedure

The procedure prioritises the assessment of improper conduct as a first step in dealing with a complaint of any kind against a commission officer. Once an assessment has been made as to whether the conduct involves improper conduct, the complaint may then be dealt with through the appropriate channel.

6.1 Initial assessment

6.1.1 Step 1 – Improper conduct assessment

A commission officer receiving a complaint by whatever means must first consider whether the complaint raises a suspicion of improper conduct.

Per the *Protocols for reporting suspected improper conduct of officers of the CCC* ('the Protocol') if a commission officer suspects the possible improper conduct of a commission officer, they must notify the CEO immediately (unless the suspected improper conduct involves the CEO, deputy chairperson or chairperson – see s329(1)).

A report of improper conduct must be made by completing the *Suspected Improper Conduct Notification Report* and emailing that to the Improper Conduct mailbox at: ImproperConductNotificationReport@ccc.qld.gov.au



The notifier (generally the CEO) will in the first instance consider whether they hold a suspicion of improper conduct. If the notifier considers that they do hold a suspicion of improper conduct, then they will deal with it in accordance with the Protocol.

(A commission officer who suspects that they may have engaged in improper conduct may also self-report. This is also dealt with under the Protocol. As it does not involve a 'complaint', it is not dealt with further under this policy.)

6.1.2 Suspicion

'Suspicion' in its ordinary meaning is a state of conjecture or surmise where proof is lacking: "I suspect but I cannot prove." The facts which can reasonably ground a suspicion may be less than would reasonably to ground a belief, but some factual basis for the suspicion must be shown.

A suspicion that something exists is more than a mere idle wondering whether it exists or not; it is a positive feeling of actual apprehension or mistrust, amounting to "a slight opinion, but without sufficient evidence". Consequently, a reason to suspect that a fact exists is more than a reason to consider or look into the possibility of its existence.

6.1.3 Step 2 – Dealing with matters other than Improper Conduct

If the notifier considers that the complaint does not give rise to a suspicion of improper conduct, then the matter will be referred to the relevant officer to deal with as a customer service complaint or workplace complaint.

In some cases, a complaint may involve suspected improper conduct as well as matters which do not amount to improper conduct, but which are also the subject of a complaint. In that case the s329 process will be engaged in relation to the suspected improper conduct notification, and the balance of the complaint will be dealt with as a customer service complaint or workplace complaint, either alongside, or after, the improper conduct matter.

Example – A complainant may allege that a commission officer was rude in how they spoke with them, and that they also decided a matter adversely to that person because of bias against them due to their gender.

The complaint must be notified to the CEO as it may raise a suspicion of improper conduct.

Speaking rudely to the person may amount to a breach of the Code of Conduct. As a consequence, it is notified to the CEO as a breach of policy. The CEO listens to the recording of the call and considers that any rudeness was of a 'minor or trivial nature' and refers the matter back as a customer service complaint.

The allegation that the decision maker acted adversely to the person's interests by reason of the person's gender could amount to exercising a power in a way that is an abuse of power. It may also be a breach of the person's human rights.

The CEO may notify the Parliamentary Committee of the suspected improper conduct. The CEO may choose to refer the allegation that the commission officer spoke rudely to the complainant to the officer's manager to deal with this aspect of the allegation as a customer service complaint.



If a complaint does not raise a suspicion of improper conduct (that is, it does not involve a breach of a policy or procedure, or otherwise amount to improper conduct), then the matter should be dealt with as a Workplace Complaint or a Customer Service Complaint.

If at any point the person dealing with the complaint forms the view that the complaint gives rise to a suspicion of Improper Conduct, then it must be reported to the notifier.

6.2 Improper conduct

If the notifier assesses that a complaint involves suspected improper conduct, the notifier will notify the matter to the PCCC consistently with the Protocol.

Each of the following may be a Notifier:

1. If the improper conduct is that of a Commissioner, then the Notifier is the Chairperson;
2. If the improper conduct is that of the Chairperson, then the Notifier is the Deputy Chairperson;
3. If the improper conduct is by a commission officer, other than in (1) and (2) above, then the Notifier is the Chief Executive Officer.

Commission officers have an obligation to report suspected improper conduct. Failure to report suspected improper conduct may itself amount to improper conduct.

Most commonly, suspected improper conduct will involve a suspicion of noncompliance with a policy or procedural guideline set by the commission, whether inadvertently or deliberately, that is not of a minor or trivial nature.

It is not for the commission officer to determine whether suspected noncompliance is minor or trivial – that is to be determined by the notifier.

Reporting to the notifier can be undertaken by completing the *Suspected Improper Conduct Notification Report* (The Notification Report) and emailing the Notification Report to “Improper Conduct Notification Report”.

The notifier will assess whether there is a basis to suspect improper conduct. If they consider an allegation is without foundation, no further action will be taken.

Example – a litigant in proceedings against the CCC may allege that a CCC lawyer committed perjury in the proceedings. The notifier may consider that the allegation is without foundation as the lawyer did not give evidence, and records of the proceeding demonstrate that there was no impropriety in any submissions/representations made. In those circumstances the notifier may conclude that the allegation is without foundation.

If the notifier considers a report of suspected improper conduct and concludes that the matter (or a part of the matter) is not improper conduct, then that matter will be dealt with either as a Workplace Complaint or a Customer Service Complaint (depending on the source of the complaint).

6.2.1 Timeframes

All matters should be dealt with as soon as reasonably practicable, as notifications of suspected improper conduct require consideration by the PCCC.

6.2.2 Review

A decision to notify a matter to the PCCC, nor actions taken as a result of any recommendation by the PCCC are not matters which may be reviewed internally.



6.2.3 Records

Records in relation to improper conduct notifications are in accordance with the Protocol, and are managed by the Office of the Commission.

6.2.4 Reporting

Reporting obligations in relation to improper conduct notifications are managed by the Office of the Commission.

6.3 Workplace Complaints

A workplace complaint should be raised with the commission officer's manager. Where the complaint is about the commission officer's manager, the complaint should be made to their manager's supervisor.

A concern about the CEO or a Commissioner is to be raised with the Chairperson. A concern about the Chairperson is to be raised with the Deputy Chairperson.

6.3.1 Informal resolution

In the first instance, the commission officer should seek to address the issue with the officer directly, and attempt to resolve the complaint locally and informally.

In some cases, the officer may not feel comfortable raising the issue with the subject officer directly. In those circumstances the complainant should raise the matter with their manager, who can assist to facilitate informal resolution of the complaint if appropriate.

6.3.2 Manager's responsibilities

A manager approached by a commission officer raising a workplace complaint has the discretion to deal with the matter in any way that is consistent with the CCC's workplace complaints management principles (unless the complaint involves suspected improper conduct).

6.3.3 Formal resolution of workplace complaints

Where an attempt to resolve the workplace complaint informally is unsuccessful, or where it is not appropriate to resolve the complaint locally and informally (due to a conflict or other circumstance), the commission officer lodging the complaint (or the receiving officer) can proceed to a formal resolution process.

A workplace complaint cannot be lodged under the formal resolution process:

- a) unless the lodging officer has made a reasonable effort to have the matter resolved informally
- b) if it concerns an action or omission that is currently the subject of another formal workplace complaint or review process, or relates substantially to a matter that has been the subject of a previous workplace complaint
- c) if it is about a decision to discipline the commission officer lodging the complaint (unless the commission officer alleges that the disciplinary action is a reprisal under the *Public Interest Disclosure Act 2010*, in which case it should be dealt with in accordance with the CCC's policy and procedure on PIDs)
- d) if it is about a decision for the lodging officer to retire on the grounds of ill health
- e) if the matter has been lodged under an industrial determination



f) unless the basis for the complaint is sufficiently articulated by the commission officer lodging the complaint. The receiving officer may choose to refuse to deal with the complaint until the officer lodging the complaint has reduced the complaint to writing, providing sufficient information to enable the complaint to be assessed and addressed. This will include the grounds for the complaint, and may also include the outcome the officer is seeking, and details regarding the attempts the officer has made to resolve the workplace complaint informally (if relevant).

6.3.4 *Receiving officer's responsibilities*

On receipt of a workplace complaint that is to be managed through a formal resolution process, the receiving officer must notify the relevant Divisional Head. If the workplace complaint relates to the Divisional Head, the receiving officer must notify the CEO.

In considering a workplace complaint, the receiving officer must have regard to the following:

- a) whether the requirements for lodging a workplace complaint have been met
- b) the nature of the subject matter of the workplace complaint
- c) the workplace complaint management principles set out in this policy
- d) the law, and relevant CCC policies and procedures.

In particular, the receiving officer must comply with the requirements of the Act and the *Public Interest Disclosure Act 2010*.

A receiving officer may determine that an alternative manager is better placed to resolve the workplace complaint. This may be warranted in circumstances including, but not limited to:

- the receiving officer identifying an actual, apparent or potential conflict of interest that may negatively impact their ability to fairly resolve the workplace complaint
- the receiving officer being unable to resolve the workplace complaint in a reasonable timeframe (e.g. due to impending leave)
- the circumstances or nature of the workplace complaint meaning that the receiving officer can identify another commission officer who is better placed to resolve the workplace complaint.

Any change to the receiving officer of a workplace complaint (who will manage the resolution process) should be agreed with the relevant Divisional Head or CEO, and communicated to the lodging officer.

6.3.5 *Maintaining normal duties*

Subject to any legislative requirements, while the workplace complaint management and resolution action is underway, normal work will continue as if the workplace complaint had not been lodged, unless:

- there is a genuine health and safety issue
- to do so could create a substantial financial or legal liability for the CCC.

6.3.6 *Outcome of a workplace complaint*

A workplace complaint will be considered to be finalised when any one of the following outcomes has been achieved:

- the desired outcome of the lodging officer has been achieved
- mediation has taken place and both parties are satisfied with the outcome of the mediation process
- the receiving officer has determined that the workplace complaint is either unsubstantiated or is incapable of resolution



- the receiving officer has found that the workplace complaint is substantiated and appropriate remedial action is to be taken.

After a decision has been made about a workplace complaint, the receiving officer must provide written advice to the lodging officer.

6.3.7 *Miscellaneous matters*

At any time before a decision is made on a workplace complaint, a party to the workplace complaint may request information about the progress made to resolve the complaint. The receiving officer must provide this information within seven business days, unless the request is regarded by the CCC as unreasonable, or the provision of the information would prejudice the satisfactory resolution of the workplace complaint.

Two or more workplace complaints lodged by the same commission officer about related matters, or workplace complaints from more than one commission officer about related matters, may be dealt with as one workplace complaint.

6.3.8 *Advising workplace complainants*

At the completion of action taken to resolve a commission officer's workplace complaint or request for review, the commission officer resolving the workplace complaint (receiving officer, reviewing officer) must provide a written decision to the commission officer and other relevant parties that outlines:

- the action taken to manage the workplace complaint and the outcome of this action
- the reasons for the decision, or the decision to take no action
- any action that will be taken, or is proposed to be taken, as a result of the decision.

6.3.9 *Rights of individuals*

In addition to the overarching principles that govern workplace complaints management, commission officers who are the subject of workplace complaints are entitled to:

- be informed of the allegations made against them
- make a response to the complaint
- have the matter dealt with by the receiving officer or other impartial person
- have access to support or assistance from Human Resources, a Peer Support Officer, and the employee assistance provider
- receive advice from their legal representative or any other person
- be advised of an indicative timeframe for a decision to be made.

Any commission officer involved in the process of resolving workplace complaints must maintain confidentiality throughout and only disclose information to those parties involved in the resolution process, as and when required.

6.3.10 *Support and representation*

During the management and resolution of a workplace complaint, either the commission officer making the workplace complaint or the commission officer/s complained about may use the services of a trade union, industrial organisation or other support person in an advisory capacity.



However, a manager or receiving officer may exclude a representative, advisor or support person from any stage of the management or resolution process having regard to the degree of confidentiality attaching to material held by the CCC which may be relevant to the workplace complaint.

6.4 Review

A commission officer who is a party to a formal workplace complaint (other than a witness) may request in writing a review by the CEO within 14 calendar days of receiving the receiving officer's decision, provided that the CEO is not the subject of the workplace complaint, the original decision maker or the receiving officer. The commission officer must state:

1. the reasons for dissatisfaction with the decision made through the formal resolution process, and
2. the action the commission officer believes would resolve the workplace complaint.

The CEO may choose any independent commission officer to review the matter. The purpose of the review is to determine whether the receiving officer's decision was fair and reasonable in the circumstances. The reviewing officer may:

- confirm or reject the findings or decision of the receiving officer
- remit the matter to the receiving officer or to another commission officer not involved in the workplace complaint for further investigation
- take such other action as necessary.

A decision about the review of the receiving officer's decision should be made as soon as possible and within **14 calendar days** of receipt of a written request from a commission officer for review. This applies unless:

- the timeframe has been extended by mutual agreement between the parties (a party to the workplace complaint is not to unreasonably withhold their agreement), or
- the reviewing officer can demonstrate that reasonable attempts have been made to progress the commission officer's workplace complaint.

After a decision has been made about a request for a review, the reviewing officer must provide written advice to the lodging officer.

6.4.1 Exclusions to the review process

Workplace complaints against the CEO, Chairperson, Deputy Chairperson or Ordinary Commissioners cannot be the subject of an internal review. However, the parties may have recourse to another entity (for example, the Parliamentary Crime and Corruption Committee, the Anti-Discrimination Commission, the Queensland Ombudsman) and advice may be sought from the Director, Human Resources.

6.5 Timeframe

Generally, a commission officer's concern should be resolved as soon as possible, but an informal complaint must be resolved within **10 business days** of receipt of the complaint, unless the timeframe has been extended by mutual agreement between the parties (a party to the workplace complaint is not to unreasonably withhold their agreement).

Action to resolve a workplace complaint through the formal resolution process should be completed within **28 calendar days** of lodgement, unless the timeframe has been extended by mutual agreement



between the parties to the workplace complaint (a party to the complaint is not to unreasonably withhold their agreement).

As noted above, a decision on a review must be made within 14 calendar days, subject to the exceptions set out above.

6.6 Records

If the complaint is resolved locally and informally then the manager should ensure that an appropriate record is kept of any actions taken and any agreement reached to deal with the complaint and that this record is stored in an appropriate Content Manager container.

For a formal complaint process, the receiving officer must ensure that all documentation relating to a workplace complaint made under this policy is referred to HR at the conclusion of the matter.

7. Customer Service Complaints

7.1 Receipt of service delivery complaints

The CCC will publish information about how to lodge a service delivery complaint on its website. Complaints, including anonymous complaints, may be received:

- by phone
- by email
- in writing via the online [Contact form](#) or by way of the [Service delivery complaint form](#).

Complaints may also be referred to the CCC by the PCCC

7.2 Complaints in the course of other processes or proceedings

As set out above, in some cases allegations may be raised by persons involved in litigation against the CCC, or in administrative reviews of CCC decisions. Where such allegations are raised, they will be reported and assessed by the CEO to consider whether they give rise to a suspicion of improper conduct. If they do not, they are to be regarded as Customer Service Complaints. However, such matters do not require correspondence with the complainant or a formal response under this policy, unless:

- a) Specifically requested by the complainant; or
- b) The Executive Manager considers that there is substance in the complaint which should be addressed with the complainant

In either case, the Executive Manager must consult with the area responsible for dealing with the substantive proceedings (generally Litigation or Corporate Legal), who will consider whether any correspondence with the complainant may prejudice the proceedings. In that case, the ELT member responsible for providing instructions in the substantive proceedings will determine whether a response should be provided. If the complaint relates to the conduct or actions of the ELT member responsible for providing instructions, the decision will be escalated to the Chairperson.

7.3 Classifying the complaint



Customer service complaints should be classified as either 'straightforward', 'serious' or 'unreasonable'.

7.3.1 *Straightforward complaints*

If the complaint is made directly to the subject officer, that officer should attempt to resolve it informally with the complainant at the time of the complaint, or within two business days if it cannot be resolved immediately.

The complaint should be referred to the subject officer's supervisor if:

- the complainant requests that someone else deal with the complaint
- the subject officer feels unable to deal with the complaint fairly
- the problem is outside the authority or area of expertise of the subject officer
- the complaint is from a public sector agency or a Member of Parliament
- the complainant is still dissatisfied after attempts to resolve the complaint informally.

If the complaint is made to another commission officer, that officer should refer it to the subject officer in the first instance.

If a straightforward complaint is resolved satisfactorily, details should be forwarded to the subject officer's supervisor for recording in the business area complaints register as 'no further action required'.

So as to avoid unnecessary delay and bureaucracy, the receiving officer should nevertheless seek to resolve a straightforward complaint directly in the first instance if that is possible.

7.3.2 *Serious complaints*

Serious complaints are to be immediately referred to the subject officer's manager, regardless of whether they are received by the subject officer or another commission officer.

The manager is to:

- consider responding to the complainant informally by phone in the first instance, and confirming the discussion in writing
- acknowledge the complaint in writing within two business days of receipt
- seek advice from their Senior Executive Officer/General Manager/Executive Director/Director, if required
- review or investigate the matters raised in the complaint
- provide a written response to the complainant, addressing the issues raised and advising of the outcome of the complaint, within **10 business days of receipt**. If any delay in meeting this time frame is expected, the complainant should be advised.

If the supervisor considers that the complaint raises a reasonable suspicion of improper conduct, it must be referred immediately to the Chief Executive Officer for appropriate action under the Protocol.

Serious complaints must be formally recorded in the business area complaints register, including details of any action or resolution.

7.3.3 *Unreasonable complaints*



The CCC may refuse to investigate a complaint if it is considered to be vexatious, trivial, unreasonable, misleading or untrue, or where the complainant refuses to cooperate with the CCC's efforts to investigate. If such a complaint is refused, the complainant must be advised in writing, including reasons for the refusal.

An assessment as to whether a complaint is to be refused on this basis is to be made by a decision-maker at an Executive Director level or above, in the subject officer's line of reporting.

An officer receiving a complaint about their own conduct, which they consider to be vexatious, trivial, unreasonable, misleading, or untrue, should nevertheless refer it to their manager to escalate to an appropriate decision-maker. It is not for the subject officer of the complaint to make a determination about whether their own conduct was improper, or whether an allegation about their conduct is true or untrue. If the officer believes the allegation to be untrue or without foundation, that should be set out in the report, including the reasons as to why.

7.4 Outcome of complaint

Possible outcomes of a service delivery complaint include:

- an apology where it is found that the subject officer was at fault
- an explanation of the reasons for any decision or action
- remedial action
- expediting the work on a matter that has been subject to delay
- training for the subject officer
- referral to the CEO for consideration of disciplinary action under the *Discipline Policy and Procedure*
- no further action (e.g. complaint unsubstantiated).

A complainant may withdraw their complaint at any time, preferably in writing; however, the CCC may still investigate or take action, depending on the nature of the issue and the possibility of it recurring.

7.5 Timeframes

A written response is to be provided to the complainant within **10 business days of receipt**. If there is to be any delay in meeting this timeframe, the complainant is to be advised. Delay in meeting this timeframe does not amount to improper conduct, but unreasonable or unexplained delays may be.

7.6 Review of complaint decision

Where a complaint cannot be resolved, or where the complainant advises that they are dissatisfied with the decision made and requests a review, the complaint should be referred to the General Manager, Corporate Services. The General Manager, Corporate Services may undertake a review of the complaint, or ask an Executive Manager to conduct the review.

The General Manager, Corporate Services may refer the complaint to a delegate other than an Executive Manager if it is deemed for reasons of seniority or sensitivity that an Executive Manager is not appropriate to deal with the complaint. If a delegate is determined to be a more appropriate choice than an Executive Manager, the General Manager, Corporate Services is to record the reasons on the complaint file for allocating the complaint to a delegate.

The review officer must:

- have the appropriate authority to consider the review



- be senior to the officer who made the original decision about the complaint
- not have been directly involved in the original complaint process.

Where the complainant has requested the review, the review officer must ensure an acknowledgement letter is forwarded to the complainant within **10 business days of receipt** of the review request.

The review officer may seek information or advice from any source, including the complainant, and should ensure the subject officer is provided with an opportunity to provide their version of events.

The review officer is to prepare a written report on the outcome of the review, including findings and recommendations, and advise the complainant in writing of the review decision.

7.7 Recordkeeping

Each business unit must ensure complaint records are created and maintained in accordance with the CCC's [Records management framework](#). This includes any correspondence, forms and investigation notes.

7.7.1 Complaints registers

The CCC has a centralised recording system for customer service complaints on a complaints register, located on the dGRC.

All external complaints within the scope of this policy and procedure are to be recorded on the *Customer Service Complaints* register, using the form in the dGRC. In each division, the Executive Assistant to the relevant ELT member and other approved delegates have access to the Customer service complaints register on the dGRC to input complaints information.

Complaints information is to be entered into the dGRC form once the complaint has been resolved. As this register informs our internal and external reporting, it is crucial that business areas ensure that the dGRC is accurate.

The office of the Chief Executive Officer maintains a register of all complaints referred by the PCCC.

The register will include the following information:

- date the complaint was received
- name of complainant (if known)
- type of complaint (including Human Rights complaints)
- investigating officer and business unit
- outcome of complaint
- any action recommended to address systemic issues
- whether the client was satisfied with the outcome, or whether a review was requested
- finalisation date.

8. Reporting requirements

8.1 External reporting

8.1.1 s.219A Customer complaints reporting

Risk and Compliance will arrange the publication of customer complaints information for each financial year according to section 219A of the *Public Service Act 2008*:



- the number of customer complaints made to it during the previous financial year
- the number of those complaints resulting in further action
- the number of those complaints resulting in no further action.

Once collated, this information is to be approved by the General Manager Corporate Services prior to the publication of the statistics by 30 September each year.

9. Human Rights Complaints

Every complaint against a Commission officer, whether a Workplace Complaint, a Customer Service Complaint, or an Improper Conduct Notification, should be assessed to consider whether the complaint alleges a breach of human rights. A complaint does not need to expressly allege a breach of human rights to be regarded as a Human Rights Complaint. A complaint may be a Human Rights Complaint because the conduct alleged against the commission officer implies a breach of human rights.

The CCC must deal with human rights complaints against commission officers. Human rights complaints may include complaints made by a commission officer alleging that a decision or action by the CCC is in breach of one or more of their human rights, or complaints against a commission officer alleging that an officer's conduct breaches a person's human rights.

A breach of human rights may amount to noncompliance with the *Human rights policy and procedure* and thus may amount to improper conduct (s329(4)(g) of the CC Act). It should be reported to the notifier accordingly.

If the notifier assesses that the human rights complaint is of a minor or trivial nature, it is to be dealt with as either a Workplace Complaint, or a Customer Service Complaint.

9.1 Timeframes for Human Rights Complaints

The HR Act provides that a person may make a Human Rights Complaint to the Human Rights Commissioner if the agency has not dealt with the complaint within 45 business days, or provided an inadequate response. The person may also make a complaint to the Commissioner sooner in exceptional circumstances (See s65 HR Act).

Complaints which give rise to a suspicion of improper conduct will be notified to the PCCC. The PCCC is not bound by timeframes to respond to a complaint. However, the time taken by the PCCC to respond may reduce the time available to the CCC to meet the 45-day deadline.

If the 45-day deadline is not met, the Commissioner may nevertheless defer dealing with the complaint if the Commissioner considers there is a more appropriate course of action under another law to deal with the complaint, or considers that the complaint has been appropriately dealt with by another entity.

If the complaint is dealt with as a Workplace Complaint or a Customer Service Complaint, compliance with the timeframes for dealing with these types of complaints will ensure that the complaints are dealt with within the timeframe required by the *Human Rights Act*.

9.2 Dealing with Human Rights Complaints



Whether a complaint is a Workplace Complaint, Customer Service Complaint, or a Notification of Improper Conduct, any breach of human rights must be considered and dealt with in dealing with the complaint.

Any formal reasons for decision in relation to a complaint which includes a Human Rights Complaint should expressly refer to any human rights alleged to have been breached or considered in the course of considering the complaint.

9.3 Annual reporting

The CCC must include the following information in its annual report (per s97 of the *Human Rights Act*):

- details of any actions taken during the reporting period to further the objects of the HR Act;
- details of any human rights complaints, including: the number of complaints received; the outcome of the complaints; any other information prescribed by regulation relating to the complaints; and
- details of any review of policies, programs, procedures, practices or services undertaken in relation to ensuring compatibility with human rights.

9.3.1 Human rights complaints

Risk and Compliance will collate and provide data from the CCC's customer service complaints register (on the dGRC) regarding human rights complaints in accordance with section 97(2)(b) of the HR Act for inclusion in the agency's annual report and as otherwise required. This includes:

- the number of human rights complaints received by the CCC
- the outcome of complaints
- any other information prescribed by regulation.

The minimum annual reporting requirements are set out in the *Annual Report Requirements for Queensland Government agencies* published by the Department of the Premier and Cabinet.

10. Review triggers

This policy and procedure will be reviewed three years from the date of approval, unless changes in legislation or government policy affecting its operation occur before the three-year period has expired. This policy will remain in effect until updated, superseded or declared obsolete.

11. Metadata

Responsible officer:	Executive Director, Legal, Risk and Compliance	Accountable officer:	CEO
Date approved:	13 September 2021	Review date:	13 September 2024
Category:	Operational	Human rights compatibility review eDRMS reference:	21/203443



Schedule A: Complaints Management Flowchart





Parliamentary Crime and
Corruption Committee

Protocols for reporting suspected improper conduct of officers of the Crime and Corruption Commission

11 September 2020

OFFICIAL — FOR INTERNAL USE ONLY

This document is classified Official for use within the Crime and Corruption Commission, Parliamentary Crime and Corruption Committee and Parliamentary Crime and Corruption Commissioner only.

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Introduction

1. Section 329 of the *Crime and Corruption Act 2001* (Qld) (**the Act**) provides that all conduct of Crime and Corruption Commission (CCC) officers, including the Chairperson, Commissioners, Chief Executive Officer and other Commission Officers which a notifier suspects involves, or may involve, improper conduct must be notified to the Parliamentary Crime and Corruption Committee (**PCCC**) and the Parliamentary Crime and Corruption Commissioner (**Parliamentary Commissioner**). The appropriate notifier (**the notifier**) is:
 - if the improper conduct is that of a *Commissioner other than the Chairperson* – the Chairperson
 - if the improper conduct is that of the *Chief Executive Officer* – the Chairperson
 - if the improper conduct is that of the *Chairperson* – the Deputy Chairperson
 - if the improper conduct is that of a *commission officer* or a *former commission officer* – the Chief Executive Officer.
2. These protocols outline:
 - the steps to be taken by a commission officer and/or notifier who suspects that a commission officer's conduct involves, or may involve, improper conduct (suspected improper conduct)
 - how to notify the PCCC and Parliamentary Commissioner of suspected improper conduct
 - the actions that may be taken in relation to suspected improper conduct
 - details about Parliamentary Commissioner initiated investigations, and
 - record keeping requirements.
3. The protocols are not to be relied upon in the absence of the Act. In circumstances of conflict or ambiguity between the protocols and the Act, the Act prevails.
4. These protocols have been agreed by the PCCC, the Parliamentary Commissioner and the CCC.

Definitions

5. The term *commission officer* has the meaning given in Schedule 2 of the Act and includes a *former commission officer*.
6. The term *former commission officer* has the meaning given in Schedule 2 of the Act, i.e. a person who was but is no longer a commission officer under the Act.
7. The term *improper conduct* is defined at s.329(4) of the Act.
8. The term *information* means a complaint, information or matter.

Procedure

9. This procedure is to be followed upon receipt of information involving the possible improper conduct of a commission officer.

Receipt and notification of information of suspected improper conduct

10. A commission officer must, as soon as practicable, inform the specified notifier of any information involving the possible improper conduct of a commission officer.
11. The notifier must assess the information, as soon as practicable, to determine whether the notifier suspects the conduct of a commission officer involves, or may involve, improper conduct.
12. A notifier may seek advice on whether it is suspected that the conduct involves, or may involve, improper conduct.

13. If the notifier suspects that the conduct of a commission officer involves, or may involve, improper conduct, the notifier must notify the PCCC and Parliamentary Commissioner of the conduct, in writing, as soon as practicable.
14. When notifying the PCCC and Parliamentary Commissioner, the notifier must:
 - provide sufficient information, including, but not limited to, background and contextual information and an assessment of the potential impact of the suspected improper conduct, to enable the PCCC and Parliamentary Commissioner to discharge their functions under the Act
 - advise of any managerial action that has been, or is proposed to be, taken against the commission officer in accordance with paragraph 16 of these protocols
 - advise of any steps which have been, or are proposed to be, taken in order to preserve or obtain evidence, not otherwise obtainable without immediate action or to preserve the integrity of the CCC's operations, and
 - recommend a course of action in respect of dealing with the suspected improper conduct or if no further action is recommended, advise the PCCC and Parliamentary Commissioner accordingly.

Taking action in relation to suspected improper conduct

15. Subject to paragraph 16, no further action shall be taken in respect of suspected improper conduct, except for the action to preserve evidence or to obtain evidence otherwise not obtainable without immediate action or to preserve the integrity of the CCC's operations, until a response is received from the PCCC and Parliamentary Commissioner to the written advice from the CCC recommending what action, if any, should be taken.
16. The notifier may cause managerial action to be taken in respect of suspected improper conduct, prior to notifying, or receiving a response from, the PCCC and Parliamentary Commissioner, if the notifier considers that the suspected improper conduct relates only to improper conduct defined at s.329(4)(d) to (h) of the Act.
17. In deciding whether to take action in respect of suspected improper conduct, the PCCC and Parliamentary Commissioner may consider any submissions made by the notifier in relation to:
 - whether the CCC needs to take immediate action to secure evidence or to ensure the integrity of its operations
 - the CCC's recommended course of action in respect of dealing with the matter
 - the respective investigative resources and facilities of the PCCC, Parliamentary Commissioner and CCC
 - whether the nature of the suspected improper conduct requires the investigation to be carried out independently of the CCC, and
 - any other relevant matter.
18. Under s.295(2) of the Act, the PCCC may, with bipartisan support:
 - ask the CCC to provide a report on the matter to the PCCC
 - ask the CCC to investigate and provide a report on the matter to the PCCC
 - ask the Queensland Police Service or another law enforcement agency to investigate and report to the PCCC
 - ask the Parliamentary Commissioner to investigate and provide a report to the PCCC
 - refer the matter to the Director of Public Prosecutions, and
 - take other action it considers appropriate.
19. If the PCCC requests the CCC to undertake an investigation of suspected improper conduct, or any part of an investigation, the PCCC may request the CCC to furnish reports of the investigation in such terms and at such intervals as are reasonably necessary.
20. Upon the conclusion of an investigation of suspected improper conduct notified to the PCCC and Parliamentary Commissioner, the notifier will advise the PCCC and Parliamentary Commissioner of the investigative findings and any preliminary recommendations, prior to any action being undertaken.

21. Although neither the PCCC nor the Parliamentary Commissioner may direct the CCC with respect to the management or discipline of commission officers, consideration should be given by the CCC to recommendations made by the PCCC and Parliamentary Commissioner.

Conduct of a commission officer prior to employment at the CCC

22. If a notifier receives information about the possible improper conduct of a commission officer prior to becoming a commission officer, including in a private capacity, the notifier must:
- assess the information, and
 - if the notifier suspects that the conduct involves, or may involve, improper conduct which could potentially reflect seriously and adversely on the CCC, notify the PCCC and Parliamentary Commissioner in accordance with paragraphs 13 and 14 of these protocols.

Parliamentary Commissioner initiated investigations

23. Under s.314(4) of the Act, the Parliamentary Commissioner may, on his or her own initiative, investigate a matter notified under s.329 of the Act, if:
- (a) the matter relates to conduct of a commission officer that involves or may involve corrupt conduct; and
- (b) the Parliamentary Commissioner is satisfied, on reasonable grounds that:
- (i) the CCC has not adequately dealt with the matter, or
 - (ii) the CCC may not adequately deal with the matter, or
 - (iii) it is in the public interest.
24. The Parliamentary Commissioner may conduct a preliminary assessment of a matter to decide whether (a) and (b) above are satisfied.
25. If the Parliamentary Commissioner decides to conduct a preliminary assessment or investigate a matter, the Parliamentary Commissioner may, by giving written notice to the Chairperson, require a commission officer to produce, or allow access to, all records, files and other documents in the CCC's possession and/or give the Parliamentary Commissioner all reasonable help in connection with the Parliamentary Commissioner performing his or her functions.
26. A person required to do something by a written notice from the Parliamentary Commissioner to the Chairperson must comply with the requirement.

Record keeping and register

27. The CCC will keep in its electronic complaints management system a record of the following information:
- a summary of the information received by the notifier
 - the date the information was received by the notifier
 - the date of, and a summary of the nature of, any investigative steps which have been, are being, or are proposed to be taken in order to preserve evidence or to obtain evidence not otherwise obtainable without immediate action or to preserve the integrity of the CCC's operations
 - the date the information was referred by the notifier for advice and to whom it was referred
 - the date the sought advice was received by the notifier
 - the outcome of the assessment by the notifier and brief reasons for this assessment
 - details of any managerial action taken in respect of suspected improper conduct prior to notifying, or receiving a response, from the PCCC and Parliamentary Commissioner
 - the date the PCCC and Parliamentary Commissioner were notified of the suspected improper conduct by the notifier under s.329 of the Act

- the date, if relevant, the PCCC or Parliamentary Commissioner requested the assistance of the notifier or the CCC
 - any use by the CCC of coercive statutory powers in relation to the investigation of the suspected improper conduct
 - the date and summary of the nature of any request to the CCC by the PCCC or Parliamentary Commissioner in relation to the investigation of the suspected improper conduct
 - a summary of any advice provided to the PCCC or Parliamentary Commissioner throughout the investigation, and
 - the outcome of the investigation.
28. The CCC's records will include details of any information involving possible improper conduct by a commission officer in relation to which the notifier did not form the requisite suspicion under s.329 of the Act.
 29. This record is to be available for inspection by the PCCC or Parliamentary Commissioner, or a person appointed, engaged or assigned to help the PCCC or Parliamentary Commissioner.
 30. The CCC will provide the PCCC and Parliamentary Commissioner with a register of the information in paragraphs 27 and 28 at regular intervals. In normal circumstances this register will be provided 14 days before the meetings between the CCC and PCCC and be supplied separately from the papers supplied for the meetings between the CCC and PCCC.
 31. The term *coercive statutory powers* includes the following powers obtained under the Act, the *Police Powers and Responsibilities Act 2000* (Qld) or any other Act:
 - a notice to furnish a statement
 - a notice to produce records and things
 - a notice to attend a hearing
 - a warrant to enter, search and seize
 - a search warrant
 - an authority to search a person, and
 - an application for a surveillance device warrant.

Public interest disclosures against commission officers (policy and procedure)

Objective

The Crime and Corruption Commission (CCC) is committed to fostering an ethical, transparent culture. In pursuit of this, the CCC encourages disclosure of wrongdoing by commission officers. The CCC will provide support to commission officers or others who make public interest disclosures about commission officers.

This policy and procedure demonstrates this commitment, and ensures that practical and effective procedures are implemented which comply with the requirements of the *Public Interest Disclosure Act 2010* (PID Act).

Application

The policy and procedure applies to anyone, including commission officers, wishing to make a public interest disclosure about a commission officer.

Relevant legislation

[Crime and Corruption Act 2001](#) (CC Act)

[Ombudsman Act 2001](#)

[Public Interest Disclosure Act 2010](#) (PID Act)

[Public Records Act 2002](#)

[Public Sector Ethics Act 1994](#)

Definitions

Term	Definition
Administrative action	As defined in schedule 4 of the PID Act .
Confidential information	As defined in section 65 of the PID Act .
Corrupt conduct	As defined in section 15 of the CC Act .
Detriment	As defined in schedule 4 of the PID Act .
Disability	As defined in section 11 of the Disability Services Act 2006 .
Discloser	A person who makes a disclosure in accordance with the PID Act .
Improper conduct	As defined in section 329 of the CC Act .
Investigation	Any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.
Maladministration	As defined in schedule 4 of the PID Act .

Natural justice	Natural justice, also referred to as 'procedural fairness', applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. The rules of natural justice ensure that decision-making: <ul style="list-style-type: none"> • is fair and reasonable • avoids bias • gives a fair hearing • only acts on the basis of logically probative evidence.
Proper authority	A person or organisation that is authorised under the PID Act to receive disclosures.
Public officer	A public officer, of a public sector entity, is an employee, member or officer of the entity.
Reasonable belief	A view which is objectively fair or sensible.
Reprisal	As defined in schedule 4 of the PID Act .
Subject officer	An officer who is the subject of allegations of wrongdoing made in a disclosure.
Substantial and specific	Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance. Specific means 'precise or particular'. This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.

Policy statement

By complying with the PID Act, the CCC will:

- promote the public interest by facilitating public interest disclosures (PIDs) of wrongdoing
- ensure that PIDs are properly assessed and, where appropriate, properly investigated and dealt with
- ensure appropriate consideration is given to the interests of subject officers
- ensure protection from reprisal is afforded to disclosers.

Disclosers should be aware that the CCC has a legal obligation to refer disclosures containing possible improper conduct by a commission officer to the Parliamentary Crime and Corruption Committee (PCCC) and the Parliamentary Commissioner.

PID Management Program

The Chief Executive Officer (CEO) has overall responsibility for ensuring that the CCC develops, implements and maintains a PID management program. The CCC's PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- senior management endorsement of the value of PIDs and the proper management of PIDs
- a communication strategy to raise awareness among employees about PIDs and this procedure
- a training strategy to give employees access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed
- specialist training and awareness about PIDs for senior management and other staff who may receive or manage PIDs, disclosers or workplace issues relating to PIDs

- senior officers maintaining responsibility for issues relating to the management of PIDs
- ensuring effective systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls
- regular review of this procedure and evaluation of the effectiveness of the PID management program.

Why make a PID?

People who are prepared to speak up about wrongdoing can be the most important sources of information to identify and address problems in public sector administration. The CCC supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of the CCC
- the outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to the CCC
- the community's trust in public administration is strengthened by having strong processes in place for reporting wrongdoing.

When making a PID, the discloser receives protections provided under the PID Act, including:

- confidentiality – the discloser's name and other identifying information will be protected to the extent possible
- protection against reprisal – the discloser is protected from unfair treatment by the CCC and employees of the CCC as a result of making the PID
- immunity from liability – the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing
- protection from defamation – the discloser has a defence against an accusation of defamation by any subject officer.

What is a PID about a commission officer?

Under s.12 of the PID Act, any person can make a disclosure about a:

- substantial and specific danger to the health or safety of a person with a disability
- the commission of an offence, or contravention of a condition imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment
- reprisal because of a belief that a person has made, or intends to make a disclosure.

Under s.13 of the PID Act, public sector officers (including commission officers) can also make a disclosure about the following public interest matters:

- corrupt conduct (not relevant to commission officers, see point 1 below)
- maladministration that adversely affects a person's interests in a substantial and specific way
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- substantial and specific danger to the environment.

A discloser can have either a 'reasonable belief' that wrongdoing has occurred, or provide evidence which tends to show the wrongdoing has occurred.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- discloser reports the information as part of their duties – such as an auditor reporting a fraud or an occupational health and safety officer reporting a safety breach

- disclosure is made anonymously – the discloser is not required to give their name or any identifying information
- discloser has not identified the material as a PID – it is up to the CCC to assess information received and decide if it is a PID
- disclosure is unsubstantiated following investigation – the discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

Importantly, due to the CCC's legislative provisions, PIDs about commission officers are different in three respects:

- While the PID Act extends to reporting 'corrupt conduct', the conduct of a commission officer generally cannot constitute corrupt conduct based on the provisions outlined in ss.15(1)(a) and 20(2)(a) of the CC Act (CCC is not a unit of public administration for the purposes of the definition of corrupt conduct).
- Due to the CCC's secrecy provisions under s.213 of the CC Act, a commission officer cannot disclose information obtained in the course of their duties, except in the limited circumstances outlined within s.213(3). Therefore, commission officers acting in their official capacity must not disclose information to other agencies or journalists.
- Under s.329 of the CC Act, suspected improper conduct by commission officers must be reported to the PCCC and the Parliamentary Commissioner. If a disclosure is both a PID and suspected improper conduct, it will be managed in accordance with both this policy and Reporting improper conduct (procedure).

Procedure

1. Making a PID

1.1. Who can a PID be disclosed to?

A PID must be made to the "proper authority" to receive disclosures of the type being made. The CCC is the proper authority for complaints about commission officers.

Disclosers are encouraged to make a PID to:

- Email: ImproperConductNotificationReport@ccc.qld.gov.au
- Post: GPO Box 3123, Brisbane QLD 4001, Australia

Disclosures about commission officers should be made to the CEO, unless the disclosure is about:

- the CEO or a commissioner – the disclosure must be referred to the Chairperson
- the Chairperson – the disclosure must be referred to the Deputy Chairperson.

However as noted above, the secrecy provisions in s.213 of the CC Act mean that other proper authorities in the PID Act and journalists are not available to commission officers.

For disclosers other than commission officers, a member of the Legislative Assembly or other agency may also be a proper authority to receive a PID (ss. 14, 15 PID Act).

1.2. How to make a PID

A discloser can make a PID in any way, including anonymously, either verbally or in writing. However, disclosers should note that anonymous disclosures may make it difficult for the CCC to:

- seek clarification or further information if needed
- provide the discloser with protection under the PID Act

- provide the discloser with information about the management and outcome of the PID.

To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to provide the following information in writing:

- their contact details (this could be an email address that is created for the purpose of making the disclosure or a telephone number)
- as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are
 - any evidence that supports the PID, and where the evidence is located
 - any further information that could help investigate the PID.

2. Assessing a disclosure

On receipt, the CEO will ensure they are the appropriate person to assess and manage the disclosure. The CEO will refer the disclosure to:

- the Chairperson, if the disclosure is about the CEO or a commissioner
- the Deputy Chairperson, if the disclosure is about the Chairperson.

2.1. Determine whether the disclosure is a PID

If there is any doubt as to whether a matter is a PID, further information may be obtained to inform the decision. If doubt still remains, the matter will be considered and managed as a PID.

Mere disagreements over policy do not meet the threshold for a PID under the PID Act.

The disclosure will be assessed in accordance with the PID Act, the PID standards, this policy and procedure, and any other relevant procedure(s).

It is an offence under s.66 of the PID Act to intentionally give false or misleading information intending it be acted on as a PID. Employees may be subject to disciplinary action for intentionally giving false or misleading information in a PID, or during an investigation into a PID.

2.2. Determine whether the disclosure contains possible improper conduct

The CCC has a legislative obligation under s.329 of the CC Act to report conduct of a commission officer that it suspects involves, or may involve, improper conduct.

If the CCC determines the disclosure involves possible improper conduct by a commission officer, the CCC must:

- refer the disclosure to the PCCC and the Parliamentary Commissioner, and comply with the [*Protocols governing the reporting of improper conduct against officers of the Crime and Corruption Commission \(the Protocols\)*](#). The PCCC and the Parliamentary Commissioner should be advised if the CCC has already assessed the disclosure as a PID.
- not take further action until advice is received from the PCCC or Parliamentary Commissioner, unless to protect the discloser, preserve evidence, or preserve the integrity of the CCC.

2.3. If the disclosure is not assessed as a PID

Where a discloser states they are making a PID, but it is assessed not to be a PID, the CCC will advise the discloser:

- that their information has been received but was not assessed as a PID
- the reasons for the decision
- the review rights available if the discloser is dissatisfied with the decision and how to request review
- any action the CCC proposes to take in relation to the matter
- any other options the discloser has in relation to the matter.

If a disclosure does not meet the definition of a PID, but the disclosure was made by a commission officer and involves workplace issues, it will be dealt with under the [*Management and resolution of workplace complaints made by commission officers policy and procedure*](#).

3. Action to be taken after the disclosure is assessed as a PID

3.1. Risk assessment and protection from reprisal

Disclosers should not suffer detriment as a result of making a PID. Upon receiving a PID, the CCC will conduct a risk assessment to determine the likelihood of the discloser, witnesses or affected third parties (including persons who may be suspected of making the PID) suffering reprisal.

Where the discloser has provided their contact details, the CCC will consult with the discloser. If the disclosure is anonymous, the CCC will consider the information available.

Consistent with the assessed level of risk, the CCC will develop and implement a risk management plan and arrange any reasonably necessary support or protection. The risk management plan will have regard to:

- nature of the information disclosed
- interests and wishes of the discloser
- duties and working environment of the discloser
- potential for reprisals
- medical, psychological, emotional and other needs of the discloser
- interests of the work group in which the discloser works
- time it takes to conclude an investigation, the phases of the investigation, and cater for changes in risk associated with the conduct and phase of the investigation.

The CCC will regularly reassess the risk of reprisal while the PID is being managed and review the risk management plan if required.

Reprisal is an offence under ss. 40-41 of the PID Act. In the event of reprisal action being alleged or suspected, the CCC will:

- attend to the safety of the affected person as a matter of priority
- review its risk assessment, risk management plan and any protective measures needed to mitigate any further risk of reprisal
- manage any allegation of a reprisal as a PID in its own right
- investigate the alleged or suspected reprisal.

3.2. Appoint a PID Support Officer

Where appropriate, the CCC will assign a PID Support Officer to the discloser. The PID Support Officer will assist the discloser to access information about PIDs, protections available under the PID

Act and the PID management process. The PID Support Officer will proactively contact the discloser to offer support.

Further information about support for, and communication with, disclosers can be found under section 5 of this procedure.

3.3. Decline to take action on a PID

Under s.30 of the PID Act, the CCC may decide not to investigate or deal with a PID in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process
- the information disclosed should be dealt with by another process
- the age of the information makes it impractical to investigate
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert the CCC from the performance of its functions
- another agency with jurisdiction to investigate the information has informed the CCC that an investigation is not warranted.

If the discloser can be contacted, the CCC must provide the discloser with written reasons for their decision not to take further action.

If the discloser is dissatisfied with the decision they can request a review by writing to the CEO within 28 days of receiving the written reasons for decision. The review will be conducted by an appropriately senior commission officer who was not the decision maker.

3.4. Investigate the PID

The CCC may direct appropriate commission officers to commence an investigation. The direction must be in writing. If the PCCC and/or the Parliamentary Commissioner requests an investigation following a notification of improper conduct, the direction must outline any conditions stipulated by the PCCC and/or the Parliamentary Commissioner, and all other procedures in the *Protocols* must be complied with.

If a decision is made to investigate a PID, this will be done with consideration for the:

- principles of natural justice
- obligation under the PID Act to protect confidential information
- obligation under the PID Act to protect officers from reprisal
- interests of subject officers.

3.5. Finalise the investigation

If wrongdoing is substantiated, appropriate action will be taken. Where the investigation has been conducted at the request of the PCCC, advice should be provided to the PCCC and/or Parliamentary Commissioner as set out in the *Protocols*.

Regardless of whether wrongdoing is substantiated, the CCC will consider any issues highlighted during the investigation, such as the need to review systems, policies and procedures, or train staff.

4. Support for, and communication with, disclosers

4.1. Communication with disclosers

Under s.32 of the PID Act, the CCC must give reasonable information to a discloser.

Subject to any restrictions imposed by the PCCC or the Parliamentary Commissioner, or an exemption under s. 32(4) of the PID Act applying, the discloser will be provided with information that meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

The CCC will acknowledge the disclosure as soon as practicable and outline:

- the action that will be taken in response to the PID
- the protections under the PID Act
- confidentiality obligations of the discloser and the CCC
- support arrangements
- regular updates during management of the PID.

In accordance with the PID Act, after finalising action in response to the PID, the CCC will advise the discloser in writing of the action taken and the results of the action.

If the PID has been made anonymously and the discloser has not provided any contact details, the CCC will not be able to acknowledge the PID or provide any updates.

In the exceptional case that the PID raises an allegation of corrupt conduct against a commission officer, the CCC is only obliged to provide information to the discloser in accordance with the provisions of the CC Act.

4.2. Confidentiality

While the CCC will make every attempt to protect confidentiality, a discloser's identity may need to be disclosed to:

- the PCCC or the Parliamentary Commissioner where the disclosure contains possible improper conduct
- an authorised person for investigation
- make a record for the purpose of assessing, investigating or reporting a disclosure under this policy and procedure
- provide natural justice to subject officers
- respond to a court order, legal directive or court proceedings.

The CCC will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

Unauthorised disclosure of information is a criminal offence under s.65 of the PID Act.

Disclosers should be aware that while the CCC will make every attempt to keep their details confidential, it cannot guarantee that others will not try to deduce their identity.

4.3. Support for disclosers

The CCC recognises that providing appropriate support to a discloser is an important feature of effective PID management.

Information and support will be provided to the discloser until the matter is finalised.

As outlined under s.45 of the PID Act, making a PID does not prevent reasonable management action. That means that the discloser will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

5. Rights of subject officers

The CCC acknowledges that PIDs may be stressful for subject officers. The CCC will protect their rights by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice
- confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation
- referring them to the Employee Assistance Program for support.

Information and support will be provided to a subject officer until the matter is finalised.

6. Record-keeping

In accordance with its obligations under the *Public Records Act 2002* and the PID Act, the CCC will ensure that:

- accurate data is collected about the receipt and management of PIDs and other complaints against commission officers
- anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID. No details will be placed on personnel files. If a commission officer is transferred to another department or agency, the PID file will remain the property of the CCC.

Related documents

[CCC Code of Conduct](#)

[CCC Risk Management Framework](#)

[Public Interest Disclosure Standard No. 1/2019](#)

[Public Interest Disclosure Standard No. 2/2019](#)

[Public Interest Disclosure Standard No. 3/2019](#)

[Queensland Ombudsman's PID resources](#), including:

- [PID assessment guide](#)
- [PID risk assessment and risk management guide](#)

Review triggers

This policy will be reviewed three years from the date of approval, unless changes in legislation or government policy affecting its operation occur before the three year period has expired. This policy will remain in effect until updated, superseded or declared obsolete.

This policy and procedure should be reviewed in conjunction with:

- [Reporting improper conduct \(procedure\)](#)
- [Protocols governing the reporting of improper conduct complaints against officers of the Crime and Corruption Commission](#)

- [Management and resolution of workplace complaints made by commission officers \(policy and procedure\).](#)

The following stakeholders should be consulted in any review of this policy and procedure:

- CEO
- Director, Human Resources
- Director, Legal Services.

Metadata

Instrument owner/point of contact:	Chief Executive Officer
Approver's position:	Commission
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Customer service complaints

Objective

The purpose of this policy and procedure is to establish an accessible, responsive and timely system for dealing with customer complaints to the Crime and Corruption Commission (CCC) in accordance with the requirements of section 219A of the [Public Service Act 2008](#), and to outline the procedure for dealing with service delivery complaints.

Application

This policy and procedure applies to all commission officers.

Relevant legislation

[Crime and Corruption Act 2001](#)

[Public Interest Disclosure Act 2010](#)

[Public Service Act 2008](#)

Definitions

Complaint service review	a review of a CCC decision with respect to the assessment of a complaint concerning suspected corruption
Customer complaint	<p>a complaint about the service or action of the CCC, or a commission officer, by a person who is directly affected by the service or action – these include:</p> <ul style="list-style-type: none">• service delivery complaints• complaint service reviews• complaints referred to the CCC by the Parliamentary Crime and Corruption Committee (PCCC)• procurement complaints• internal and external reviews of right to information and information privacy decisions
Executive Manager	as defined in the Human Resource Decision Making Framework
Human rights complaint	a complaint about an alleged contravention of section 58(1) of <i>Human Rights Act</i> by a public entity in relation to an act or decision of the public entity.

Improper conduct	has the meaning conferred by section 329(4) of the Crime and Corruption Act 2001 (the Act)
Public interest disclosure	has the meaning conferred by the Public Interest Disclosure Act 2010
Serious complaint	a service delivery complaint that is significant or complex, with a medium to high level of risk to the complainant or the CCC (e.g. significant delays, challenge to conduct or competency of commission officer)
Service delivery complaint	a customer complaint about any aspect of the CCC's services (e.g. complaints about delays, communication or responsiveness)
Straightforward complaint	a service delivery complaint that is likely to have minimal risk or detriment to the complainant or the CCC (e.g. minor delays, incorrectly addressed correspondence)
Subject officer	a commission officer against whom a service delivery complaint is made

Policy statement

The CCC is committed to delivering high quality services that respond to the community's needs.

The CCC's complaints management system is governed by the following principles:

- complaints are best handled promptly and close to the source, where practical
- complaints must be handled objectively and confidentially, and complainants must not suffer any reprisals from making a complaint
- complaints must be handled fairly, reasonably and in a timely manner
- complainants must be treated with respect and be provided with clear explanations of the CCC's decisions and actions
- where relevant, complaints will inform the continuous improvement of the CCC's policies, procedures and practices.

The CCC's complaints management system is a broad system for managing various types of complaints against commission officers. The CCC has legislative obligations when it comes to dealing with some types of complaints (e.g. improper conduct) and has established separate policies and procedures for dealing with these, including some that might otherwise be deemed customer complaints (see table below).

Complaint type	Relevant policy or procedure
Complaint service reviews in relation to the way the CCC deals with corruption complaints	Complaint service reviews policy and procedure
Human rights complaint	Human rights policy and procedure



Improper conduct	<i>Protocols governing the reporting of improper conduct complaints against officers of the CCC</i>
Internal complaints	<i>Complaints against commission officers policy and procedure</i>
Public interest disclosures	<i>Public interest disclosures against commission officers policy and procedure</i>

All other service delivery complaints will be dealt with under the following procedure. The procedure also details how the CCC will meet its reporting obligations for all customer complaints, including complaint services reviews.

Procedure

Receipt of service delivery complaints

The CCC will publish information about how to lodge a service delivery complaint on its website. Complaints, including anonymous complaints, may be received:

- by phone
- by email
- in writing via the online [*Contact form*](#) or by way of the [*Service delivery complaint form*](#).

Complaints may also be referred to the CCC by the Parliamentary Crime and Corruption Committee (PCCC).

Improper conduct assessment

Each complaint received is first assessed to determine whether it raises a suspicion of improper conduct. If it raises a suspicion of improper conduct, it is referred to the appropriate officer (generally the Chief Executive Officer) to assess and take action in accordance with the *Protocols governing the reporting of improper conduct complaints against officers of the CCC*.

If the complaint does not raise a suspicion of improper conduct, then it is further dealt with under this policy.

Straightforward complaints

If the complaint is made directly to the subject officer, that officer should attempt to resolve it informally with the complainant at the time of the complaint, or within two business days if it cannot be resolved immediately. The complaint should be referred to the subject officer's supervisor if:

the complainant requests that someone else deal with the complaint

the subject officer feels unable to deal with the complaint fairly

the problem is outside the authority or area of expertise of the subject officer

the complaint is from a public sector agency or a Member of Parliament

the complainant is still dissatisfied after attempts to resolve the complaint informally.

If the complaint is made to another commission officer, that officer should refer it to the subject officer in the first instance.

If a straightforward complaint is resolved satisfactorily, details should be forwarded to the subject officer's supervisor for recording in the business area complaints register as 'no further action required'.



So as to avoid unnecessary delay and bureaucracy, the receiving officer should nevertheless seek to resolve a straightforward complaint directly in the first instance if that is possible.

Serious complaints

Serious complaints are to be immediately referred to the subject officer's manager, regardless of whether they are received by the subject officer or another commission officer.

The manager is to:

- consider responding to the complainant informally by phone in the first instance, and confirming the discussion in writing
- acknowledge the complaint in writing within two business days of receipt
- seek advice from their Senior Executive Officer/General Manager/Executive Director/Director, if required
- review or investigate the matters raised in the complaint
- provide a written response to the complainant, addressing the issues raised and advising of the outcome of the complaint, within **10 business days of receipt**. If any delay in meeting this time frame is expected, the complainant should be advised.

If the supervisor considers that the complaint raises a reasonable suspicion of improper conduct, it must be referred immediately to the Chief Executive Officer for appropriate action under the Protocol.

Serious complaints must be formally recorded in the business area complaints register, including details of any action or resolution.

Unreasonable complaints

The CCC may refuse to investigate a complaint if it is considered to be vexatious, trivial, unreasonable, misleading or untrue, or where the complainant refuses to cooperate with the CCC's efforts to investigate. If such a complaint is refused, the complainant must be advised in writing, including reasons for the refusal.

An assessment as to whether a complaint is to be refused on this basis is to be made by a decision-maker at an Executive Director level or above, in the subject officer's line of reporting.

An officer receiving a complaint about their own conduct, which they consider to be vexatious, trivial, unreasonable, misleading, or untrue the receiving officer should nevertheless refer it to their manager to escalate to an appropriate decision-maker. It is not for the subject officer of the complaint to make a determination about whether their own conduct was improper, or whether an allegation about their conduct is true or untrue. If the officer believes the allegation to be untrue or without foundation, that should be set out in the report, including the reasons as to why.

Outcome of complaint

Possible outcomes of a service delivery complaint include:

- an apology where it is found that the subject officer was at fault
- an explanation of the reasons for any decision or action
- remedial action
- expediting the work on a matter that has been subject to delay



- training for the subject officer
- no further action (e.g. complaint unsubstantiated).

A complainant may withdraw their complaint at any time, preferably in writing; however, the CCC may still investigate or take action, depending on the nature of the issue and the possibility of it recurring.

Timeframes

A written response is to be provided to the complainant within **10 business days of receipt**. If there is to be any delay in meeting this timeframe, the complainant is to be advised. Delay in meeting this timeframe does not amount to improper conduct, but unreasonable or unexplained delays may be.

Review of complaint decision

Where a complaint cannot be resolved, or where the complainant advises that they are dissatisfied with the decision made and requests a review, the complaint should be referred to the General Manager, Corporate Services. The General Manager, Corporate Services may undertake a review of the complaint, or ask an Executive Manager to conduct the review.

The General Manager, Corporate Services may refer the complaint to a delegate other than an Executive Manager if it is deemed for reasons of seniority or sensitivity that an Executive Manager is not appropriate to deal with the complaint. If a delegate is determined to be a more appropriate choice than an Executive Manager, the General Manager, Corporate Services is to record the reasons on the complaint file for allocating the complaint to a delegate.

The review officer must:

- have the appropriate authority to consider the review
- be senior to the officer who made the original decision about the complaint
- not have been directly involved in the original complaint process.

Where the complainant has requested the review, the review officer must ensure an acknowledgement letter is forwarded to the complainant within **10 business days of receipt** of the review request.

The review officer may seek information or advice from any source, including the complainant, and should ensure the subject officer is provided with an opportunity to provide their version of events.

The review officer is to prepare a written report on the outcome of the review, including findings and recommendations, and advise the complainant in writing of the review decision.

Recordkeeping

Each business unit must ensure complaint records are created and maintained in accordance with the CCC's [Records management framework](#). This includes any correspondence, forms and investigation notes.

Complaints registers

The CCC has a centralised recording system for customer service complaints on a complaints register.



All external complaints within the scope of this policy and procedure are to be recorded on the *Customer Service Complaints* register.

The register will include the following information:

- date the complaint was received
- name of complainant (if known)
- type of complaint (including Human Rights complaints)
- investigating officer and business unit
- outcome of complaint
- any action recommended to address systemic issues
- whether the client was satisfied with the outcome, or whether a review was requested
- finalisation date.

Publication of statistics

By 30 September each year, the CCC must publish details about the following customer complaints on its website.

The report on the website must show:

- the number of customer complaints made to it during the previous financial year
- the number of those complaints resulting in further action
- the number of those complaints resulting in no further action.

Related documents

[Complaint service reviews policy and procedure](#)

[Financial Delegations](#)

[Human rights policy and procedure](#)

[Complaints against commission officers policy and procedure](#)

[Public interest disclosures against commission officers policy and procedure](#)

[Protocols governing the reporting of improper conduct complaints against officers of the CCC](#)

[Records management framework](#)





Discipline

Objective

The purpose of this policy and procedure is to explain:

- who may be disciplined
- when, why, and how they may be disciplined.

Application

This policy and procedure applies generally to commission officers.

For the purpose of this policy and procedure, commission officers means:

- relevant commission officers in relation to disciplinary grounds that have allegedly arisen on or since 1 July 2014
- former relevant commission officers in relation to disciplinary grounds that have allegedly arisen on or since 1 July 2014
- relevant commission officers who were formerly relevant employees, in relation to disciplinary grounds in relation to their employment as a relevant employee that have allegedly arisen on or since 3 February 2017.

Relevant legislation

Crime and Corruption Act 2001

Criminal Code Act 1899 (Qld)

Criminal Code Act 1995 (Cth)

Public Interest Disclosure Act 2010

Public Service Act 2008 – Chapter 6

Ambulance Service Act 1991

Fire and Emergency Services Act 1990

Definitions

CEO	the Chief Executive Officer of the CCC.
Commission officer	<ul style="list-style-type: none">• relevant commission officer• former relevant commission officer• relevant employee.
CC Act	<i>Crime and Corruption Act 2001</i>
Decision maker	the incumbent of a position with the authority to make a specific decision, as set out in the CCC's <i>HR Decision Making Framework</i> .

Disciplinary action	the action that can be taken under sections 273C, 273CC or 273D of the CC Act after a disciplinary ground has been found to exist.
Disciplinary declaration	a declaration of the disciplinary finding against a former relevant commissioner officer and the disciplinary action (dismissal or reduction of classification level only) that would have been taken against the relevant commission officer if the officer's employment had not ended.
Disciplinary finding	a finding that a disciplinary ground exists.
Disciplinary ground	a ground for disciplining a commission officer.
Disciplinary process	anything done, or contemplated, in taking disciplinary action, including the steps described in the procedure below.
Former relevant commission officer	a person who was previously a relevant commission officer whose employment as a relevant commission officer has ended for any reason.
Natural justice (or procedural fairness)	<ul style="list-style-type: none"> • acting fairly, in good faith and without bias (actual, perceived or potential) • notifying the commission officer of the allegations and evidence against them • giving the commission officer a reasonable opportunity to respond to the allegations against them and (where a disciplinary finding is made) to make submissions before any disciplinary action is imposed on them.
Previous chief executive	<ul style="list-style-type: none"> • For a person who was a public service employee, means the chief executive of the department in which the person was employed as a public service employee or; • For a person who was an ambulance service officer, means the chief executive of the department in which the <i>Ambulance Service Act 1991</i> is administered; or • For a person who was a fire service officer, means the commissioner under the <i>Fire and Emergency Services Act 1990</i>.
Managerial action	any reasonable managerial action taken in a reasonable way, excluding disciplinary action as defined above.
Relevant commission officer	<ul style="list-style-type: none"> • a senior officer employed under section 245 of the CC Act • a person employed under section 254 of the CC Act • a person seconded under section 255 of the CC Act (including a police officer, other than police officers who are part of a police task force established under section 32 of the CC Act) • a person engaged under section 256 of the CC Act.
Relevant employee	means: (a) a public service employee; or



	(b) a prescribed employee under the <i>Public Service Act 2008</i> section 186A meaning an ambulance service officer or a fire service officer.
Support person	a commission officer referred to in this policy and procedure under the heading, <i>Support persons</i> .

Policy statement

Depending on the circumstances the CEO of the CCC may take disciplinary action in relation to commission officers under:

- the CC Act (sections 273A - 273F, 420 and 445)
- the contract of employment between the commission officer and the CCC.

The CEO may also take action under the CC Act in relation to a commission officer who was a relevant employee in relation to disciplinary grounds that arose in relation to their employment as a relevant employee, providing these grounds arose after 3 February 2017.

The CEO may take such disciplinary action in relation to a relevant employee, provided the relevant employee's previous chief executive has not taken, and does not intend to take, disciplinary action in relation to the relevant disciplinary ground. This may occur through one of two processes:

- the previous chief executive may make a disciplinary finding about the relevant disciplinary ground, agree with the CEO that disciplinary action against the relevant employee is reasonable, and the CEO take disciplinary action under the CC Act
- the previous chief executive may delegate the authority to make a disciplinary finding about the relevant disciplinary ground to the CEO, and the CEO make the disciplinary finding and take disciplinary action under the CC Act.

A similar reciprocal process exists for disciplinary action to be taken against a former relevant commission officer who becomes an employee under the *Ambulance Service Act 1991*, *Fire and Emergency Services Act 1990* or *Public Service Act 2008* (PSA).

A disciplinary process must be taken in a way that:

- is consistent with natural justice
- is consistent with contract law, industrial law or the general law (whichever is applicable)
- is proportionate, fair and reasonable
- is timely and cost-effective
- maintains confidentiality.

Where disciplinary action is taken under the contract of employment between the commission officer and the CCC, the parties have rights under contract law.

Procedure

Overview

The conduct and performance of commission officers is integral to the performance of CCC statutory functions, and the achievement of strategic goals and objectives. All commission officers are responsible for maintaining a satisfactory standard of conduct and work performance. Similarly, all CCC managers are responsible for monitoring the conduct and performance of their staff and taking managerial action to address unsatisfactory conduct or work performance at the earliest opportunity.

A disciplinary process is not a substitute for managerial action, nor the need for managers to intervene early to address unsatisfactory conduct or work performance. In many instances, early managerial intervention is the best way to stop or resolve unsatisfactory conduct, preserve

professional working relationships, and avoid unnecessary and protracted disputes. There will, however, be occasions when the CEO will need to take, or at least consider, disciplinary action.

The CEO may commence a disciplinary process:

- in response to referrals or recommendations from the Parliamentary Crime and Corruption Committee (PCCC) or the Parliamentary Commissioner
- in response to formal complaints
- on the CEO's initiative
- in relation to relevant employees, after referral from their previous chief executive.

The purpose for discipline in relation to commission officers is to:

- protect the public
- uphold CCC ethical standards
- promote and maintain public confidence in the CCC.

Disciplinary grounds

For relevant and former relevant commission officers

The disciplinary grounds available against relevant and former relevant commission officers are described in section 273B of the CC Act and/or the contract of employment.

To remove any doubt, these grounds do not include any grounds under section 329(4) of the CC Act. Section 329(4) defines the categories of improper conduct that must be reported to the PCCC and the Parliamentary Commissioner under section 329. However, some of the improper conduct in section 329(4) could also amount to a ground for discipline under section 273B of the CC Act and/or the contract of employment.

Improper conduct, as included in the misconduct definition, is not defined by the CC Act and does not have any legal or other technical meaning. For discipline proceedings, improper conduct is usually considered with reference to the purpose of discipline on an objective assessment of the evidence on a case-by-case basis. Conduct identified by case authority as amounting to misconduct includes:

- conduct of such a nature as to erode public confidence in the organisation
- conduct affecting the officer's fitness to discharge their duties
- conduct affecting the officer's status and authority to discharge their duties.

Disciplinary grounds can only arise against a former relevant commission officer under section 273B, if the grounds already existed when the officer separated from the CCC. Any disciplinary action against a former commission officer must be taken within two years of the former commission officer's separation from the CCC.

For relevant employees

The disciplinary laws under which disciplinary grounds are available against relevant employees are described in:

- for former employees under the PSA, chapter 6 of the PSA
- for former employees under the *Ambulance Service Act 1991*, part 2, division 4 of the *Ambulance Service Act 1991*
- for former employees under the *Fire and Emergency Services Act 1990*, chapter 3, part 4, division 3 of the *Fire and Emergency Services Act 1990*.

Disciplinary finding and disciplinary action

If a disciplinary finding is made (i.e. a disciplinary ground is found on the balance of probabilities to exist), disciplinary action may be taken against a commission officer.

Disciplinary action must be proportionate and reasonable in the circumstances and may:

- range from counselling to dismissal for relevant commission officers and relevant employees
- consist of a disciplinary declaration for former relevant commission officers.

Confidentiality

During the disciplinary process, everyone participating in the process (including decision makers, commission officers, witnesses, support persons and recorders) must keep the process confidential in every respect.

Support persons

A commission officer the subject of a disciplinary process may request support from another commission officer (a support person).

The support person's role is to:

- give the commission officer information about the disciplinary process (e.g. the steps involved)
- if requested, accompany the commission officer to interviews and meetings during the disciplinary process.

The support person's role does not include:

- liaising with any other commission officer who may be a potential witness
- advocating for the commission officer or any stakeholder
- advising the commission officer about the substance of their response or the likely outcome.

The decision maker may refuse the support person access to the disciplinary process, evidence, or material, if such access would be reasonably likely to breach or compromise the confidentiality of any of the CCC's statutory functions. The decision maker's decision in relation to this matter is final. However, another support person may be chosen by the commission officer or appointed by the decision maker.

Example:

A disciplinary allegation relates to alleged unauthorised access to, or disclosure of, confidential information. The support person may be refused access to the disciplinary process, evidence or material, if this would involve divulging to the support person information to which the support person would not otherwise be entitled to access for an organisational or operational reason.

The disciplinary process

A disciplinary process must give commission officers a reasonable opportunity to show cause (or respond) in each of the following circumstances:

- All commission officers should have a reasonable opportunity to show cause why a disciplinary finding should not be made against them; and
- If a disciplinary finding is made against a commission officer, they should have a reasonable opportunity to show cause whether any (or what) disciplinary action should be taken against them.

A disciplinary process against a commission officer should generally consist of the following steps:

- Step 1: Initial assessment
- Step 2: Disciplinary investigation
- Step 3: Show cause notice (before a disciplinary finding)
- Step 4: Disciplinary findings
- Step 5: Show cause notice (before disciplinary action)



Step 6: Finalising disciplinary action

Step 7: Recording the process and outcome

However, the process above may be amended to suit particular circumstances, including, for example, where the *Protocols for reporting suspected improper conduct of officers of the CCC* apply.

In all cases, the process followed must provide for procedural fairness and natural justice.

A discipline process flowchart is contained in Schedule 1.

Step 1: Initial assessment

Preliminary inquiries

Immediately on receiving a complaint, or any other information, alleging or suggesting that a disciplinary ground has arisen against a commission officer, the decision maker should conduct preliminary inquiries to assess the most appropriate response.

During the initial assessment, the decision maker may:

- consider and respond appropriately where some concurrent or other action is required under:
 - other legislation [e.g. the *Public Interest Disclosure Act 2010*; the *Criminal Code 1899 (Qld)*; or the *Criminal Code 1995 (Cth)*]
 - the CCC's Code of Conduct
 - any other relevant CCC policy, procedure or guideline
- consider whether any (or what) further information is required, and how that information should be obtained (e.g. by discussing with the commission officer or by a formal investigation)
- arrange face-to-face meetings with the commission officer and their support person (ideally as early as possible). During the meetings, the decision maker may discuss the allegations or information with the commission officer and give them a copy of evidence or other relevant material that exists at that time
- consider whether the potential educative or remedial benefits of managerial action alone would be sufficient
- consider whether the nature of the allegations or information (including the impact on stakeholders) is serious enough to warrant disciplinary action
- consider whether deterrent action may be required because of the commission officer's discipline or service history
- consider whether there is likely to be a negative impact on the commission officer's work unit, or the CCC generally, if a disciplinary process is not commenced
- when the matter relates to a commission officer seconded under section 255 of the CC Act, consider whether a rescindment of the secondment is appropriate.

It should be noted that:

- an early discussion with the commission officer about the allegations or information may remove the need for an investigation or reduce the issues to be investigated. For example, the commission officer may admit allegations or facts. Any admitted allegations or facts do not need to be investigated further
- the decision maker's initial assessment may change if further information later becomes available.

Transferring the commission officer temporarily to other CCC duties during the disciplinary process

If a disciplinary process is reasonably likely to be commenced, the decision maker may consider whether the commission officer should be temporarily removed from their current role on any reasonable grounds and transferred to other CCC duties until the disciplinary process is completed.

In these cases, reasonable grounds may include, but are not limited to:

- the health or safety of another commission officer or any other stakeholder

- any financial risk to the CCC
- the potential for evidence to be destroyed or potential witnesses to be influenced
- any other risk to the integrity of the disciplinary process
- the public interest.

Suspending the commission officer

The decision maker may consider suspending the commission officer under section 273E of the CC Act. The suspension process is set out in the CCC's *Suspension policy and procedure*.

Concurrent criminal investigations or court proceedings

The complaint or information against the commission officer may have been referred to the Queensland (or another) Police Service, or court proceedings may be pending or likely.

A pending or likely police investigation or court proceeding does not prevent the decision maker from:

- starting or continuing a disciplinary process
- making a disciplinary finding (as explained below in step 4)
- taking disciplinary action (as explained below in step 6).

Whether a disciplinary process should be postponed until a police investigation or court proceeding is finalised can be decided on a case-by-case basis. The decision maker may first consult the relevant police service or prosecuting authority in this regard.

Resource allocation

At all times during a disciplinary process the decision maker should ensure, on the available information, that CCC resources reasonably likely to be expended on the process are proportionate to the seriousness of the allegations or information against the commission officer.

Step 2: Disciplinary investigation

If a formal investigation is necessary, the decision maker will need to determine:

- whether to engage an internal or external investigator (including where the commission officer is a seconded police officer, the Ethical Standards Command, Queensland Police Service)
- the terms of reference for the investigator.

If an external investigator other than an investigator from the Queensland Police Service is engaged, the decision maker must ensure that the engagement complies with the CCC's Procurement policy and procedure.

The terms of reference for the investigator should include the investigator's role and the protocols for the investigation, with appropriate references, if relevant, to the CCC publication: *Corruption in focus: A guide to dealing with corrupt conduct in the Queensland public sector*.

Step 3: Show cause notice (before a disciplinary finding)

Generally

When the decision maker is satisfied that sufficient information has been gathered (e.g. from inquiries or a formal investigation), the decision maker must decide whether to:

- continue with the disciplinary process
- take, or cause another commission officer to take, managerial action with respect to the commission officer
- take no further action.

Show cause notice (before a disciplinary finding)

If the decision maker decides to continue with the disciplinary process then, before making a disciplinary finding, the decision maker must:

- give the commission officer written notice (show cause notice) setting out:



- each allegation
- the statutory, policy or code of conduct provision relevant to each allegation
- the disciplinary ground relevant to each allegation. If more than one disciplinary ground relates to an allegation, the most relevant ground only should be nominated. A disciplinary ground arises when the act or omission constituting the ground is done or made
- the evidence being relied on for each ground (indicating where that evidence is referred to in any investigative report)
- invite the commission officer to show cause in relation to each allegation why a disciplinary finding should not be made
- give the commission officer a copy of relevant parts of any investigative report
- give the commission officer 14 days to respond to this show cause notice.

Step 4: Disciplinary findings

Generally

A disciplinary ground arises when the act or omission constituting the ground is done or made.

The decision maker may take disciplinary action against a commission officer if the decision maker is “reasonably satisfied” on the “balance of probabilities” that a disciplinary ground exists. The decision maker must be mindful, the more serious the allegation, the level of ‘reasonable satisfaction’ which is required increases. The principle was decided in *Briginshaw v Briginshaw* (1938) 60 CLR 336 (361-363)

Making a disciplinary finding

The balance of probabilities (or civil evidentiary standard) means that it is more probable than not that the alleged act or omission happened.

The term reasonably satisfied requires an “actual persuasion” that the disciplinary ground exists. The strength or quality of the evidence required for the decision maker to be reasonably satisfied varies depending on the seriousness of both:

- the issues involved
- the likely consequences, if a disciplinary finding is made.

In finding whether a disciplinary ground exists, the decision maker should:

- consider all the available evidence, including the commission officer’s response (if any) to the show cause notice in step 3
- consider the strength or quality of the evidence relative to the seriousness of the issues and the likely consequences
- then decide whether it is more probable than not that the disciplinary ground is made out.

A disciplinary finding may be made against a commission officer, even though a criminal prosecution (on substantially the same evidence) might have been unsuccessful. This is because a criminal prosecution requires a higher standard of proof (beyond reasonable doubt).

Advice to commission officer

The decision maker should advise the commission officer whether a disciplinary finding has been made in respect of each disciplinary ground referred to in the show cause notice in step 3. Whether or not a disciplinary ground has been found to exist, this advice should:

- be in writing
- refer to each allegation particularised for each disciplinary ground
- clearly and concisely explain the reasons for the finding in respect of each disciplinary ground, including the evidence relied on to reach that finding.

If the decision maker finds that any disciplinary ground is not made out, the decision maker should then:



- consider whether any managerial action is required
- advise the commission officer (in writing) accordingly.

If the decision maker makes a disciplinary finding (i.e. finds on the balance of probabilities that a disciplinary ground is made out), the decision maker should then consider what (if any) disciplinary action is to be taken against the commission officer.

Step 5: Show cause notice (before disciplinary action)

Possible action

If the decision maker makes a disciplinary finding, the decision maker must then decide whether to:

- take no further action
- take, or cause another commission manager to take, managerial action with the commission officer
- take disciplinary action against the commission officer.

No further action

When a decision maker decides not to take any further action, the disciplinary process concludes at that point and the commission officer is notified of that decision in writing. This generally occurs at the same time as the findings in step 4 are communicated to the commission officer.

Managerial action

When a decision maker decides to take managerial action, the disciplinary process concludes at that point and the commission officer is notified of that decision in writing. This generally occurs at the same time as the findings in step 4 are communicated to the commission officer.

Show cause notice (before disciplinary action)

If a disciplinary finding is made and the decision maker proposes to take any disciplinary action, the decision maker must give the commission officer:

- written notice of the disciplinary action proposed to be taken
- 14 days in which to respond to the show cause notice.

Ideally, the show cause notice is given to the commission officer at the same time the findings in step 4 are communicated to the commission officer.

It is a matter for the decision maker whether a separate advice is required under *Step 4 Advice to a Commission Officer* from any show cause notice under step 5.

Factors relevant to proposed disciplinary action

The proposed disciplinary action will vary from case to case, depending on the facts of the case and other relevant factors. Those factors may include, but are not limited to, the following:

- the seriousness of the disciplinary finding
- the commission officer's classification level and expected level of awareness about the conduct for which the disciplinary finding has been made
- the commission officer's discipline and service history
- the commission officer's explanation (if any)
- whether there are any extenuating or mitigating circumstances for the commission officer's conduct
- the degree of risk (if any) to the health and safety of other commission officers, stakeholders or members of the public
- the commission officer's ability to continue performing the duties of their position
- any potential for the commission officer to modify their behaviour in the workplace
- the impact a monetary penalty may have on the commission officer (and any dependents)



- the cumulative impact a classification or remuneration reduction (or the like) may have on the commission officer (and any dependents)
- the likely impact the disciplinary action will have on public and stakeholder confidence in the CCC.

If the decision maker finds that more than one disciplinary ground is made out, the decision maker may consider:

- a disciplinary action for each disciplinary ground
- one disciplinary action for all disciplinary grounds
- other composite disciplinary action.

Types of disciplinary action

The proposed disciplinary action must be proportionate to the disciplinary findings and the reasons given for the disciplinary findings.

Relevant commission officers (including relevant employees)

In the case of a relevant commission officer (including a relevant employee), disciplinary action may consist of, or include, any one or more of the following:

- termination of employment
- reduction of classification level and consequential change of duties
- transferring or redeployment to another unit of the CCC
- forfeiture or deferment of a remuneration increment or increase
- reduction of remuneration
- imposition of a monetary penalty and a direction that the penalty amount be deducted from the relevant commission officer's periodic remuneration payments
- a reprimand
- counselling.

However, a monetary penalty:

- cannot be more than an amount the total of two of the relevant commission officer's periodic remuneration payments
- cannot be deducted from the relevant commission officer's remuneration payments in instalment amounts of more than half of each of those remuneration payments
- for each week an instalment is paid, must leave the relevant commission officer with an amount equal to:
 - if the relevant commission officer has a dependant, the guaranteed weekly minimum wage
 - otherwise, two-thirds of the guaranteed weekly minimum wage.

Former relevant commission officers

Disciplinary action taken by the CEO in relation to former commission officers is limited to a disciplinary declaration against the former relevant commission officer. The CEO may only make a disciplinary declaration if the disciplinary action that would have been taken against the former relevant commission officer if the officer's employment had not ended would have been dismissal or a reduction of classification level.

However, if a former relevant commission officer becomes an employee under the *Ambulance Service Act 1991*, *Fire and Emergency Services Act 1990* or *PSA*, they may be subject to disciplinary action on referral of allegations from the CEO to the employee's new chief executive or equivalent.

Step 6: Finalising disciplinary action***Deciding on disciplinary action***

After the show cause period referred to in step 5 has expired, the decision maker should:

- review all relevant material, including any response from the commission officer
- make a final decision on the disciplinary action
- advise the commission officer of that action.

The advice to the commission officer should:

- be in writing
- set out the disciplinary action
- clearly and concisely explain the reasons for the disciplinary action, including the decision maker's comments on any response from the commission officer
- if the commission officer's employment is terminated, state the date on which the termination takes effect.

Deciding on different disciplinary action

If the decision maker decides to impose different disciplinary action from that proposed in the show cause notice (referred to in step 5), the decision maker must give the commission officer:

- written notice of the revised disciplinary action and the reasons for it
- a reasonable time (not exceeding 14 days) to respond to the revised disciplinary action.

Whether the disciplinary action is revised up or down, the decision maker should then finalise the revised disciplinary action and notify the commission officer in writing as described above under *Step 6: Deciding on a disciplinary action*.

Step 7: Recording the process and outcome

The disciplinary process and outcome must be accurately recorded throughout.

Whenever a commission officer is dealt with under this procedure, a written notice should be placed on the commission officer's personnel file. That notice must describe:

- the nature and circumstances of the complaint, allegations or information; and
- the outcome.

The commission officer will be given an opportunity to:

- read the notice on their file
- acknowledge having done so by signing the notice.

If the commission officer signs the notice, the commission officer is taken to have read and understood the contents of the notice but is not taken to have agreed with all the details in the notice, unless the commission officer indicates otherwise in writing.

The commission officer will also have an opportunity to:

- comment on the contents of the notice; and
- have those comments recorded on or with the notice.

The commission officer is entitled to receive a copy of any notice placed on their personnel file.

In addition, when the disciplinary process is complete, all records related to the process should be collated and filed on a confidential disciplinary file held with the commission officer's personnel file.

Retaining records

The Director of Human Resources must retain all records and evidentiary material generated or obtained during the disciplinary process in the interests of maintaining privacy and avoiding reputational harm to commission officers as required by *Human Rights Act 2019* s 25. These records and material must be retained in the manner prescribed by the Queensland State Archivist periodically in the CCC's *Retention and Disposal Schedule*.



Sharing disciplinary information

The CEO may ask the following persons (“*relevant official*”) for disciplinary information about a person who is or was a relevant employee (including a police officer):

- chief executive of a department
- chief executive (however described) of an entity whose employees are ambulance service officers or fire service officers
- commissioner of police.

Disciplinary information means information about:

- a current investigation into whether the person should be disciplined
- a finding that a person should be disciplined
- possible disciplinary action under consideration
- disciplinary action, including a disciplinary declaration.

The information requested must be reasonably necessary for the CEO to make a decision about either:

- the employment or continued employment of the person as a relevant commission officer
- a disciplinary finding, disciplinary action or disciplinary declaration being considered by the CEO in relation to the person under the CC Act.

This information must be provided to the CEO unless the relevant official is reasonably satisfied that giving the information may prejudice the investigation of a suspected contravention of the law in a particular case.

A reciprocal provision in similar terms under section 273DA of the CC Act obliges the CEO to provide disciplinary information about a person who is or was a relevant commission officers to a relevant official.

The CCC’s Administrative Guidelines in relation to information sharing set out obligations in relation to natural justice and consistency in this decision making.

Related documents

CCC Code of Conduct

Complaints against commission officers policy and procedure

Managing unsatisfactory performance policy and procedure

Procurement policy and procedure

Protocols for reporting suspected improper conduct of officers of the CCC

Retention and disposal of records procedure

Suspension policy and procedure

Corruption in focus: A guide to dealing with corrupt conduct in the Queensland public sector

Review triggers

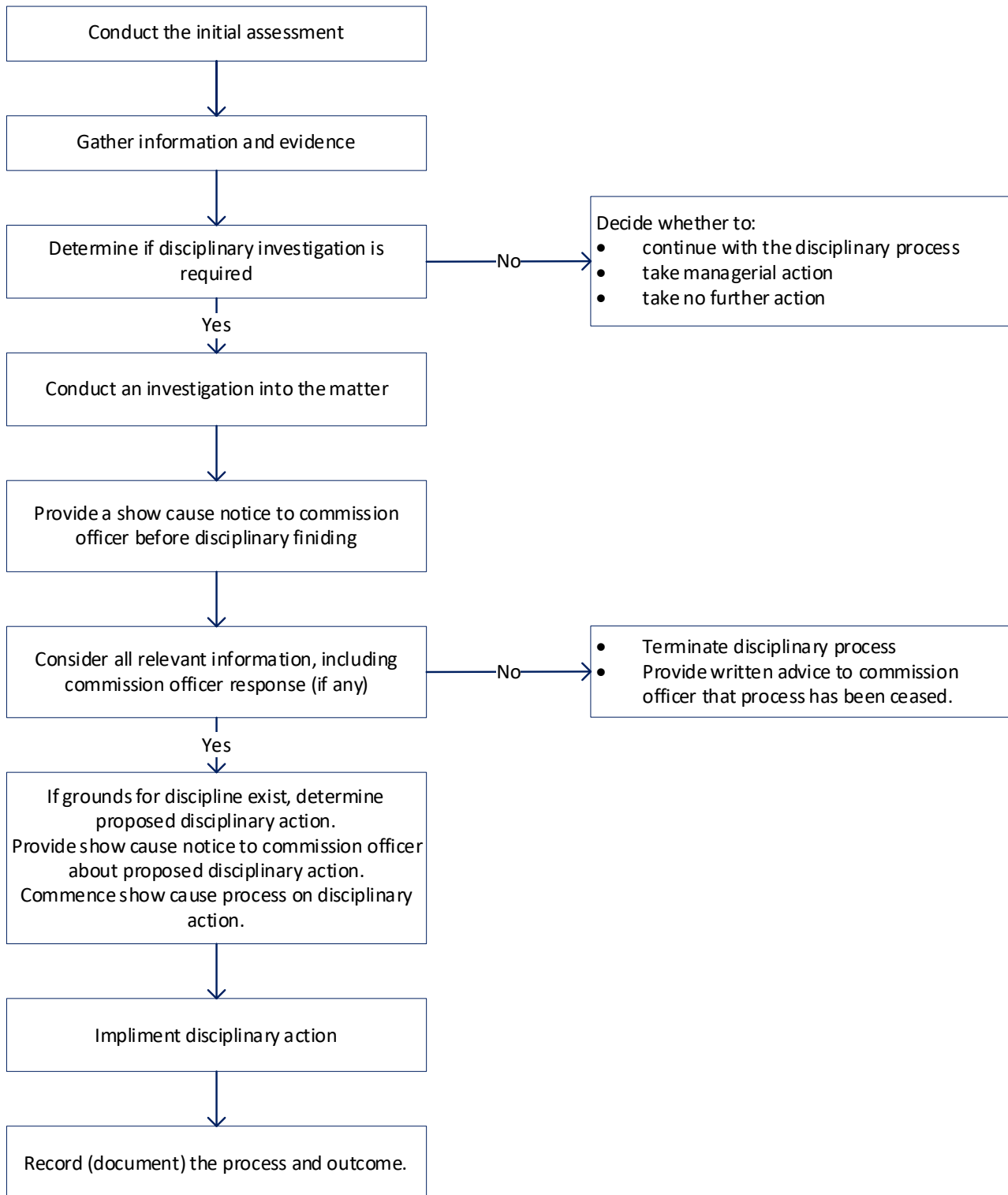
This policy and procedure will be reviewed three years from the date of approval, unless changes in legislation or government policy affecting its operation occur before the three year period has expired. This policy will remain in effect until updated, superseded or declared obsolete.

Metadata

Responsible officer:	Director Human Resources	Accountable officer:	Chief Executive Officer
Date approved:	18 January 2022	Review date:	18 January 2025



Schedule 1: Discipline process flowchart



Attachment M

Number of witnesses attending CCC investigative hearings for crime and corruption divisions

Table 1: Number of CCC investigations in which hearings were held per financial year

Years	CCC	Intelligence	Referred	Total all
2016-17	2	7	50	59
2017-18	4	6	38	48
2018-19	2	4	31	37
2019-20	3	2	27	32
2020-21	4	3	25	32
Total All	15	22	171	208

Table 2: Number of witnesses attending per financial year by investigation type

Years	CCC	Intelligence	Referred	Total All
2016-17	27	49	267	343
2017-18	64	26	179	269
2018-19	39	31	150	220
2019-20	35	8	149	192
2020-21	37	34	106	177
Grand Total	202	148	851	1201

Table 3: Number of witnesses attending for corruption investigations from financial years 2016-17 to 2020-21

CCC Investigative Hearings	2016-17	2017-18	2018-19	2019-20	2020-21
Number of witnesses attending	69	109	51	71	51

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Our Reference: AD-22-0188-01 22/058868
Contact Officer: Jen O'Farrell

SENSITIVE

13 April 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners,

RE: Request for additional information Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry)

I refer to your correspondence dated 12 April 2022 to the Commissioner of Police which was also copied to me, requesting copies of the Queensland Police Service (QPS) Development and Performance Review Policy and Guideline and also to the Managing Unacceptable Performance and Conduct Fact Sheet.

As indicated in my letter dated 11 April 2022, the CCC sought advice from the Queensland Police Service about providing these documents. We received that advice yesterday and now enclose them.

I have also copied in the Commissioner of Police so she is aware the request has been attended to by the CCC.

Yours sincerely

A black rectangular box redacting the signature of Bruce Barbour.

Bruce Barbour
Acting Chairperson

encl.

Copy: Commissioner of Police via email to Commissioner@police.qld.gov.au



2021/06

Queensland Police Service Development and Performance Review Guidelines



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1. Purpose

These Guidelines set out a framework to assist Police personnel to complete the planning, review, assessment, and reporting aspects of the Queensland Police Service's (QPS) Development and Performance Review (DAP) process.

These Guidelines are to be read in conjunction with the [Development and Performance Review Policy](#), the [Positive Performance Management Directive](#) (staff members only) and related supporting documents.

The term Police personnel includes staff members and police officers.

2. Overview

The focus of the DAP process is regular constructive conversations and interactions between Police personnel and their supervisors to plan, review and improve performance.

The DAP provides a structured framework for individual positive development and performance management to be achieved through discussing, negotiating, planning, reviewing, developing and documenting Police personnel progress towards achieving the QPS objectives and standards required of an individual role. Each of these activities, however, can and should be undertaken at any time as part of any performance conversation, whether part of a formal planning or end-cycle development and performance assessment stage. Annual reporting is merely one event that occurs as part of the DAP process.

Individual positive development and performance management is focussed on ensuring all Police personnel understand and realise the individual and organisational benefits achievable from a commitment to excellence in personal performance. Together, with strategic and operational performance planning, DAP drives productivity, accountability and continuous improvement.

All Police personnel are required to actively participate in the Service's development and performance review process, unless exempted or otherwise authorised not to participate (refer section 4). Expected levels of development and performance are to be relevant and appropriate to Police personnel roles.

Development and performance management is designed to be cascaded throughout the Service from Commissioner/senior executive levels to all Police personnel. This supports coordinated linkages between strategic, operational/team-based and individual performance planning and review processes. Police personnel are to reflect on the QPS strategic objectives when developing personal performance goals as part of the DAP process.

DAP reporting will be undertaken using the Employee Self Service (ESS).

It should be noted that most of the negotiations/communication between parties will occur offline and face to face (wherever possible) i.e. not via ESS.

In the case of a formal managing unsatisfactory performance process being put into effect, the DAP process is placed on hold/suspended.

3. References

[Public Service Act 2008](#)

[Police Service Administration Act 1990](#)

[Public Sector Ethics Act 1994](#)

[Queensland Police Service Certified Agreement 2019](#)

[State Government Entities Certified Agreement 2019](#)



[Queensland Public Service Officers and Other Employees Award – State 2015](#)
[General Employees \(Queensland Government Departments\) and Other Employees Award – State 2015](#)
[Queensland Public Sector Chief Executive Officer and Queensland Public Sector Executive Performance Frameworks](#)
[Leadership Competencies for Queensland](#) and [LC4QPS](#)
[Code of Conduct for the Queensland Public Service](#)
[Development and Performance Review Policy](#)
[Paypoint progression arrangements](#)
[Standard of Professional Practice](#)
[Managing Unacceptable Performance Guidelines](#)
[Positive Performance Management Directive](#)

4. Application and Exemptions

These Guidelines apply to all Police personnel unless subjected to the following exemptions or special circumstances.

4.1 Exemption due to employment type

General exemptions apply to the following Police personnel:

- police recruits and re-joiners, and other Police personnel undergoing initial training who are assessed under different processes;
- temporary staff members engaged in a role for less than three months;
- casual staff members engaged in a role for less than three months; and
- contractors, persons engaged through a labour hire company, volunteers and other non-employees whose performance is governed by an engagement contract, contracting services agreement or similar.

Participation in any or all parts of the DAP process is voluntary for these parties and may be subject to overriding policy (e.g. FYC assessment policy) or contractual obligations.

The performance of the Commissioner and other senior executive officers is governed primarily by the [Leadership Competencies for Queensland framework and Chief Executive Performance Objectives](#). CEO objectives are cascaded to senior executives tailored to suit their role and responsibilities.

4.2 Temporary exemption due to absence

Exemptions apply to Police personnel who are absent from the Service based on:

- external secondment or deployment;
- extended recreation, long service, sick, parental, special, or other approved leave; or
- suspension.

Primary reviewers are to place a DAP 'on hold' or 'exempt' within ESS, confirming the temporary exemption and noting the new DAP notification date.

When the police officer/staff member returns to duty, the current DAP may be reactivated subject to any necessary amendments, or a new DAP is to be commenced.

4.3 Specific arrangements due to change in Police personnel duties

Police personnel impacted by the arrangements set out in the table below are to participate in the DAP process in accordance with the relevant provisions in these Guidelines.



Specific Circumstances	DAP Arrangements
Police personnel who have had a temporary reduction in rank/classification	Police personnel who have had a temporary reduction in rank/classification and salary are assessed at the level appropriate to their role.
Police personnel relieving in other roles or performing higher duties within the Service (6 months or longer)	<p>Where the police officer/staff member is to perform duties in another Service role for six months or longer, the current DAP is to be finalised and a new DAP commenced for the new role. This new DAP will be in line with the prescribed DAP schedule. Usual reporting arrangements will apply with this new DAP to be finalised prior to the police officer/staff member's return to their usual position.</p> <p>Once back in their substantive positions, a DAP can be completed with the reviewer in the police officer/staff member's substantive position, in line with the DAP cycle</p>
Police personnel relieving in other roles or performing higher duties within the Service (less than 6 months)	Where the police officer/staff member is to perform duties in another Service role for a period less than six months, the primary reviewer and the police officer/staff member are to make appropriate notations in the existing DAP, with an option to include feedback via a DAP notification from the temporary supervisor.
Police personnel transferred or promoted within the Service	As per Police personnel performing other Service duties for six months or longer, the current DAP is to be finalised and a new DAP commenced for the new role which aligns with the DAP cycle.

5. Cycle and Stages

Regular development and performance conversations are evidenced through a twelve-month cycle of reporting in the form of a DAP agreement and DAP notifications. The annual DAP process comprises three main steps:

1. Development and Performance agreement with completion of goal planning;
2. Regular and constructive conversations throughout the agreement period (includes use of DAP notifications); and
3. End of year assessment.

To assist with the scheduling of conversations, the DAP system allows for numerous review periods to be set throughout the cycle that will generate reminders to the [primary reviewer](#).

5.1 Development and Performance agreement planning

This stage involves the [primary reviewer](#) and the police officer/staff member meeting to discuss the major role responsibilities (guided by the position description), current objectives, priorities and performance expectations including behavioural indicators and developmental goals. Importantly, the DAP must encompass objectives and capabilities relevant to current organisational strategic plans, priorities statements and client service charters.

A behavioural indicator refers to the way in which one acts or conducts oneself, especially towards others. The [Leadership Competencies for Queensland](#) include behavioural indicators designed to be observable and practical to assess and range in complexity across the leadership streams.

The goals set during the planning stage should be Specific, Measurable, Achievable, Relevant, and Time-Bound (SMART acronym). When including a development activity, Police personnel are to consider how the skills, knowledge and behaviours from development activity relate to the performance of their role and/or to their career aspirations. This may be considered evidence towards the performance of the police



officer/staff member during the end of year assessment.

The planning stage also offers an opportunity to acknowledge work performance that meets and exceeds expectations, anticipate challenges and identify early any learning and development required to facilitate role performance outcomes.

In the case of central functioned roles, the primary reviewer is to discuss the proposed performance plan with [additional reviewer/s](#). This may occur at any time during planning stage but prior to finalising the DAP.

This planning stage establishes the focal points for performance and development over the coming cycle. The outcomes of the discussions must be recorded in DAP agreement in ESS and be sufficiently detailed to ensure all parties, particularly the police officer/staff member subject to the agreement, know and understand the priorities and standards required to meet the expectations of the role.

5.2 Regular conversations

Regular conversations are to take place between Police personnel and their primary reviewer throughout the year to review development and performance. DAP notifications can be used to record the outcome of these conversations, including both positive and constructive feedback.

Unacceptable work performance or any gap between actual and expected work performance is to be raised, documented and discussed with Police personnel as applicable throughout the DAP period, and Police personnel are to be offered appropriate support and reasonable time to self-correct. For staff members, refer to the [Positive Performance Management Directive](#) (particularly clause 7).

5.3 End of Year Assessments

This stage involves the parties meeting to consider whether expectations across objectives and capabilities set out in the DAP Agreement have been met.

Police personnel are encouraged to evaluate development activities undertaken, reflecting on what skills, knowledge and behaviours were learned, and then applied to the performance of their role, and/or how the activities relate to their career aspirations.

A party to the agreement may provide appropriate supporting evidence relevant to the police officer/staff member's performance in the role under review. In the case of central functioned roles, the primary reviewer is to consider feedback from additional reviewer/s prior to finalising the performance appraisal.

The end of year assessment stage (December of each year) may immediately precede planning for the next annual cycle, although they are distinct processes.

5.4 DAP notifications

Police personnel and reviewers are encouraged to maintain notations in the online DAP notifications to record significant events or comments for reference during performance planning and reviews or for other purposes (e.g. recognition, referee reporting). DAP notifications are accessible by all approved parties to the current DAP.

Anyone can log an entry via the DAP notifications for any other Police personnel. Police personnel will have an opportunity to consider, and either accept or dispute notifications that are made in connection with their DAP agreement. If a notification is disputed, it can be reviewed by the overviewer and on further consideration by the staff member/police officer who is the subject of the notification, be accepted, or cancelled and removed. The original notification may be amended by the initiator before it is accepted.



Entries not logged by the police officer/staff member's primary reviewer will be sent initially to the police officer/staff member for comment, acceptance or disputed. DAP Notifications left unactioned by a police officer/staff member (i.e. not agreed/disagreed with) will automatically close and populate into their DAP agreement after 4 weeks.

Use of the DAP system, including DAP notifications, must be consistent with Police personnel obligations under the Code of Conduct and QPS Standard of Practice.

5.5 Due Dates

DAP reports are completed in accordance with the schedule outlined in the DAP Policy. Stages must be completed by Police personnel and their reviewer/s by the end of the relevant month and no later than four weeks past that due date. Auditing will be undertaken to identify outstanding DAPs and identify inactivity between stages.

5.6 Overviewer

If an overviewer is required by any party to the DAP process during any stage of the cycle, the overviewer should make a determination within 14 working days and this determination recorded, prior to the DAP process being progressed or closed (refer overviewer responsibilities in 6.3 of these Guidelines). Either party to the DAP may request intervention by the overviewer.

6. Roles and Responsibilities

6.1 Police Personnel

Police personnel undertake work activities within the context of organisational priorities and targeting the achievement of performance including behavioural outcomes. It is the responsibility of Police personnel to:

- actively engage with their reviewer/s in regular constructive development and performance conversations;
- properly prepare for formal DAP discussions, documenting their performance towards achieving set objectives and in demonstrating the behaviours expected of their rank or classification.
- provide their reviewer/s with information they consider relevant to the current review;
- regularly review set priorities and, at the earliest opportunity, discuss with the reviewer/s any barriers to meeting those objectives; and
- participate in all aspects of the DAP process.

6.2 Primary Reviewer (Supervisor)

This is usually the person to whom the police officer/staff member reports on a day to day basis and who regularly participates in performance conversations with that police officer/staff member. For central functioned OICs or other senior roles, the primary reviewer is a commissioned or other nominated senior officer from the owning command or division.

For some roles there may be more than one reviewer. For example, a central functioned role will require input from the owning/functional supervisor (the primary reviewer) as well as the day to day/hosting supervisor (a secondary reviewer).

A primary reviewer must be at least one rank or classification level above the police officer/staff member. The primary reviewer may also liaise with other Police personnel – secondary reviewer/s - for the purposes of performance planning and may seek their input or DAP notifications when reviewing development and performance (e.g. central functioned roles – owning and hosting supervisors).



A primary reviewer is required to complete the DAP process in consultation with the police officer/staff member and with other persons having indirect or shared supervisory responsibilities concerning the same police officer/staff member, or as otherwise necessary in accordance with Service values and policy.

It is the responsibility of reviewers to:

- actively engage with the police officer/staff member and other reviewer/s to facilitate regular constructive positive development and performance conversations;
- properly prepare for formal DAP discussions including documenting performance observations and assessments; and
- provide the police officer/staff member with information they consider relevant to the current review (e.g. documentation concerning performance observations and assessments made during the assessment cycle).

Primary reviewers are also to:

- regularly review set priorities and goals and, at the earliest opportunity, discuss with the police officer/staff member any barriers to meeting them or any material change in the priorities, goals and performance expectations;
- ensure any additional reviewer/s are advised and updated as necessary on the performance priorities, goals and expectations; and
- manage all aspects of the formal DAP processes.

6.3 Overviewer

The overviewer would be required when there is a difference of opinion/conflict between the reviewer and the police officer/staff member and agreement cannot be reached about the inclusions at the DAP planning stage, notifications or assessment. The overviewer is usually one rank or classification level above the primary reviewer within the same organisational group, or a person nominated by the accountable senior executive member.

It is the responsibility of an overviewer to:

- mediate the individual assessment/s in light of relevant subjective and contextual factors, in consultation with other parties to the performance agreement;
- take action to facilitate the accuracy and consistency of the recorded information; and
- take action to resolve any disagreement between DAP parties within 14 working days to enable the DAP process to be progressed or closed off.

Any involvement required from an overviewer is recorded on the relevant DAP form at any review or assessment stage of the process. Any overviewer involvement through the DAP process is recorded via DAP notifications.

6.4 Officer in Charge/Manager

The Officer in Charge/Manager:

- ensures primary reviewers have been assigned and that all Police personnel under their control are aware of their DAP roles and responsibilities;
- authorises changes to DAP roles during the annual cycle;
- is responsible for the effective and efficient management of the DAP process for their station/s or work unit/s; and



- establishes and communicates how the work unit level priorities, goals and plans link to and direct individual development and performance agreements.

6.5 District and Regional (and equivalent) Managers

District and Regional (or equivalent) Managers:

- review and assess consolidated data generated from the DAP system;
- manage organisational performance matters arising from or affecting the DAP process; and
- may work with local Police Personnel assigned organisational performance coordination responsibilities (e.g. Regional Inspector, Performance).

6.6 Human Resources

Human Resources is responsible for:

- developing and maintaining the DAP Policy and Guidelines; and
- providing advice regarding processes and monitoring overall compliance with Service policy.

6.7 Performance System Administration

Performance System administration is responsible for:

- attending to technical or system related issues associated with ESS; and
- facilitating system based reporting on the DAP process.

7. Reviewing Performance

7.1 Senior Executive Officers

Senior executive members are assessed by the same methodology across the Queensland public service. Further information on the performance management process for senior executive officers is published by the Public Service Commission.

7.2 All Other Police Personnel

For all other Police personnel, performance is assessed across expectations expressed in objectives and capabilities. End-cycle achievement is recorded as 'met' or 'not met'. During the DAP period and the end-cycle stages, performance is recorded against individual items with the opportunity to provide a short narrative.

Any assessment that identifies a police officer/staff member is not meeting performance expectations require a comment from the primary reviewer (following conversation/s between the police officer/staff member and the reviewer/s).

An assessment of overall development and performance is recorded as 'met' or 'not met'.

8. Managing Performance Outcomes

8.1 Senior Executive Officers

Senior executive member performance outcomes are managed as per the methodology published by the Public Service Commission.



8.2 All other Police personnel

All other Police personnel's performance outcomes are subject to the DAP Policy and Guidelines. For staff members, the [Positive Performance Management Directive](#) also applies.

8.3 Higher Level Performance

Higher level performance occurs where performance expectations are exceeded across the range of objectives and capabilities and is supported with separate supporting evidence. Comments about higher level performance may be recorded using DAP notifications.

The reviewer may support additional learning and development strategies in consultation with Police personnel which will assist them to achieve career aspirations outside of the current role. Such development opportunities may include the provision of coaching, mentoring, networking or 'work shadowing' opportunities; support for secondments, job rotations or higher duties; or advanced training or formal education.

8.4 Individual Development Plan

An individual development plan is an option available to Police personnel to build on and leverage identified strengths and develop areas where gaps in behaviours, knowledge, and skills are identified during the DAP process. More information is available on the Leadership Centre and on the [Training and Development](#) intranet page.

Where an individual development plan is to be implemented as part of DAP, this should be noted via a DAP notification.

8.5 Unacceptable Work Performance

Unacceptable work performance or any gap between actual and expected work performance is to be raised, documented and discussed with Police personnel as applicable throughout the DAP period, and Police personnel are to be offered appropriate support and reasonable time to self-correct.

At any time during the DAP process and after all reasonable action to resolve performance issues has been undertaken, a reviewer may seek to initiate the formal process for managing unacceptable performance where they consider it is fair and reasonable in the circumstances. The steps required to determine if it is 'fair and reasonable' are set out in the Managing Unacceptable Performance Guidelines.

The DAP process is suspended when a 'managing unacceptable performance' process has been initiated or remains current. The DAP process is distinct from the management of unacceptable work performance. For further information, refer to the Managing Unacceptable Performance Guidelines and the [Positive Performance Management Directive](#) (for staff members only).

9. Records

Performance records are maintained in the ESS. The making, amending, deleting, retaining, referencing, copying, distribution or publishing of such official records remains subject to legislation and Service policy.

10. Access to Performance records

Parties to the current DAP arrangements are able to view all current and previous official performance records via ESS.

Managers down to the Officer in Charge or equivalent level are able to view development and performance



assessments for all Police personnel for whom they have primary performance management accountability. Access otherwise to individual DAP reports, or information contained within these reports, is subject to privacy arrangements applicable to personnel records and may require individual Police personnel consent for release and use.

Access to individual Performance and Development Agreement (PDA) reports completed prior to the commencement of the DAP ESS process remains subject to individual Police personnel consent for release and use.

For further information, refer to the Access and Disclosure of Human Resource Information Policy.

11. Complaints and Grievances

DAP is a collaborative process based on the principles of good will including fair and reasonable dealings. Early resolution of concerns and proactive action taken at the local level remains a central theme and a cornerstone of good management.

In participating in the DAP process, all parties are to be mindful of their obligations under the [Standard of Professional Practice](#).

Staff members may be eligible to lodge a grievance under the [Individual Employee Grievance Directive](#).

11.1 Disagreement with DAP Assessment

Should any party to the DAP agreement disagree with any of the statements or assessments made during the DAP cycle (including DAP notifications), the record may be referred to the overviewer. The overviewer will determine an outcome by negotiation with the parties. The basis for the determination is to be provided in writing.

There may be instances where a participant in the process feels it appropriate to refer a matter for more formal resolution. Formal processes may be commenced at any time during the DAP cycle in accordance with Service policy.

For further information, refer to the [Complaint and Client Service Reporting](#) and [Grievance policies](#). Staff members may be eligible to lodge a grievance under the [Individual Employee Grievance Directive](#).

12. Links to other Human Resource Processes

DAP is part of the big picture development and performance management framework and links to several human resource related practices.

12.1 Recruitment and Selection

The DAP process is separate from promotion or other selection activities but linked as another component of the development and performance management group of activities.

The position description for a role will outline key accountabilities for the specific role and capabilities/behavioural requirements under 'Are you the right person for the job'. A DAP plan should be developed with reference to the position description to determine objectives which facilitate development for Police personnel within their appointed role.

The leadership competencies for Queensland is the framework which allow Police personnel to self-assess and work towards promotion by referring to the results, vision and accountabilities relevant to each rank or classification.



A selection panel can request information from the DAP system for the purpose of considering merit. This request should be made to the police officer/staff member in the first instance. A selection panel may also access individual performance information through other acceptable means such as referee reports. The principles of natural justice will be followed throughout any recruitment and selection process.

Police personnel are to have opportunity to respond to adverse information obtained from the DAP system for the purpose of considering merit in a selection process. See the Merit Selection Standard and the [Recruitment and Selection Directive](#) (for staff members, clause 9).

12.2 Police Personnel on probation

A DAP agreement is commenced as normal with a DAP notification date suitable to the probation period. The primary reviewer and police officer/staff member would commence a DAP agreement as per normal processes and review it in line with the schedule outlined in the DAP Policy. Police personnel are to be given prompt and appropriate feedback on work performance and feedback on areas of work performance that need improvement.

For staff members, a structured review will be required where unacceptable work performance issues persist that may result in termination of employment **prior** to the end of the probationary period if the issues are not resolved. Structured review is not a formal performance improvement plan (see the [Positive Performance Management Directive](#), clause 6.5).

At a suitable date prior to the expiry of the probation period, the Police personnel's performance should be discussed with the reviewer and a decision made as to whether the appointment is to be confirmed, probation extended, or otherwise.

12.3 Pay Point Progression

Satisfactory work performance is a factor to be considered when determining Police personnel eligibility for a pay point progression, in accordance with the provisions outlined in the applicable pay point progression documentation and industrial instruments.

12.4 Career Planning and Development

The DAP process is separate from professional development and career planning activities but linked as another component of the development and performance management group of activities.

Performance is assessed in relation to an individual's current role and at their current rank/classification, subject to principles under the DAP Guidelines. Consequently, under DAP policy, there are no obligations placed on Police personnel or on the Service to meet learning and development strategies identified for career advancement, career change, or other aspirational purposes.

Police personnel may utilise their DAP assessment results to inform professional development and career planning activities, for example, by including aspirational goals and individual development associated with a self-identified career path.

13. Appeals (Staff Members)

Pursuant to section 194(1)(a) of the *Public Service Act 2008*, staff members aggrieved by a decision to take, or not take, action under the [Positive Performance Management Directive](#), may appeal the decision. Appeals are made to the Queensland Industrial Relations Commissions (QIRC). The QIRC website provides details on lodging an appeal. Further information is also available in the [Appeals Directive](#).



14. Definitions

Central Functions, hosting and owning areas

Work units defined as a 'central function' are owned by a command or division (the 'owning area') but are located in a region or another command or division (the 'hosting area').

Development for an individual

Managers should work with individuals in their teams to assist them to identify their own needs for additional knowledge, skills and experience and the development activities that meet these needs. Individuals are responsible for identifying ways they could improve their work performance, which may be through education, training and development.

Development refers to the improvement, diversification and/or advancement of individual knowledge, skills and experience to meet current and future organisational needs, personal career aspirations and/or for personal professional fulfilment through ongoing learning/experience. Development can assist Police personnel to diversify or update skills in their current role (supporting them to do their current job better), support them to move (at level) into different roles or career paths or to advance to higher classification levels or ranks.

Development is not limited to performing higher duties or completion of formal courses. It can include a range of activities such as education programs, on-the-job training, mentoring by experienced staff, attendance at external courses conducted by skilled professionals, attending conferences or information sessions, participating in different projects within your existing team, sharing skills and knowledge.

Demonstrating the application of the skills, knowledge and behaviours learned during the development to their position and daily duties may be evidence of performance or performance improvement by the police officer/staff member.

Development and Performance (DAP) Agreement

The formal agreement and record of performance discussions between Police personnel and their reviewer/s, and which is created in ESS. At a minimum, it specifies development opportunities, performance priorities and expectations, and records review results and formal feedback.

Development and Performance (DAP) Cycle

The formal annual process of individual development and performance review comprising three defined elements: a planning stage, regular constructive conversations and an end-cycle assessment stage. The cycle is based on the requirement for regular constructive development and performance conversations which occur on an ongoing basis as a part of a professional supervisor-employee relationship.

Development and Performance (DAP) Notification

A DAP notification is a record of a comment, conversation, positive or constructive feedback about the police officer/staff member that relates to their performance and/or development. It is recorded in ESS. It can originate from the police officer/staff member who is the subject of the DAP agreement, their primary reviewer or a third party (by acceptance of the police officer/staff member subject to the DAP agreement).

Leave approver

The person who is authorised and nominated to approve leave applications through ESS.



Parties to the process

The parties to the DAP process are the subject police officer/staff member, their reviewer, and the overseeing officer. For Police personnel under shared supervisory arrangements (e.g. central functioned Officers in Charge) there may be additional/secondary reviewers.

Senior Executive Officers

The generic title for executive leadership members and includes the Commissioner (as chief executive), Deputy Commissioners, Assistant Commissioners and officers at the Senior Executive Service (SES) classification level.



2021/06

**Queensland Police Service
Development and Performance Review
Policy**



1. Application

This policy applies to all Police personnel who are required to actively participate in the Service's performance management process, unless exempt or otherwise authorised. It should be noted that members at the Senior Executive level participate in a modified whole-of-government arrangement, although the overall principles remain the same.

The term Police personnel includes staff members and police officers.

2. Statement

The Development and Performance Review (DAP) framework supports an engaged, capable and effective workforce which is paramount to achieving the Queensland Police Service's (QPS) vision of Queensland - the safest State, and the QPS purpose that together, we prevent, disrupt, respond and investigate.

DAP has been established for the management and development of positive Police personnel performance with a renewed emphasis on regular and constructive two-way conversations between supervisor and Police personnel.

As such, the development and performance framework provides a system to help clarify work priorities, support Police personnel, discuss and document career options and aspirations, and provide professional development opportunities.

DAP is an integral part of a suite of human resource management policies and processes that support the Public Service Values of:



Customers first

- Know your customer
- Deliver what matters
- Make decisions with empathy



Ideas into action

- Challenge the norm and suggest solutions
- Encourage and embrace new ideas
- Work across boundaries



Unleash potential

- Expect greatness
- Lead and set clear expectations
- Seek, provide and act on feedback



Be courageous

- Own your actions, successes and mistakes
- Take calculated risks
- Act with transparency



Empower people

- Lead, empower and trust
- Play to everyone's strengths
- Develop yourself and those around you

It also supports the QPS values of:

- Integrity - Is in everything we do. We are honest, trustworthy and hold each other to a high standard.
- Professionalism - Times are challenging but if we are professional in everything we do, our communities will continue to support us.
- Community - We support each other and lend a hand to ensure we can respond to community needs as well as the needs of our policing community.
- Respect and Fairness - We treat each other and our communities as we would like to be treated ourselves - with fairness, dignity and respect.

This policy is to be read in conjunction with the [Development and Performance Review Guidelines](#), and the [Managing Unacceptable Performance Standard](#). For staff members, this policy must also be read in conjunction with the [Positive Performance Management Directive](#) (which outlines the principles of positive performance management in section 25A of the *Public Service Act 2008*).

The QPS is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), QPS has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When carrying out activities under this policy, Police personnel must comply with that obligation.



3. Induction and Probation – Staff Members

For new staff members, the DAP process is underpinned by the induction process. The purpose of an induction for new staff members is to provide them with a knowledge and understanding of the work performance and personal conduct expectations (see the Code of Conduct, Standard of Practice and section 26 of the *Public Service Act 2008* (PS Act)) and an awareness of the work performance expectations for their position and an awareness of the DAP Policy and Guidelines.

Where a staff member is subject to a probationary period under section 126 of the PS Act or the applicable industrial instrument, during the probation process, managers must ensure the staff member receives:

- (a) a clear statement of the work performance expectations for the probationary period (this can be through the DAP process)
- (b) prompt and appropriate feedback on work performance, including recognition of acceptable and exceptional work performance, and feedback on areas of work performance that need improvement
- (c) a structured review where unacceptable work performance issues persist that may result in termination of employment prior to the end of the probationary period if the issues are not resolved
- (d) a structured review before the end of the probationary period to:
 - (i) confirm the appointment, or
 - (ii) extend the probationary period for a further period, or
 - (iii) terminate the employment.

The structured review process is to be used to determine whether to confirm the appointment; extend the probationary period for a further period of time, or terminate the employment.

The structured review is not a Performance Improvement Plan under the Managing Unacceptable Performance Guidelines.

4. Principles

DAP is firmly premised on a commitment to:

- Police personnel and their supervisors having regular constructive, positive performance conversations and interactions, and not just reserving these conversations to formal performance cycle review stages;
- pro-actively managing the personal and professional development of Police personnel;
- recognising the strengths, requirements and circumstances of Police personnel and valuing their contributions;
- setting clear expected outcomes and recognising performance that meets or exceeds these expectations;
- providing opportunities and support to Police personnel for improving performance including training and development opportunities;
- identifying at the earliest opportunity performance that does not meet expectations;
- proactively manage work performance and take prompt and appropriate action if unacceptable work performance arises;
- achieving a positive performance management culture;



- ensuring that both the manager/supervisor and Police personnel are obliged to participate in the process; and
- having regular performance dialogue and activities formally evidenced through an appropriate reporting cycle.

For staff members, section 186C of the PS Act requires managers to apply positive performance management principles before taking disciplinary action for work performance

5. Overview and Aims

DAP aims to:

- embed a process around positive development and performance management that encourages regular conversations to facilitate and enhance meaningful two-way development and performance feedback;
- provide a renewed focus on leadership excellence by having core capabilities aligned with strategic objectives and behavioural outcomes. Core capabilities involve strategic, results-driven development and performance characterised by personal integrity, productive working relationships and effective communication;
- build capability by providing clear expectations regarding individual (including supervisory) development and performance; and
- enable a cycle of continuous development that promotes:
 - appropriate acknowledgement of higher levels of performance;
 - learning and development to enhance performance in the current role or function; and
 - early and appropriate management of unacceptable performance.

The DAP policy aligns with the Queensland Public Sector Performance Framework (Senior Executives) which is based on a balanced scorecard approach. This approach analyses performance against four perspectives:

- Whole-of-government leadership and collaboration;
- Organisational priorities;
- Organisational financial management; and
- Organisational leadership and culture.

For non-executive Police personnel, the DAP policy aligns with the leadership competencies for Queensland framework.

Development and performance management is designed to cascade throughout the QPS from corporate to frontline levels, and from Commissioner / senior executive levels to all Police personnel. This supports coordinated linkages between strategic, operational/team-based and individual development and performance planning and review processes.

Development and performance, in conjunction with various education programs, provides the mechanism for assessing an individual's attainment of the competencies required for movement through pay points within ranks for police officers and provides a useful tool for determining whether or not pay point progression will be approved for staff members.

The DAP process will generally operate over a 12-month cycle per the table below.



Employee Group	Establish agreement	End of year assessment
Commissioner Senior Executive (Deputy Commissioner, Assistant Commissioner, Executive Director)	CoP – July (Draft) and Aug (Final with Ministerial endorsement) SES – August	CoP – July SES – August
Constable to Chief Superintendent AO2 to Senior Officer	January	December

6. References

- [*Public Service Act 2008*](#)
- [*Police Service Administration Act 1990*](#)
- [*Public Sector Ethics Act 1994*](#)
- [*Queensland Police Service Certified Agreement 2019*](#)
- [*Queensland Public Service Officers and Other Employees Award – State 2015*](#)
- [*General Employees \(Queensland Government Departments\) and Other Employees Award – State 2015*](#)
- [*Queensland Public Sector Chief Executive Officer and Queensland Public Sector Executive Performance Frameworks*](#)
- [*Leadership Competencies for Queensland*](#) and [*LC4QPS*](#)
- [*Code of Conduct for the Queensland Public Service*](#)
- [*Development and Performance Review Guidelines*](#)
- [*Paypoint progression arrangements*](#)
- [*Standard of Professional Practice*](#)
- [*Managing Unacceptable Performance Standard*](#)
- [*Positive Performance Management Directive*](#)



Managing Unacceptable Performance & Conduct – Fact Sheet

The process for managing unacceptable work performance must be supportive, directed to the positive performance management principles, and take into account work and non-work-related factors that may be affecting the employee. This Fact Sheet provides some practical tips and is to be read in conjunction with your department's policies and standards. It is provided to assist supervisors to:

- identify unacceptable work performance and have an initial discussion with their employee
- examine informal options for addressing issues
- initiate a formal process
- take action where performance does not improve to a satisfactory level
- know who to contact for further information

Supervisors should use the [natural justice checklist](#) as a guide throughout the performance improvement process. Confidentiality is to be maintained by all parties throughout the process. Records of meetings and related documentation are to be maintained in secure local files.

Identifying Unacceptable Work Performance

Unacceptable work performance refers to an employee's:

- **persistent or significant** underperformance in undertaking the requirements of their role, as identified through the development and performance (DAP) cycle (e.g. competencies noted as requiring development or other management action, or a final overall rating of unacceptable); and/or
- behaviour that does not comply with the Code of Conduct and related policies and standards; and/or
- poor attendance patterns.

Where an employee demonstrates unacceptable performance or behaviour, their manager/supervisor needs to address this in a timely manner at the local level. In the initial stages, this may be through an **informal** conversation.

To do this, managers should read your agency's relevant policies and standards and arrange to meet with the employee to discuss:

- the employee's behaviours and performance relevant to their role and requirements
- the employee's responses to the issues raised
- the reasons for their behaviour/performance issues (a range of direct and indirect causes might be relevant, such as faulty job design, personal circumstances, ill health, relationships with co-workers, indolence and insufficient skills)
- what informal action can be taken to address the performance/behavioural issues (options might include such things as mentoring, rehabilitation, mediation, training).

The Workplace Assessment and Support Team, in consultation with the Cultural Transformation Team, can provide Commissioned Officers in charge of Regions, Commands, Divisions, Districts or Groups; or Officers in Charge of stations / sections with Cultural transformation assistance.

Reviewing the effectiveness of informal processes

It is important to meet with an employee to discuss how the informal measures to address their performance issues are working. If the informal measures are effective at addressing the issues, a formal process will not be required. The conversations between the manager and employee can remain informal.

However, if the supervisor identifies that the informal measures have **not been effective**, a formal process may need to commence. In these instances, supervisors should meet with the employee (providing them with reasonable notice and the opportunity to bring a **support person**) to:

- discuss the outcome of the informal measures
- ensure the employee understands ~~the~~ all the issues and has the opportunity to respond
- discuss the intention to move to a formal performance improvement plan and what this will involve
- discuss the potential consequences of the employee failing to meet agreed requirements
- organise a time to establish a formal performance improvement plan.

A record of the meeting should be maintained.

Establishing a performance improvement plan

A formal process for managing unacceptable work performance involves establishing a [performance improvement plan \(PIP\)](#). The PIP is only to be raised where the chief executive considers it fair and reasonable in the circumstances. Please refer to the [Positive Performance Management Directive](#) for the conditions to be met in determining if a PIP is fair and reasonable.

If the employee has already been through a formal process (PIP) for the same or similar issue/s within the last 6 months, their supervisor may consider alternative avenues, such as:

- discussing options with the Manager/Officer in Charge and/or the Human Resources contact and/or a representative from Safety and Wellbeing (depending on the issues to be addressed). A case management style meeting between these representatives may be helpful to look at the issues holistically and develop different options; or
- raising the issue as a disciplinary matter with the Delegated Officer (and pursuing a show cause process)

The disciplinary proceeding process should be undertaken in accordance with current Ethical Standards Command and Public Service Commission guidelines/policies. It is not intended that matters of unacceptable performance be managed through the formal complaints process where local management resolution is an appropriate option or where a Delegated Officer can proceed with an appropriate disciplinary process.

To establish a PIP, supervisors should arrange to meet with the employee, giving the employee reasonable written notice of the meeting.

An employee may choose to bring a *support person* to the meeting.

At the meeting explain the process and provide any relevant documentation to the employee including their position description, and any relevant policies. Provide evidence of unsatisfactory performance, taking care to focus on behaviours and work outcomes which were not met.

The [template](#) should be used to establish a PIP, which will include details of:

- the areas of work performance for the role that the employee needs to improve
- the expected work performance with reasonable and measurable outcomes
- any gaps between actual and expected work performance
- the support to be offered to the employee
- the frequency of feedback meetings and how additional feedback will be provided
- its duration including start and end dates
- specific strategies to address and achieve the expected work performance
- potential consequences if expected work performance is not met including the commencement of a disciplinary process.

A PIP is to be established for a maximum of 3 months.

A copy of the PIP should be provided to the employee. The original version should be kept in a confidential file by the supervisor.

Once a PIP is established, the supervisor and employee need to meet regularly throughout the PIP process to discuss progress. At the end of PIP period, a review session should be held to look at whether the performance objectives of the PIP have been met.

If the employee's performance **improves** to a satisfactory level, the PIP can be finalised and the Performance Review and Development process can recommence.

A record of the meeting should be maintained.

If performance does not improve to a satisfactory level

Should the employee's performance/behaviour not improve to a satisfactory level after a PIP, the following avenues may be pursued:

- A case management style meeting between the supervisor, manager/officer in charge and/or the Human Resources contact and/or a representative from Safety and Wellbeing (depending on the issues to be addressed) may be useful to look at the issues/actions holistically and develop options. The meeting may be used to discuss, in confidence, such things as:
 - issues pertaining to the employee's unacceptable performance or behaviour
 - the steps that have been taken to date to address the issues, what has or has not worked
 - what may be the best way forward.

A record of the meeting should be retained.

To ensure natural justice is met, the employee in question should be informed that a case management meeting will be taking place, what the outcomes of the meeting were and given the opportunity to respond to the options proposed for implementation (i.e. show cause process).

Any action taken at the end of the case management meeting needs to be with the approval of the applicable [delegated authority](#).

- In exceptional circumstances only, the PIP may be extended for period of no more than 3 months.
- Disciplinary action may be pursued (s 187 *Public Service Act 2008*) via a report to the applicable [delegated authority](#) and consistent with natural justice.

The disciplinary proceeding process should be undertaken in accordance with current Ethical Standards Command and Public Service Commission policies/guidelines. It is not intended that matters of unacceptable performance be managed through the formal complaints process where local management resolution is an appropriate option or where a delegated authority can proceed with an appropriate disciplinary process.

- Where reasonable and appropriate, a medical examination may be requested (s 175 *Public Service Act 2008*) and action taken giving consideration to the outcome of the examination. Contact should be made with the responsible Principal HR Consultant to discuss this option.

Reporting Requirements

The Public Service Commission's (PSC) [Conduct and Performance Excellence](#) service (CaPE) will support managers and HR professionals in agencies to promote excellent conduct and high performance.

Confidentiality of the MUP Process

The MUP process requires confidentiality. Documents relating to the process are to be kept in a secure place by the supervisor or manager for three (3) years, after which time all copies and originals are to be destroyed.

If during the MUP process you are transferred or promoted elsewhere, you are to brief and pass the documents to the new supervisor or next in line manager in order to continue managing the process.

Management of Members with Health and /or Personal Problems

Where you consider that the member's unacceptable performance issues may stem from a medical problem, refer to the Injury/Illness Management Policy.

If the unacceptable performance appears to be due to a personal problem, advise the member of the availability of Employee Wellbeing services.

Appeals

An employee may appeal a decision to take, or not take, action under the [Positive Performance Management Directive](#) under section 194(1)(a) of the [Public Service Act](#).

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Our Reference: 22/058624
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SENSITIVE

19 April 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners,

RE: Request for additional information Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry)

I refer to your correspondence dated 12 April 2022, in which you have requested additional information to supplement information provided by the Crime and Corruption Commission (CCC). Each matter will be addressed separately.

A diagram detailing the steps leading to a referral to, and decision by, a seconded police officer to initiate a criminal prosecution. The diagram should set out the matters to be considered at each step with reference to relevant policies or procedures that guide decision-making.

1. The diagram detailing the steps leading to a referral to, and a decision by, a seconded police officer to initiate a criminal prosecution is provided at **Attachment A.**

In relation to the use of multi-disciplinary teams in CCC investigations, what are the typical sets of skills involved or possessed by members of the multi-disciplinary teams tasked with corruption investigations. Do these teams typically involve a legal officer? What are the levels, seniority and experience of the various members of the teams including police officers and non-police officers?

Are the multi-disciplinary teams in corruption investigations all of the 'Corruption Operations Teams' detailed in the organisational structure at pages 14-19 of Attachment A? If the answer to this question is 'No', how many members of the Corruption Operations Teams can, and typically are, allocated to a multi-disciplinary investigation team? How many civilian investigators from outside the Corruption Operations Teams are allocated to investigation teams? Finally, how long has each member of the Corruption Operations Teams been seconded to the CCC and been part of the Corruption Operations Team of which they are presently a member?

2. Crime and corruption investigations frequently rely on a combination of experienced investigators, lawyers, forensic accountants, forensic computing specialists, and intelligence analysts, all of whom bring their different skills to bear to progress the investigation.
3. At different stages of the investigation, different professional disciplines will come to the fore to progress the investigation.
4. With respect to its Corruption function and as outlined in Attachment A of the CCC's response of 11 April 2022, the CCC currently has a base establishment of 46.8 FTE (18 officers seconded from the Queensland Police Service (QPS), 28.8 civilian) in Corruption Operations (as at January 2022). This organisational chart is a point-in-time representation and the teams at pages 14-19 reflect the administrative reporting structure that was in place at the time. This representation can change as the composition of the multidisciplinary teams change to reflect the current work profile.
5. The diagram in **Attachment B** further explains how the multidisciplinary teams work in practice.
6. Police and civilian investigators are typically allocated to investigation teams, but can be moved between teams as required.
7. One team conducts feasibility assessments, which involves undertaking activities in the nature of a preliminary investigation, whether by way of collecting evidence or information, undertaking enquiries, or examining or considering existing or additional material, to determine or assure that the investigation (including the scope of the investigation) is required or justified (on a business case basis), and is technically feasible and cost-effective (Section 4.2 of MM01: Matter management, planning and conduct outlines matter stages and sub-stages). The feasibility team is supervised by a civilian investigator with over 29 years of investigations experience.
8. The other teams conduct corruption investigations. As at 14 April 2021, there are four active corruption operations teams. These investigation teams are supervised by two police Detective Inspectors (with over 21 and 12 years post-detective qualification investigation experience respectively) and two civilian investigators (both of whom are ex-police officers with over 28 and 18 years of investigation experience respectively). The current police cohort in corruption operations has between 8 and 29 years of post-detective qualification investigation experience.
9. As required, these investigators are augmented with specialist skills, including from legal officers, financial investigators, intelligence officers and specialist administrators who are dedicated to corruption activities. This operating model enables these officers to exclusively focus on progressing corruption operations and to develop a deep understanding of corruption matter types, the investigative methodologies and tactics required, and legal considerations relevant to corruption investigations.
10. While commission officers performing specialist functions are tasked by the team leader, their work output is oversighted by the most senior officer in the specialty. This operating model ensures the work quality and professional development of more junior staff.
11. Legal officers are allocated to investigations to ensure they develop a requisite understanding of the nature of the investigation. However, to ensure appropriate independence and supervision,

legal officers are not embedded in investigation teams. Legal officers are structurally separate from the investigation teams and report to a senior lawyer, who reports to the Executive Director Strategy Prevention and Legal.

12. The levels, seniority, key relevant experience and duration of time at the CCC of commission officers currently involved in the corruption multi-disciplinary teams is in the process of being compiled. We expect to be able to provide this to you tomorrow.
13. In addition to accessing the specialist functions dedicated to corruption, corruption investigators can seek the assistance of other specialist functions located in the CCC Operations Support Division. These resources service the needs of the CCC and are not dedicated corruption resources.
14. In some cases it may also be necessary to obtain legal advice from Corporate Legal (ie legal officers outside of corruption division) or external counsel (refer to MM02: Matter Briefs). The need for external legal advice may be determined having regard to the nature, sensitivity, and complexity of the matter, unfamiliar areas of law, matters of substantial organisational risk or significant public importance, and where a conflict of interests prevents advice being provided in-house (see **Attachment C** Obtaining and providing legal advice policy and procedure; and **Attachment D** Activities of Corporate Legal and Litigation policy and procedure).
15. Also, in some cases, investigators from other government departments are seconded to the CCC to progress an investigation. While each case is assessed on its merits, often those investigators come from the Ethical Standards Units (ESUs) within the department under investigation. Embedding investigators into CCC multi-disciplinary teams ensures CCC investigations have specialist knowledge of the department's policies, practice and culture, and can sometimes address capacity issues in ESUs. It also exposes ESU investigators to the CCC's corruption investigative methodology, which, in turn, supports the devolution principle by building the capability of ESUs.
16. The following case studies demonstrate how multi-disciplinary teams operate in practice.
17. **Case study 1: Operation Turnover – tri-agency multi-disciplinary team**

Background

On 13 December 2016, the CCC received a notification of corrupt conduct involving members of the Queensland Fire and Emergency Services (QFES). The nature of the allegations related to procurement fraud and conflicts of interest. The CCC initially referred the criminal matters to the Queensland Police Service (QPS) and the discipline matters to QFES for investigation. These investigations were monitored by the CCC by way of a Merit and Compliance Review.

On 17 March 2017, following the receipt of additional information from QFES, the CCC determined it would assume responsibility of the investigation. The decision was based on early assessment the matter had a likelihood of criminal charges, disciplinary action and procedural recommendations. In addition, the CCC formed that view that, given the nature and seriousness of the alleged corruption, public confidence would likely be maximised by the CCC investigating the matter.

A decision was made to establish a tri-agency multi-disciplinary team to investigate the allegations.

Multi-disciplinary team

At the commencement of the investigation, the CCC assessed the nature of the investigation and determined the resources required. The multi-disciplinary team comprised:

- six dedicated investigators:

- two commission officers (one civilian investigator and one seconded police officer) (a third civilian investigator assisted in peak periods)
- two detectives seconded from the QPS: a Sergeant and a Senior Constable from the Fraud Squad who had carriage of the original investigation before the CCC assumed control of the investigation.
- two officers seconded from QFES: these officers were Principal Investigators (AO7) from the QFES Ethical Standards Unit and had specialist knowledge of QFES policies and procedures, and QFES witnesses;
- one intelligence analyst;
- one financial investigator; and
- one lawyer.

Administration resources and specialist resources from the physical surveillance team and technical surveillance team were used during the investigation, as required.

Powers

During the course of the investigation a wide range of powers were used by the multi-disciplinary team. This included:

- Criminal interviews pursuant to the *Police Powers and Responsibilities Act*;
- Investigative hearings pursuant to the *Crime and Corruption Act*;
- Search warrants pursuant to the *Crime and Corruption Act* and the *Police Powers and Responsibilities Act*;
- Notices to Discover pursuant to the *Crime and Corruption Act*.

The PPRA search warrant powers would not have been able to be used without seconded police officers.

External advice

Prior to the commencement of the charges, the Director of Public Prosecutions (DPP) was consulted in relation to secret commission and official corruption charges (DPP consent is required to charge secret commission under s.442B of the *Criminal Code*). The DPP indicated he would reconsider the appropriateness of the secret commission charge once the full brief of evidence had been provided.

The DPP ultimately supported the official corruption charge.

Result

On 31 May 2019, the principal offender, former QFES Inspector Steven Sparks, was sentenced to three years imprisonment to be suspended after serving six months after pleading guilty to four counts of official corruption involving procurement fraud.

18. Case study 2: John Webster – Wellers Hill State School

Background

On 2 January 2019, the CCC received a notification of corrupt conduct involving an employee of the Department of Education. The employee, John Webster was the principal of Wellers Hill State School. The nature of the allegations was John Webster had committed fraud in his role as the principal. On 18 January 2019, the Department advised that inquiries indicated that the conduct did not constitute corrupt conduct. On the 30 January 2019, the CCC assessed the matter and referred the matter to the Department of Education, with no outcome required.

Following a preliminary investigation, the Department of Education formed a view that the conduct was more complex and sustained, and requested a joint investigation between the CCC and the Department to effectively investigate the matter. The department requested the CCC provide the following specialist capabilities:

- Forensic financial analysis;
- Forensic computing analysis of phone and computer records;
- Investigative interviewing of witnesses who were reportedly intimidated by the subject officer; and
- Powers, including search warrant.

Multi-disciplinary team

At the commencement of the investigation, the CCC assessed the nature of the investigation and determined the resources required, taking into account the outcomes from the preliminary investigation and assistance sought from the Department of Education. The multi-disciplinary team comprised:

- six dedicated investigators:
 - two CCC investigators (one civilian investigator and one seconded police officer);
 - two investigators seconded from the Department of Education: an AO7 Senior Investigator and AO6 Investigator from the Ethical Standards Unit who had knowledge of the Department of Education's policies and procedures relevant to the matters under investigation;
- one CCC financial investigator; and
- one legal officer.

Administration resources, and specialist resources from the physical surveillance team and technical surveillance team were used during the investigation, as required.

Powers

During the investigation a wide range of powers were used by the multi-disciplinary team. This included:

- Criminal interviews pursuant to the *Police Powers and Responsibilities Act*;
- Search warrants pursuant to the *Crime and Corruption Act*; and
- Notices to Discover pursuant to the *Crime and Corruption Act*.

Result

John Webster was sentenced on 18 February 2022 in the Brisbane Magistrates Court. John Webster received a sentence of two and half year's imprisonment, wholly suspended for three years. He was ordered to pay restitution.

19. Case study 3: Operation Windage

Background

On 17 October 2016, acting on its own initiative based on intelligence holdings, the CCC commenced a corruption investigation – Operation Windage – into allegations of corrupt conduct involving the Mayor, Chief Executive Officer and Chief Operating Officer Works, Parks and Recreation of the Ipswich City Council. The investigation related to alleged criminal and corrupt activity, including corruption offences, attempting to pervert the course of justice, fraud, breach of bail, extortion and perjury.

Multi-disciplinary team

At the commencement of the investigation, the CCC assessed the nature of the investigation and determine the resources required. The multi-disciplinary team comprised:

- six dedicated CCC investigators (two civilian investigators (AO6) and four seconded police officers (one Senior Sergeant and four Sergeants)).
- four intelligence analysts;
- three financial investigators (the investigation was heavily focused on financial matters so required the allocation of multiple financial investigators); and
- two lawyers (the crossover of crime and corruption allegations required a lawyer from the crime and corruption divisions of the CCC).

Administration resources, and specialist resources from the physical surveillance team and technical surveillance team were used during the investigation, as required.

Two further police officers (Sergeants) from the QPS joined the multi-disciplinary team temporarily to supplement the investigative resources. This was due to the size of the investigation, not a need to source an additional specialised skillset.

Powers

During the course of the investigation a wide range of powers were used by the multi-disciplinary team. This included:

- Surveillance Device warrants *pursuant to the Police Powers and Responsibilities Act*
- Telephone Interception warrants pursuant to the *Telecommunications (Interception and Access) Act 1979*;
- Search warrants pursuant to the *Police Powers and Responsibilities Act*;
- Criminal interviews pursuant to the *Police Powers and Responsibilities Act*;
- Investigative hearings pursuant to the *Crime and Corruption Act*;
- Notices to Discover pursuant to the *Crime and Corruption Act*; and
- Notices to Produce pursuant to the *Crime and Corruption Act*.

The PPRA search warrant powers would not have been able to be used without seconded police officers.

External advice

Prior to the commencement of the charges, the Director of Public Prosecutions was consulted in relation to how the ODPP would resource the prosecution, were charges to be laid. No advice was sought on the charges themselves.

Result

The principal offender, Paul Pisasale, was sentenced to seven and half years imprisonment with parole after serving twenty seven months.

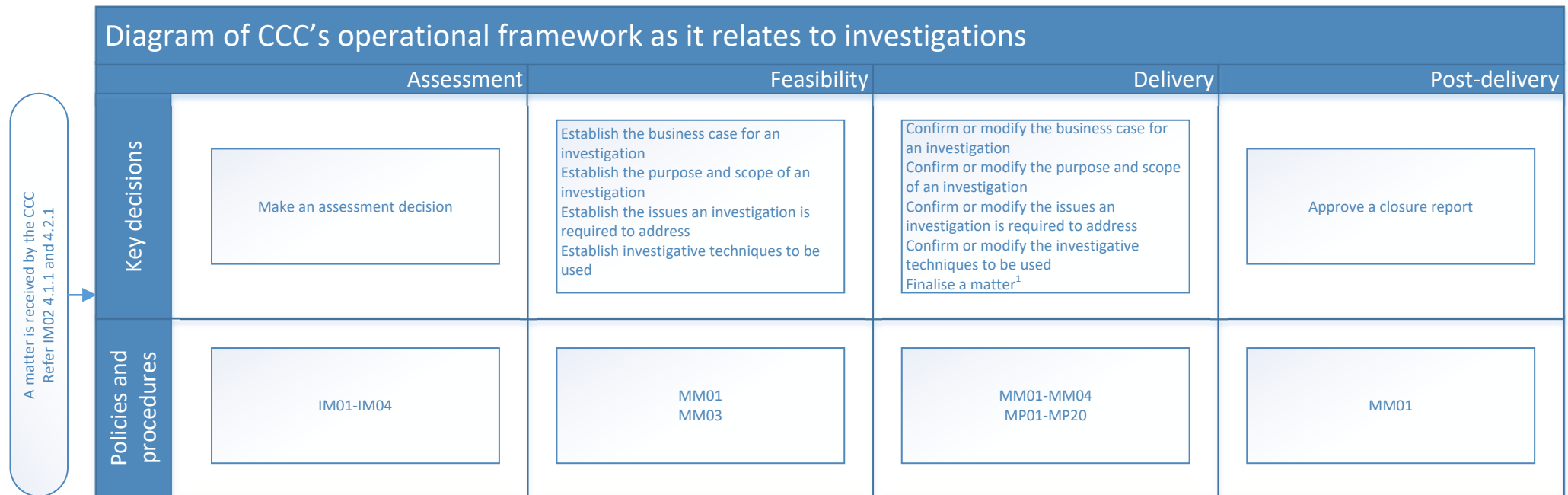
Please do not hesitate to contact me or the CCC's CEO should you have questions in relation to the submission.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Bruce Barbour
Acting Chairperson

encl.



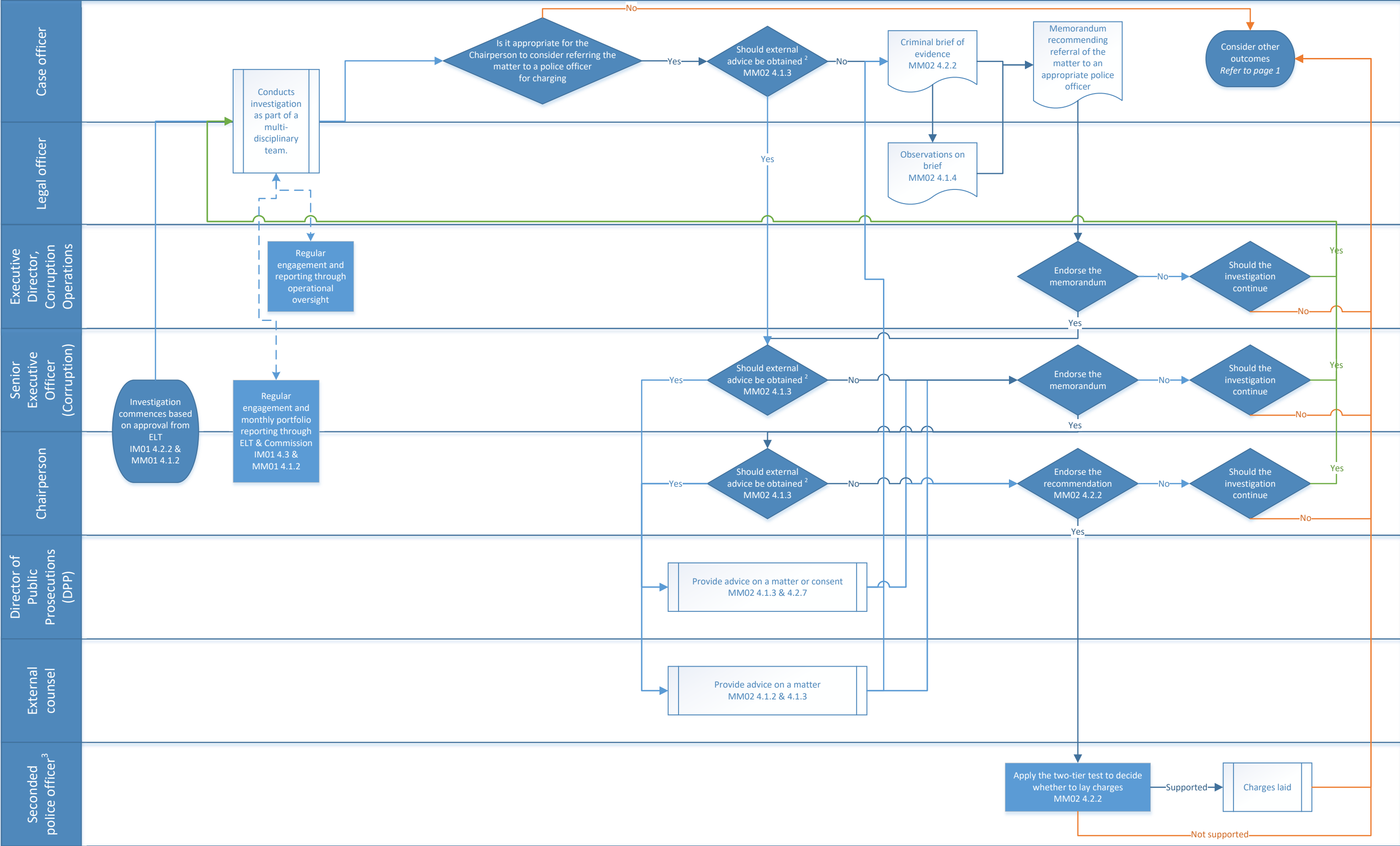
¹ The conduct of an investigation may produce one or more results, each of which are supported by written policies and procedures:

- No further action by the CCC
- Referral to a unit of public administration (UPA) of information that is relevant to the exercise of the UPA's functions, including for disciplinary action (IM04 and MM01)
- Dissemination of intelligence and information (MM04)
- An investigation report that may be the result of a public hearing, or a brief of evidence for referral to a prosecuting authority (MM02 and MM03)
- One or more persons being charged (MM02) – *Further detail provided on next page.*
- Corruption prevention recommendations (MM03)
- The restraint and forfeiture of property (MP20)
- A public report (MM03)

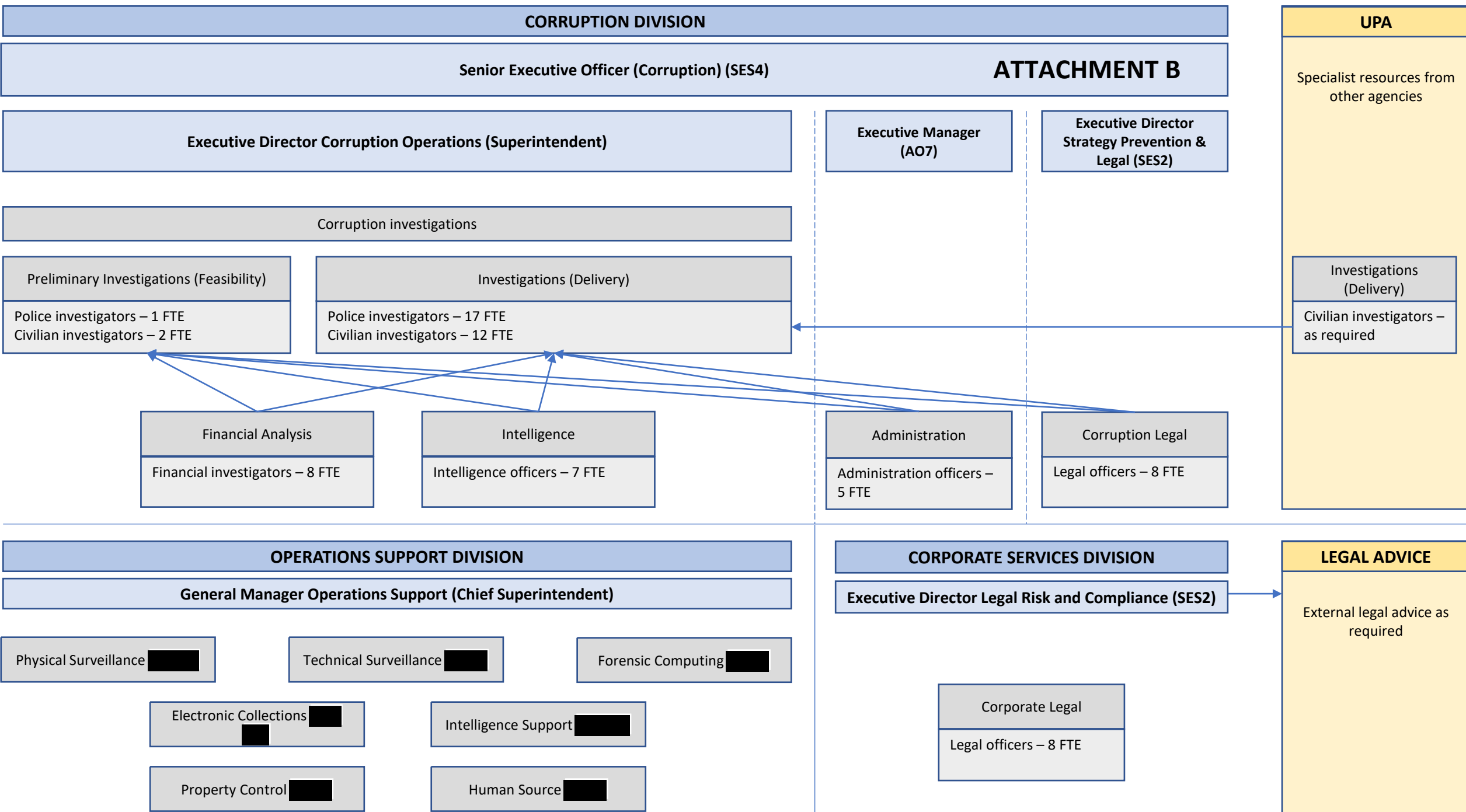
For a corruption investigation, an *Investigation Report - Corruption* should be completed providing a summary of the matter, including the allegations, the persons of interest, the investigative steps undertaken, a summary of the evidence obtained, the findings and conclusions and any recommendations (MM01).

Process flow for the decision to lay criminal charges on one or more persons as the result of a Corruption investigation

Delivery



² External advice can be sought at any point during the investigation
³ The seconded police officer may also be the case officer for the matter





Obtaining and providing legal advice

Objective

To outline the requirements for obtaining and providing legal advice in the CCC.

Application

This policy and procedure applies to all commission officers.

Relevant legislation

Crime and Corruption Act 2001

Police Powers and Responsibilities Act 2000

Witness Protection Act 2000

Human Rights Act 2019

Definitions

CCC	Crime and Corruption Commission
CL	Corporate Legal
Central legal teams	Corporate Legal and Litigation
Commission	The five Commissioners sitting as the Commission
Commission officer	As per schedule 2 of the <i>Crime and Corruption Act 2001</i>
PCCC	Parliamentary Crime and Corruption Committee
WPAC	Witness Protection Advisory Committee

Policy statement

The provision of timely, independent, constructive and balanced legal advice on issues relevant to the CCC is essential to ensure the CCC and its officers act in accordance with the law and the requirement under section 57 of the *Crime and Corruption Act 2001* to act independently, impartially and fairly, having regard to the purposes of the Act and the importance of protecting the public interest.

Lawyers are bound to act in the best interests of their client, be honest and courteous in their dealings, deliver legal services (including advice) competently, diligently and as promptly as reasonably possible, and to avoid any compromise to their integrity and professional independence. Lawyers are bound by ethical rules even where they do not hold a practising certificate. A key component of a lawyer's duty is to provide independent advice. Independence is central to the lawyer-client relationship, and to the question of whether legal professional privilege applies to legal advice provided pursuant to that

relationship. Lawyers whose roles involve legal and non-legal components need to actively turn their minds to the role they are undertaking when providing advice, and to ensure clear delineation between legal, and other kinds of advice. Privilege does not automatically attach to work because it has been performed by a lawyer. This policy is intended to provide guidance as to the circumstances in which legal advice may be sought and given, and by doing so, assist in clarifying the circumstances in which legal privilege will attach.

Legal officers will maintain the highest standard of diligence and professionalism when dealing with any requests for legal advice. They will strive to avoid delay, inefficiency and inaccuracy in the provision of legal advice. They will ensure that any advice provided will:

- analyse all relevant factual issues;
- analyse all relevant legal issues;
- present the strengths of any arguments or recommendations advanced;
- present the weaknesses of any arguments or recommendations advanced;
- give clear advice or recommendations, as required; and
- state that the advice is subject to legal professional privilege.

Remit of CCC lawyers

The CCC has centralised legal teams and lawyers embedded in operational areas.

Centralised lawyers

The CCC has two centralised legal teams - Corporate Legal and Litigation which both provide independent and professional legal advice and representation to the Commission, Chairperson, Chief Executive Officer, Executive Leadership Team, and other senior staff of the CCC. The lawyers in the centralised legal teams are responsible through the Executive Director, Legal, Risk & Compliance to the General Manager, Corporate Services.

Operational lawyers

The CCC has lawyers embedded in operational areas ('operational lawyers'), as part of the multidisciplinary teams model. The lawyers in Corruption are responsible through the Director, Corruption Legal and the Executive Director, Corruption Strategy, Prevention and Legal, to the Senior Executive Officer, Corruption. The lawyers in Crime are responsible through the Executive Director, Crime Hearings & Legal Services to the Senior Executive Officer, Crime.

The lawyers in each operational division are responsible for the provision of legal advice and assistance in regards to operational matters in relation to the activities of their division.

Procedure

Requesting and providing legal advices - Corporate Legal and Litigation

Requests for legal advices

Requests for legal advice can be informal or formal.

For Corporate Legal, the *Director, Corporate Legal* is the relevant director. For Litigation, the *Director, Litigation* is the relevant director.



Informal requests for legal advice

Definition

An informal request for legal advice is typically verbal (although may be in writing – such as by email, where advice forms part of the area's business as usual, such as advice on RTI issues) and applies to a matter which can be dealt with in a short period of time (either immediately or within half an hour) and where the issues are relatively simple and clear.

The management and provision of informal legal advice is to be executed in accordance with Annex A.

Formal Requests (written advice provided)

Definition

A formal request for advice is made in writing, specifying the request for legal advice in as much detail as possible.

The management and provision of formal legal advice is to be executed in accordance with Annex B.

Urgent Requests

Definition

Urgent requests are those requests received from a CCC officer where there is a genuinely urgent need to obtain legal advice. Matters that will be considered in assessing the urgency of a request for advice include—

- court or tribunal imposed deadlines;
- deadlines imposed by an external agency;
- operational exigencies.

Urgent requests are different from informal requests as they may relate to complex matters, or matters of substantial importance or risk, where a formal request for advice would ordinarily be required. Urgent advices may need to be obtained on the basis of incomplete information, where detailed research is unable to be undertaken, or where full consideration of the issues is otherwise not possible.

Any such limitations must be formally set out in the advice.

Requests for urgent advice are to be managed in accordance with Annex C.

Requesting and providing legal advices - Operational lawyers

Operational lawyers provide legal advice in a variety of areas related to the activities of their particular division. Most commonly this will involve 'transactional advice'. On other occasions operational lawyers may be asked to provide 'formal operational advice' in relation to operational matters.

Observations on a brief are not dealt with under this policy, and instead are dealt with in MM02.

Definitions

Generally 'transactional advice' is that which relates to the day-to-day conduct of an operation, or an assessment. It includes fact-specific advice during an assessment or pertain to routine matters arising during an investigation. Examples of transactional advice includes (but is not necessarily limited to)



jurisdictional questions (such as whether a matter satisfies the statutory criteria for investigation) or in relation to the exercise of powers (such as the sufficiency of evidence to obtain a covert warrant). It may also include preliminary advice about whether or not to refer a disciplinary matter to Litigation for advice on prospects.

‘Formal operational advice’ is where an operational lawyer is specifically tasked to provide advice on an issue of division-wide (or cross-divisional) operational significance. This can include jurisdictional questions (such as whether a particular entity is a unit of public administration), or the implications of legislative change or court decisions for operations (such as those relating to the use of coercive powers).

Management and provision of ‘transactional advice’ and ‘formal operational advice’

Transactional advice is to be dealt with on the same basis as ‘informal advice’ as per Annex A.

Formal operational advice is to be dealt with on the same basis as ‘formal advice’ as per Annex B.

For Crime operations, the *Executive Director, Crime Hearings & Legal* is the relevant director. For Corruption Operations, the *Executive Director, Corruption Strategy, Prevention & Legal* and the *Director, Corruption Legal* are relevant directors.

Formal operational advice of general significance

There may be circumstances in which a request for formal operational advice will raise questions of relevance across operational areas or the Commission as a whole.

In circumstances where the relevant director or executive director deems that a request for formal operational advice has cross-divisional, or Commission-wide relevance, the relevant director or executive director must consult with EDLRC to determine the relevance of the proposed advice across the Commission. If the EDLRC also deems that the advice has cross-divisional, or Commission-wide relevance the matter must:

- be referred to the EDLRC with an advanced draft of the proposed advice for endorsement or amendment as the case may be;
- not be promulgated without the approval of EDLRC.

External advice

In some cases it may be necessary to obtain legal advice from external solicitors or counsel. This may be determined having regard to:

- The nature, sensitivity, and complexity of the matter
- Issues in unfamiliar areas of law
- Matters of substantial organisational risk
- Matters of significant public importance
- Where a conflict of interests prevents advice being provided in-house.

In such cases, the engagement is to be undertaken as set out in the *Activities of Corporate Legal and Litigation policy and procedure*.

Any external legal advices are to be saved in the CM database, subject to the criteria set out above regarding confidentiality.

In some complex and sensitive cases external advice will be obtained as set out in MM02.



Advises database

Lawyers tasked with providing an advice are required to search the advice database to ascertain whether any previous advice has been given on an issue, in order to avoid duplication of work and ensure consistency of advice as appropriate.

Related documents

Activities of Corporate Legal and Litigation

Engaging External Counsel and Solicitors policy and procedure

Conducting Litigation on Behalf of the CCC policy and procedure

Review triggers

This policy and procedure will be reviewed three years from the date of approval, unless changes in legislation or government policy affecting its operation occur before the three year period has expired. This policy will remain in effect until updated, superseded or declared obsolete.

Metadata

Responsible officer:	Executive Director, Legal, Risk & Compliance	Accountable officer:	General Manager, Corporate Services
Date approved:	31 March 2022	Review date:	31 March 2025



Annex A

Management and provision of informal legal advice

Requests and intake

On receiving an informal advice request, the receiving legal officer should advise the relevant director of executive director (relevant director), who will confirm the matter is appropriate to be dealt with via this process. If the relevant director determines that the provision of the advice may take a longer period, or requires a view to be formed in respect of a more complex point of law, the receiving officer will be required to liaise with the client and obtain a formal request.

QCAT advice

Lawyers from Litigation may also be requested to provide advice in relation to disciplinary review prospects in QCAT proceedings. In such cases advice is generally provided by way of verbal advice in a conference with stakeholders from the relevant area. A decision is generally made, and instructions provided to proceed or not proceed with such a review, during that conference.

Quality assurance

The advice can be finalised by the lawyer tasked with providing the advice and is not required to be reviewed by the relevant Director. Should the requestor/recipient of the advice have questions about the advice provided, or seek further clarification, the responsible lawyer will advise the relevant director, who will consider whether the matter should be dealt with by a formal request.

Records

The lawyer allocated to the matter is required to make a short, written record of the advice sought and given by sending an email to the recipient of the advice providing a brief summary of the issue and the advice provided. The email is to be saved to the relevant CM container. If the advice deals with a matter of general importance, or may have some ongoing value, it should also be saved in the advices database.

Where QCAT prospects advice is provided verbally, the Litigation lawyer is required to record the matters discussed in the conference and send by email to the decision-makers providing instructions to confirm the advice provided and decision made. Any such record is to be saved either on a central file for such advices (where proceedings are not commenced) or on the litigation file for the matter where proceedings are commenced.



Annex B

Management and provision of formal legal advice

Requests and intake

Formal requests are required to be sent to the relevant director. If a formal request is made directly to a legal officer, that officer will forward a copy of the request for advice to the relevant director who will triage the matter and determine, in consultation with the client, an appropriate timeframe to finalise the advice. This timeframe will reflect the complexity of the matter, current capacity in the legal team, and other priorities.

Liaison with the client will be conducted through either the lawyer tasked with providing the advice or the relevant director as is appropriate in the circumstances. Liaison is critical to ensuring that the client is provided updates on the progress of the advice and to ensure that clarification or further information can be obtained where necessary. Such clarification or information must be provided in a timely and co-operative manner by the client and other commission officers identified as holding relevant information.

The lawyer is required to keep the relevant director informed as to the progress of the advice and any preliminary conclusions and recommendations. Should it become apparent that the subject-matter of the advice may be sensitive or expose the CCC to risk, the relevant director must be informed as soon as possible.

Quality assurance

Unless exceptional circumstances apply, the final written advice must be reviewed by the relevant director prior to promulgation. The relevant director is responsible for forwarding it to the requester directly or approving the lawyer allocated to the matter to do so. Pertaining to Corporate Legal and Litigation, the EDLRC may review the advice where:

- They have directly tasked the lawyer to provide the advice on a matter of particular confidentiality, legal novelty or strategic significance
- The relevant Director considers the matter requires review by the EDLRC (because of the strategic significance or potential impact of the advice)
- There is some divergence of opinion, or legal controversy which requires the EDLRC's consideration.

Records

A copy of the request for legal advice and legal advice provided, on an appropriate file. Where the matter is of broad application, involves a novel legal issue or is likely to have some enduring value (to be determined by the relevant Director), a copy of the advice will be saved onto the legal advice database in CM. Generally, advices on purely transactional matters are not required to be saved separately in the legal advices database. Advices in the CM database are generally accessible to CCC officers, subject to any need for strict confidentiality in respect of individual matters. Factors which may require maintenance of strict confidentiality include:

- the sensitivity of the issue or the subject matter
- where the advice involves protected information (such as witness protection or human source information, or covert warrant information which is not of a general nature)



- where the advice relates to the actions or activities of individual CCC officers
- where the advice relates to alleged activities of individuals who are not ultimately charged, or against whom action is not taken.

Where the advice requires maintenance of strict confidentiality, the advice will be recorded in the advice spreadsheet by reference to a general description of the legal issues to which the advice relates. Consideration should be given to whether the advice can be made generally accessible with sensitive information redacted, relevant portions of the advice which deal with the legal issues can be extracted and made accessible, or whether the advice should be made subject to access controls preventing access. Access restriction decisions are to be made by the EDLRC considering the recommendations of the relevant Director if appropriate.

Requests for access to restricted advices, including any conditions for such access, may be made by the relevant Director or EDLRC depending on the sensitivity of the matter, and the need for the requestor to access the advice. In some cases it may be more appropriate for the relevant Director or EDLRC to provide a summary of the advice, or to provide an advice for the requestor's purpose which considers the matters set out in the restricted advice.



Annex C

Management and provision of request for urgent legal advice

Requests and intake

All urgent requests are to be directed to the relevant director to allow a proper assessment of the urgency and re-prioritisation of existing commitments to facilitate provision of the advice.

Where practicable, the requesting officer will submit the request in writing at the time of requesting. If this is not feasible, a written request should be completed at the earliest opportunity thereafter.

The lawyer tasked with providing the advice should contact the requestor directly to negotiate time frames and to seek clarification or further information to assist with the provision of the advice. Such clarification or information should be provided in a timely and co-operative manner by the requestor or other commission officer identified as holding relevant information.

The lawyer is required to keep the relevant Director informed as to the progress of the advice and any preliminary conclusions and recommendations. Should it become apparent that the subject-matter of the advice may be sensitive or expose the CCC to controversy, the EDLRC must be informed as soon as possible.

Quality assurance

The final written advice must be reviewed by the relevant director who will be responsible for forwarding it to the requestor directly or approving the lawyer to do so. As noted above, any limitations on the advice arising by reason of the urgency (such as to assumptions, unavailability of full information, or a lack of detailed research) must be set out on the face of the advice.





Activities of Corporate Legal and Litigation policy and procedure

Objective

The purpose of this policy and procedure is to establish an effective approach for the services provided by the Corporate Legal and Litigation teams.

Applications

This policy and procedure deals primarily with the central legal teams, but the policy as a whole applies to all commission officers.

Relevant legislation

Crime and Corruption Act 2001

Police Powers and Responsibilities Act 2000

Witness Protection Act 2000

Human Rights Act 2019

Definitions

CCC	Crime and Corruption Commission
Central legal teams	Corporate Legal and Litigation
Commission	The five Commissioners sitting as the Commission
Commission officer	As per schedule 2 of the <i>Crime and Corruption Act 2001</i>
PCCC	Parliamentary Crime and Corruption Committee
WPAC	Witness Protection Advisory Committee

Policy statement

The CCC's centralised legal function provides independent and professional legal advice and representation to the Commission, Chairperson, Chief Executive Officer, Executive Leadership Team, and other officers of the CCC. This advice and representation plays a central role in mitigating legal risks in order to promote and protect the CCC's position and interests.

The provision of timely, independent, constructive and balanced legal advice on issues relevant to the CCC is essential to ensure the Commission and its officers act in accordance with the law and the requirement under section 57 of the *Crime and Corruption Act 2001* to act independently, impartially

and fairly, having regard to the purposes of the Act and the importance of protecting the public interest.

Similarly, when prosecuting or defending actions or applications in any court or tribunal the CCC is required to conduct itself according to the law and its obligations under the *Crime and Corruption Act 2001*. To that end, the CCC conducts itself in accordance with model litigant principles.

Legal advice provided by these teams will generally attract legal professional privilege.

Remit of centralised legal function

As a general rule, the central legal teams are responsible for providing advice at a strategic, or organisational level, or in relation to non-operational matters. Operational advice is generally to be provided by lawyers in the operational divisions. However, the central legal teams may provide advice in relation to operational matters where:

- They present significant strategic risk for the CCC
- They involve novel questions of law or give rise to issues of organisation-wide significance
- There is a conflict of interest which prevents advice being given in an operational area
- There is some other operational feature which requires advice or assistance being provided by lawyers independent of the operational area (such as LPP reviews)
- The issue in question is of relevance to the Commission generally.

When required, central lawyers, may preside at, or act as counsel assisting at, CCC hearings (subject to appropriate authorisation under s178). If this occurs, the officers should consider the potential implications for a conflict of interest arising in relation to any subsequent requests for advice, or in litigation, arising from the operation.

Structure and responsibilities

The central legal function is managed by the Executive Director, Legal, Risk & Compliance (EDLRC). The function operates independently but is administratively accountable to the General Manager, Corporate Services through the EDLRC.

The function comprises two teams – Corporate Legal and Litigation . These teams are managed by the Director, Corporate Legal and Director, Litigation respectively.

While the teams have particular responsibilities and functions of specific to that team, it is intended that members of each team may undertake some work ordinarily undertaken by the other team on a case-by-case basis, and as agreed between the EDLRC and the Directors.

Such ‘crossover’ work may be done where:

- Operational demands and workload require it
- It is necessary or desirable to build capabilities and skills within the team or for particular lawyers
- A conflict of interests makes it more appropriate for a piece of work to be undertaken by the other team
- There is some overlap between issues for general advice and a litigation matter.

Corporate Legal

The types of legal services provided by the lawyers of the Corporate Legal team may include:



- Advising generally in relation to the CCC's activities, functions and governance.
- Implementing controls to achieve legislative compliance across the CCC (developing and reviewing policies and procedures; reviewing, drafting new, and amending existing, forms, instruments and precedents; compliance inspection, monitoring and assurance; LPP reviews)
- Preparing submissions on behalf of the CCC on legislative amendments and law reform issues.
- Developing and reviewing contractual and other arrangements involving the CCC.
- Assisting with other CCC legal proceedings (eg internal CCC hearings; conducting and co-ordinating the Commission's representation in legal proceedings).
- Assessing compatibility of CCC policies and procedures, decisions and actions with human rights under the *Human Rights Act 2019*.
- Providing legal advice in relation to RTI/information privacy access matters.
- Responding to requests for CCC information pursuant to section 60 of the *Crime and Corruption Act 2001* which do not fall within the primary responsibility of another identified business area
- Establishing CCC legal practice standards and processes, developing legal capability and generating and capturing legal knowledge
- Sourcing external legal advice from external solicitors and/or counsel where necessary due to reasons of capacity, complexity or expertise

Litigation

Litigation involving the CCC is managed through the Litigation team (Litigation) (see *Policy & Procedure: Conducting Litigation on behalf of the CCC*), save those cases where, as part of a crime or corruption investigation, it is necessary to make an application to a court or other body for the purposes of furthering the investigation. However, in the latter case, Litigation may appear on such applications, or brief counsel or solicitors, if appropriate.

The Director, Litigation has primary responsibility for responding to requests for access to CCC material as a result of the issue of process in litigation matters (where the CCC is not a party). Where the CCC is a party to litigation and is requested, or has a legal obligation, to provide access to CCC material, such access will be dealt with according to law.

Litigation responds to requests for access to CCC material, except for requests made pursuant to the *Right to Information Act 2009* or *Information Privacy Act 2009*, which are processed by the Risk & Compliance team (see *Policy and Procedure: Policy: Right to Information*).

Additionally, Litigation is responsible for conducting matters in the Queensland Civil and Administrative Tribunal (QCAT), whether in its review, original or appellate jurisdiction.

The Director, Litigation is a member of the Witness Protection Advisory Committee (WPAC) and has the primary responsibility for providing advice to the Chairperson in respect of Witness Protection matters, but may delegate to another lawyer if appropriate (consistent with the guidance below regarding requests for advice).

The *Policy & Procedure: Conducting Litigation on behalf of the CCC* outlines how litigation is to be conducted on behalf of the CCC. The CCC acts as a model litigant in its conduct of litigation.

The Telecommunications Interception compliance function is also housed within the Litigation team, and reports through the Director, Litigation. The activities of this area are generally set out in MP16, but may be supplemented with additional compliance activities (such as inspections of warrant files)



where the need arises. The TI compliance function also provides expert, specialist advice on TI-related matters to the CCC generally, and is responsible for compliance reporting and inspection, including liaison with external agencies.

Procedure

Matter management

Matters are to be recorded through the Matter Management System ('MMS'). Corporate Legal and Litigation each maintain a system which records information about matters dealt with within that team. It is the responsibility of the lawyer with carriage of the file, including with the assistance of the team's administrative support officer, to ensure that new matters are captured in the MMS and that matters are regularly updated.

Where a lawyer from Corporate Legal has carriage of a Litigation matter, or vice versa, it is their responsibility to ensure that their matter is updated appropriately in the MMS for that area.

Matters are generally to be updated where a new event occurs in relation to a matter (such as a hearing date, provision of preliminary or final advice, or deadline for filing submissions), but must at least be updated at each corporate reporting cycle.

Each team's MMS must contain sufficient information to enable accurate reporting of the number of active matters at a given point-in-time.

Where a matter is to be finalised, the final status report must confirm the outcome of the matter, and record any decision regarding whether to appeal (in litigation matters) or further actions not completed at the closing of the file (such as where ongoing monitoring is required, or where actions are recommended to another business unit).

Commission Officer Responsibilities

Where the Corporate Legal or Litigation team is providing advice or representation to a business unit within the CCC, it is the responsibility of the relevant business unit to:

- Provide instructions through the relevant ELT member or an appropriate delegate
- Provide all necessary assistance, including collation of documents, obtaining statements and other evidence, providing information and materials where possible
- Provide instructions and material in a timely manner and as required to ensure the efficient and effective conduct of the advice or representation
- In some cases, provide administrative support by way of compilation of briefs of evidence, service of process, etc
- Provide complete briefing materials required to provide the advice or conduct the litigation

Provision of legal advices

Requests for legal advice are to be dealt with in accordance with the *Obtaining legal advice policy & procedure*.



Briefing External Counsel

In certain circumstances it may be appropriate to brief external counsel to provide legal advice. See *MM02 – Matter briefs* at s4.1.2 for a summary of the considerations which are to be taken into account in determining whether external solicitors or counsel are to be engaged in relation to a litigation matter arising from a CCC investigation. These same considerations apply generally to the decision as to whether or when to engage external legal representation for other matters.

Considerations for selecting an external counsel or solicitor

If the Commission officer considers that a particular case meets the requirements as set out in section 4.1.2 MM02 - Matter Briefs, the officer may then nominate an appropriate external counsel or solicitor to provide their services having regard to—

- relevant experience and seniority;
- competence;
- proven ability in the relevant area of practice;
- availability;
- potential for conflict of interest; and
- cost to the CCC.

Commission Officer responsibilities

Where the issues identified in section 4.1.2 MM02- Matter briefs have been considered and taking into account all of these factors, it is considered that external counsel or solicitors should be engaged, an 'Engagement of External Counsel or Solicitors' form must be completed by the commission officer responsible for the brief to counsel. This form is located in the 'CCC Templates' section in Microsoft Word.

The commission officer must complete all sections of page 1 of the 'Engagement of External Counsel or Solicitors' form. If the form does not permit sufficient detail, then the officer should prepare a detailed memorandum setting out the circumstances giving rise to the need to engage counsel or solicitors, the reasons a particular counsel or solicitors are sought and any proposed costs likely.

This form or memorandum must then be certified by one of the following persons:

- the Chairperson;
- the Senior Executive Officer (Crime);
- the Executive Director, Crime Hearings & Legal;
- the Executive Director Corruption Strategy, Prevention and Legal;
- the Executive Director Integrity Services;
- the Chief Executive Officer;
- the Senior Executive Officer (Corruption);
- the Executive Director, Legal, Risk & Compliance;
- the Director, Corporate Legal;



- the Director Litigation;
- the General Manager Corporate Services;
- the General Manager Operations Support.

Certification of this form confirms agreement that the matter requires the services of an external counsel or solicitor taking into account the considerations listed in section 4.1.2 MM02 - Matter briefs. Certification of this form does not denote expenditure approval.

The completed 'Engagement of External Counsel or Solicitors' form must be forwarded to the EDLRC. The Assistant to the EDLRC maintains current records to accurately process the accounts. The forms **must** be completed at the time the brief is provided to the external barrister or solicitor.

Responsibilities of central legal team

It is the responsibility of the relevant Director —

- where the Commission officer has nominated a preferred external counsel or solicitor, and in consultation with the EDLRC, to assess their suitability, taking into consideration the circumstances of the particular case and the issues identified in section 4.1.2 MM02- Matter briefs;
- where no preference for external counsel or solicitors has been given by the Commission officer, to identify suitable external counsel or solicitors after consultation with the EDLRC and taking into consideration the circumstances of the particular case and the issues identified in section 4.1.2 MM02- Matter briefs;
- advise the Security Manager and arrange security vetting in respect of external counsel or solicitors (with their consent) (See Personnel Security Policy & Procedure) where:
 - work is to be performed on CCC premises
 - the work to be undertaken is of particular sensitivity, and the CCC does not have sufficient information to enable an assessment to be made of the counsel or solicitors' appropriateness to receive sensitive information (that assessment is to be made by the EDLRC in consultation with the officer providing instructions)
- subject to a satisfactory security clearance being provided for the selected external counsel or solicitors (if required), undertake the necessary arrangements to engage the counsel or solicitors;
- to negotiate a fee with external counsel or solicitors prior to the procurement of services where possible or, where counsel must be fully briefed before an assessment of fees can be made, as soon as possible after external counsel or solicitors have been fully briefed;
- to seek from the external counsel or solicitor engaged, their costs agreement, as is required by the Legal Profession Act 2007, and to forward this information to Finance;
- to ensure the fees payable to external counsel or solicitors are within the expenditure authority of the CEO, EDLRC or the relevant Director (to determine who must approve payments).

Administrative and Financial Responsibilities of central legal

The EDLRC, or the relevant Director must—

- complete page 2 of the 'Engagement of External Counsel or Solicitors' form (or page 1 and 2 if self-generated);
- provide the original completed 'Engagement of External Counsel or Solicitors' form or memorandum to the Assistant to the EDLRC in order for it to be placed on the relevant file;



- Ensure that the Assistant to the EDLRC enters the details of the engagement into the Legal Fees Register, including the details of the lawyers engaged, the fee estimate, and entry of any invoices
- provide invoices to the Assistant to the EDLRC for compiling and processing and recording in the Legal Fees Register; and
- approve invoices where appropriate and within financial delegation.

Financial management of engagements

Recognising that an initial fee estimate may not represent the full scope of work on a matter, the following arrangements are to ensure that engagements are appropriately managed, including ensuring that all payments to external solicitor and counsel are within the relevant financial delegations:

- 1) For the purposes of financial delegations, the delegation is for the total legal fees paid to external lawyers for a given matter. If junior and senior counsel are engaged on a matter, the delegation limit is for the total fees paid to both counsel (or all counsel where there are multiple barristers engaged).
- 2) Individual matters may be separated by court stages. For example, a first instance matter and an appeal are discrete proceedings, and thus are treated as separate expenditures.
- 3) Where counsel's fee estimate at the commencement of a matter exceeds the financial delegation of the approving officer (the ED, Legal, Risk & Compliance, or the Director) the matter is to be escalated to officer with the appropriate financial delegation (the General Manager, Corporate Services or the Chief Executive Officer as appropriate) for expenditure approval.
- 4) Where a revised fee estimate is provided which takes the matter outside the approver's financial delegation, that is to be escalated to an officer with the requisite delegation.
- 5) The administration officer is to maintain a 'running total' for each matter through the Legal Fees Register to identify where:
 - a. The aggregation of fees in a matter is approaching, or will exceed, the approver's financial delegation, so that the matter can be escalated to an appropriate delegate;
 - b. A revised fee estimate can be sought where the fees are likely to exceed the estimated amount (subject to consultation with the relevant Executive Director or Director)
- 6) Where counsel are sought to be engaged at a rate above the whole-of-government rates, approval on such a basis is to be given by the Chief Executive Officer in the first instance, or the chairperson is a conflict prevents the CEO from approving.

Advice capture

The relevant team will retain a copy of any advice provided by counsel on the associated file. The advice will additionally be saved onto the legal advice database in CM, subject to any need for strict confidentiality in respect of individual matters.

Legal Professional Privilege reviews

From time-to-time an investigation will involve questions of Legal Professional Privilege (LPP). This may arise where evidence is seized pursuant to a search warrant or other compulsory process, or where



communications are captured through surveillance (whether surveillance devices or telecommunications interception) which may involve legally privileged communications.

Lawyers from the central legal teams may be requested to undertake reviews of communications or documents to give advice as to whether LPP applies. Operational lawyers from the division not conducting the investigation (ie Crime lawyers for a Corruption investigation and vice versa) may also undertake such LPP reviews. As a general rule, LPP reviews for a particular operation will be confined to a single team to reduce the risk of conflicts of interest in relation to other legal advice or litigation which may arise. However, that may depend on the volume of LPP material requiring review.

Consultation should occur with the EDLRC and Directors if any operation proposes to undertake surveillance activity which will require LPP review.

Where an LPP review relates to surveillance (whether ESD or TI), the lawyers are to conduct the reviews consistently with the current LPP review guideline (Annexure 1).

Where an LPP review relates to documents or other things seized pursuant to a search warrant, such a process may only be undertaken where:

- A court has ordered that it be undertaken; or
- The holder of the privilege has expressly agreed to allow a lawyer (or lawyers) from the CCC independent of the operation to undertake the review

In such cases, the review is to be undertaken in strict compliance with the terms of the court order, or the agreement with the holder of the privilege. Any agreement with the privilege holder should be reduced to writing, and should be viewed by the lawyer undertaking the review before the review is undertaken.

In any case where an LPP review is undertaken, the lawyer undertaking the review is to maintain strict confidentiality in relation to the content of the reviewed material where LPP attaches, and under no circumstances is to disclose privileged information to any person within that division, or within that operational decision-making hierarchy.

Legal compliance activity

The central legal teams are responsible for establishing practises and processes to achieve quality, consistency and efficiency across the CCC.

The EDLRC is responsible for the coordination of certain annual compliance reports under the CC Act and PPRA. In coordinating those reports the EDLRC may seek the assistance of officers from the central legal teams to provide information, or undertake assurance activities to ensure the accuracy of the reported data.

Corporate Legal is responsible for undertaking legal compliance inspections where a need has been identified. This may arise out of external or internal identification of compliance issues, or where such inspections are required under a policy.

The central legal teams are responsible for proactively identifying compliance issues when tasked with providing advice, or during the conduct of litigation matters. Where such issues are identified the responsible lawyer should raise the matter with their Director who will consider whether the matter needs to be raised with the work area and/or the Executive Director, Legal, Risk and Compliance.

Where operational areas identify legal compliance issues (such as non-compliance with conditions under a warrant, or a breach of an internal process) the responsible lawyer should notify their SEO



through their reporting hierarchy. In addition to considering any possible notification of suspected improper conduct, the relevant managing lawyer (the Director, Corruption Legal or Executive Director, Crime Hearings & Legal Services) must consider whether the non-compliance involves a systemic issue, or presents a significant risk to the CCC, which may require an organisational response. In such cases the relevant managing lawyer must notify the EDLRC.

The Chief Executive Officer may also identify, in the course of dealing with a notification of suspected improper conduct, compliance issues which may require consideration of a policy response.

Where such legal compliance issues are identified, EDLRC or Corporate Legal will engage with the relevant area to consider and advise on any remedial action which may be warranted to avoid future actual or potential non-compliance, including policy changes, routine inspections, or amendment or creation of instruments.

Forms and Precedents

Corporate Legal is responsible for reviewing instruments (such as delegations and authorisations), forms and precedents for use by commission officers under the *Crime and Corruption Act 2001*, the *Police Powers and Responsibilities Act 2000* and the *Witness Protection Act 2000* where those forms are of CCC-wide application. Forms which are specific to a particular division or work area, or which do not require legal advice or input, may be changed or created by that work area.

Where a CCC officer is of the view that changes need to be made to an existing instrument or form or a new form of CCC-wide application needs to be created, they should notify the EDLRC. The EDLRC will allocate the task to an appropriate lawyer. Amendments to forms and precedents are to be approved by the Executive Director, Legal, Risk & Compliance.

The tasked Corporate Legal officer is responsible for liaising with the relevant work area (generally Risk & Compliance) to ensure that changes to the forms are made or that new forms are added to the system before advising relevant users of alterations or the availability of new forms.

TI Compliance

Compliance with the legislative and policy requirements related to telecommunications interception and telecommunications data is managed by the TI team within Litigation. The processes and requirements for TI compliance are generally set out in MP16.

However, where circumstances warrant it (including in identified cases of apparent systemic compliance issues) temporary arrangements such as compliance inspections may also be put in place until a level of compliance assurance can be achieved.

Legal policy and law reform

The CCC is regularly engaged in consultation on matters of legal policy and law reform. In general, this happens in one of three ways:

1. Where the CCC identifies a deficiency or gap in existing legislation (whether through operational processes, or as the consequence of litigation or legal advice), it may engage with the relevant Government agency (generally DJAG) to actively seek law reform;
2. Where legislation is proposed, either by an external agency, or by Government, the CCC may be directly consulted to seek its input. This generally occurs either where the legislation may intersect with the CCC's functions or activities;



3. Where, through subscriptions to various mailing lists (such as parliamentary committees, ALRC, QLRC, Sentencing Advisory Council, etc) the CCC becomes aware of law reform issues or inquiries which relate to the CCC's functions or activities, but about which it has not been directly consulted, the CCC may seek to make a submission.

Where the law reform issue is confined to a particular division (but especially operational divisions) that area may choose to engage directly with the relevant entity to seek the proposed reform. In such cases, the SEO or other nominated officer should advise the EDLRC to ensure consistency with any other law reform submissions.

In all other cases, requests for consultation will come in the first instance to the EDLRC, who will then consider the most appropriate area to prepare any submission. Law reform submissions of general application to the CCC will generally be prepared through Corporate Legal. However if a law reform issue has particular impact on another functional area, or overlaps with other work undertaken, or to be undertaken, by that area, it may be agreed that the other area will coordinate the response.

Where Corporate Legal is coordinating a response on a law reform issue, other areas must provide support as necessary to facilitate timely preparation of the submission. (That will include providing review, feedback, and instructions from the relevant ELT member/s, but may also include providing information and resourcing in appropriate cases.)

Contracts

Corporate Legal may provide advice in relation to contracts, deeds, memoranda of understanding or other agreements entered into, or to be entered into, by the CCC. This may include advice on employment contracts and employment matters.

Corporate Legal may provide such advice where requested by the relevant business area.

Corporate Legal should be consulted on contracts where the matter involves a significant procurement (as set out in the *Procurement policy*. Advice *may* be sought from Corporate Legal in relation to any contract.

Under the *Contract Management Procedure* legal advice should be obtained (through Corporate Legal in the first instance) if there is an issue with performance under the contract.

In appropriate matters (consistent with the considerations above regarding engaging external legal assistance) it may be appropriate to engage external solicitors and/or counsel to advise on contractual matters. Any such advice will be managed through Corporate Legal.

Involvement in other legal activities

Where approved by the EDLRC, Corporate Legal and Litigation officers may assist with other CCC legal matters (eg internal CCC hearings; conducting and co-ordinating the Commission's representation in legal proceedings). At all times the importance of maintaining independence and impartiality, and the potential for conflicts of interest in such matters should be borne in mind.

Witness Protection Advisory Committee

The Director, Litigation is a member of the WPAC, which makes recommendations to the Chairperson regarding the admission of persons to the Witness Protection Program and associated matters.



The EDLRC, Director, Litigation or their delegate is required to attend all meetings of the WPAC or ensure that a delegate (who must be at least at the level of Principal Lawyer) attends and is briefed with relevant information.

Access to CCC Material (Section 60 of the Crime and Corruption Act 2001 (Qld) and requests where the CCC is not a party to litigation)

Corporate Legal is ordinarily required to deal with requests for access to information other than through litigation processes and disclosure, or RTI/IP matters, where the request does not appropriately fall within another division of the CCC (see MM04).

Corporate Legal may also provide advice on RTI/IP matters. This advice is to be recorded consistently with the *Obtaining Legal Advice* policy and procedure.

Human Rights Assessments

Corporate Legal is responsible for undertaking Human Rights Compatibility Assessments (HRCAs) under the *Human Rights Act 2001*. These are assessments of CCC policies and procedures to ensure that they are compliant with the *Human Rights Act*.

Corporate Legal is also responsible for providing advice to business units more generally as to the compatibility of CCC actions and decisions with human rights obligations under that Act.

Legal practice standards

The central legal teams have primary responsibility for establishing practices and processes to achieve quality, consistency and efficiency across the CCC. Where those practices, processes and standards have application beyond the central legal teams, the EDLRC and Directors are to engage with operational areas to ensure those matters are applicable to the operational environment.

The EDLRC and Directors may be consulted about proposed changes to legal practices and standards in operational areas, to identify opportunities for whole-of-CCC improvement, and efficiencies of scale.

Conflicts of interests and ‘Chinese walls’

Consistently with the *Code of Conduct* and the *Conflicts of interest and other disclosures policy and procedure* (‘the conflicts policy’) conflicts of interest are to be carefully managed. Conflicts which may give rise to the perception that the lawyer or team involved may not be able to act independently, impartially or fairly, or give sufficiently detached legal advice or assistance, are to be scrupulously avoided.

Conflicts of interest should be identified, disclosed and managed in accordance with the conflicts policy.

Particular consideration should be given to the possibility or appearance of a conflict where a lawyer in a central legal team has had some involvement in an operational matter. This may arise because a lawyer has moved from an operational area to a central legal team, or because a lawyer has provided independent support to an operation (such as undertaking LPP reviews of surveillance or other evidence). In all such cases, the nature of the involvement and the potential consequences, as well as any strategies implemented to manage the conflict must be fully documented.



Where a potential conflict arises, management may require that knowledge of a particular matter be confined to specific lawyers within the team, or particular lawyers are 'quarantined' from information about a matter. Restricted access arrangements may be put in place within CM folders.

In appropriate cases a 'Chinese wall' may be implemented between Corporate Legal and Litigation. Where this is done, information is not to be shared between those teams.

Lawyers acting as presiding officers or counsel assisting in hearings, and lawyers undertaking LPP reviews in operations, present an appreciable risk of a conflict of interest arising, should the matter result in litigation or require advice from Corporate Legal. To reduce the risk that such conflicts will prevent the giving of advice, operations should avoid utilising lawyers from both Corporate Legal and Litigation for operational activities. In this way conflicts may be managed through the use of Chinese walls.

Knowledge capture and professional development

Advice Database

All advices provided by the central legal teams or received from external counsel will be held in the advices database in Content Manager (subject to confidentiality requirements). The following information is required to be entered:

- Author
- Date
- Subject matter
- Statutory provisions considered (if applicable)

Legal advices of broad significance produced by operational areas should be provided by the relevant manager to the EDLRC for inclusion in the CCC's advices database (as set out in the *Obtaining Legal Advices policy and procedure*).

Access to advices within the database may be restricted depending on the nature or sensitivity of the advice. The EDLRC, relevant Director, or Senior Executive Officer or Executive Director from operational areas is responsible for considering and implementing access restrictions to particular advices.

Post-matter assessment and knowledge capture

At the conclusion of a significant advice or litigation matter, the relevant team members (generally the file-holder and the relevant Director, but also any other lawyer who was substantially involved in the matter), are to conduct a review upon concluding the matter and closing the file. The results of this review are to be documented, and are to include:

- A summary of any legal issues of particular importance or novelty considered or resolved
- An assessment of lessons learned, including what was done well and what could be improved in future matters (including any process improvements, either within the centralised legal teams, or in other areas)
- Any artefacts of future value, which are to be captured in the relevant CM container, including:



- Precedent forms or templates
- Submissions
- Advices
- Decisions
- Any opportunities for continuing legal education or other organisational training (see below)

Professional development and continuing legal education

The EDLRC is responsible for coordinating the provision of information and training to lawyers and other commission officers in relation to legal issues affecting the CCC. This may take a number of forms including—

- presentation of papers;
- legal newsletters;
- information about relevant external conferences; and
- arranging guest speakers.

Related documents

Engaging External Counsel and Solicitors policy and procedure

Conducting Litigation on Behalf of the CCC policy and procedure

Obtaining and Providing Legal Advice policy and procedure

Procurement policy

Review triggers

This policy and procedure will be reviewed three years from the date of approval, unless changes in legislation or government policy affecting its operation occur before the three year period has expired. This policy will remain in effect until updated, superseded or declared obsolete.

Metadata

Responsible officer:	Executive Director, Legal, Risk & Compliance	Accountable officer:	General Manager, Corporate Services
Date approved:	7 March 2022	Review date:	7 March 2025
eDRMS reference:	21/083908	Human rights compatibility review eDRMS reference:	
Category:	Operational	Keywords:	Legal, Legal Advice, Litigation, Human Rights



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Our Reference 22/061449
Contact Officer: Jen O'Farrell

SENSITIVE

20 April 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners,

RE: Request for additional information Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry)

I refer to your correspondence dated 12 April 2022, in which you have requested additional information to supplement information provided by the Crime and Corruption Commission (CCC), and our response of 19 April 2022 which indicated that information relevant to your request would be provided today.

The information relates to the following questions:

In relation to the use of multi-disciplinary teams in CCC investigations, what are the typical sets of skills involved or possessed by members of the multi-disciplinary teams tasked with corruption investigations. Do these teams typically involve a legal officer? What are the levels, seniority and experience of the various members of the teams including police officers and non-police officers?

Are the multi-disciplinary teams in corruption investigations all of the 'Corruption Operations Teams' detailed in the organisational structure at pages 14-19 of Attachment A? If the answer to this question is 'No', how many members of the Corruption Operations Teams can, and typically are, allocated to a multi-disciplinary investigation team? How many civilian investigators from outside the Corruption Operations Teams are allocated to investigation teams? Finally, how long has each

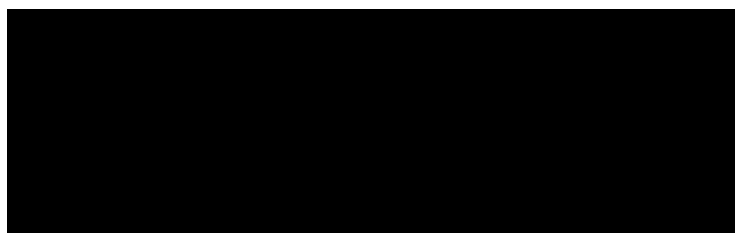
member of the Corruption Operations Teams been seconded to the CCC and been part of the Corruption Operations Team of which they are presently a member?

1. The levels, seniority, key relevant experience and duration of time at the CCC of commission officers currently involved in the corruption multi-disciplinary teams is outlined in **Attachment A**.
2. The CCC has sought to confirm this information directly with commission officers but, due to operational requirements and scheduled leave, has been unable to confirm the qualifications and date attained, of all commission officers in corruption operations.
3. This information supplements the information provided in the CCC's response dated 19 April 2022.

The CCC wishes to maintain confidentiality over Attachment A on the basis that it contains the private information of Commission officers.

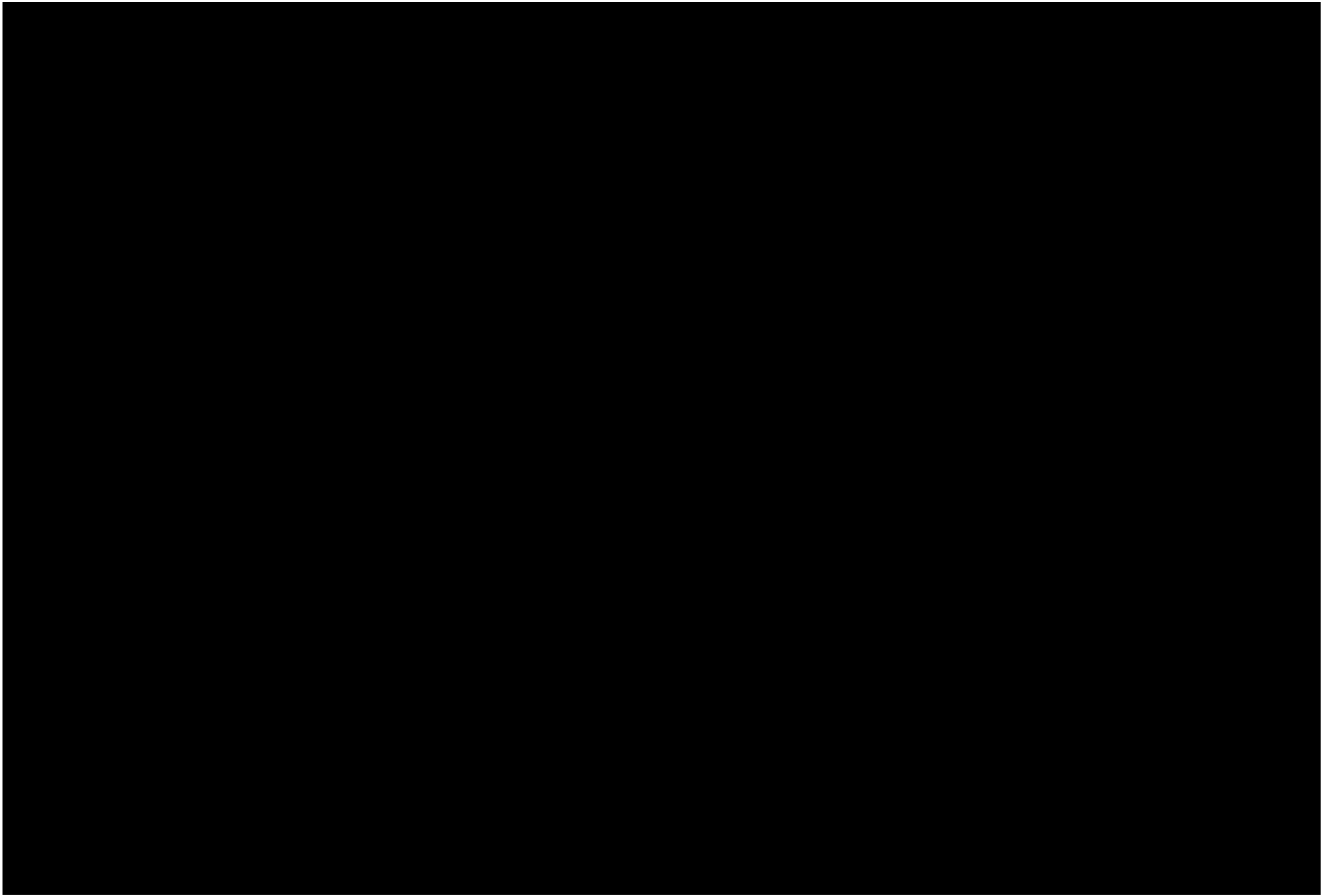
Please do not hesitate to contact me or the CCC's CEO should have you have questions in relation to the submission.

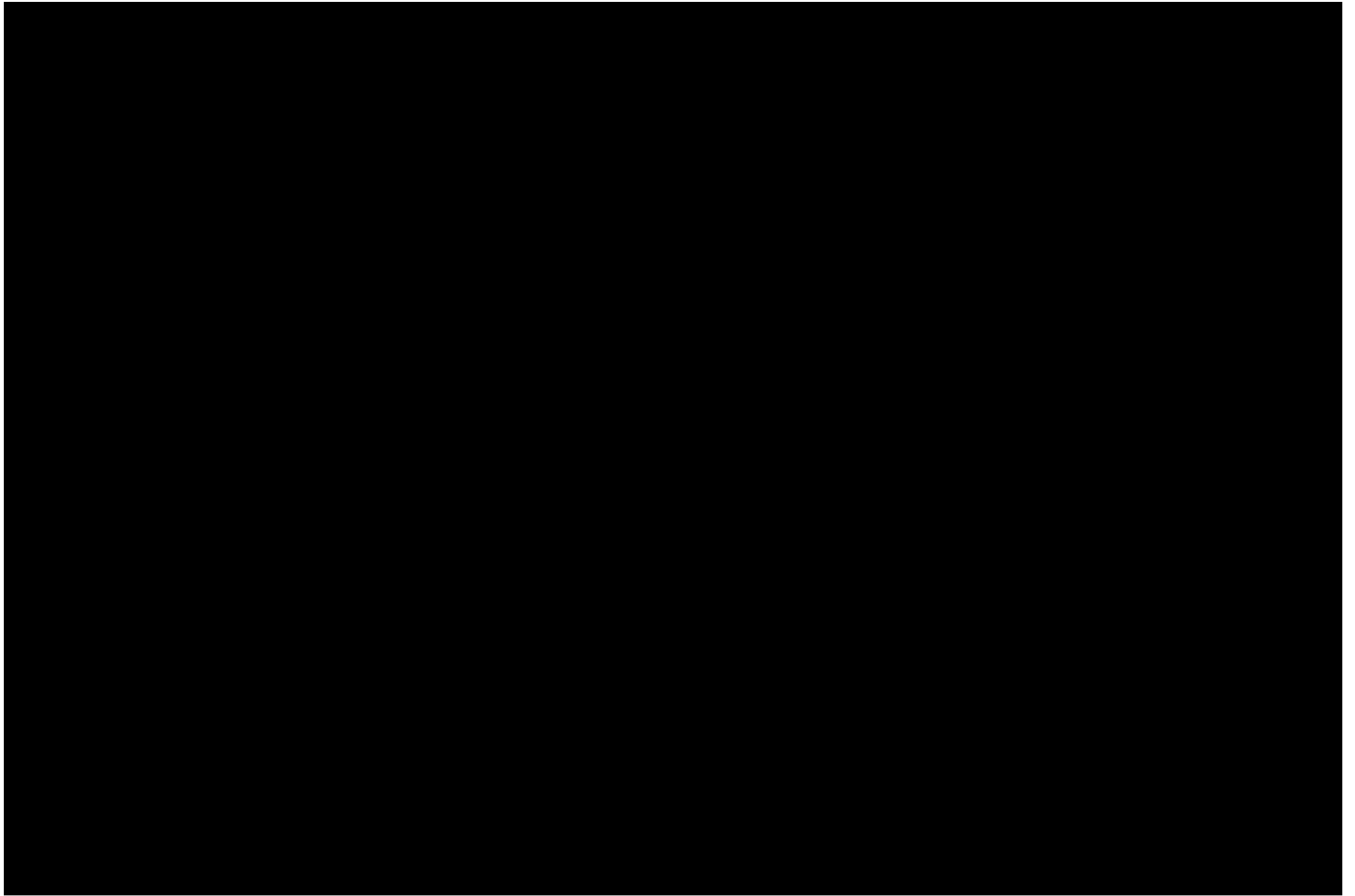
Yours sincerely

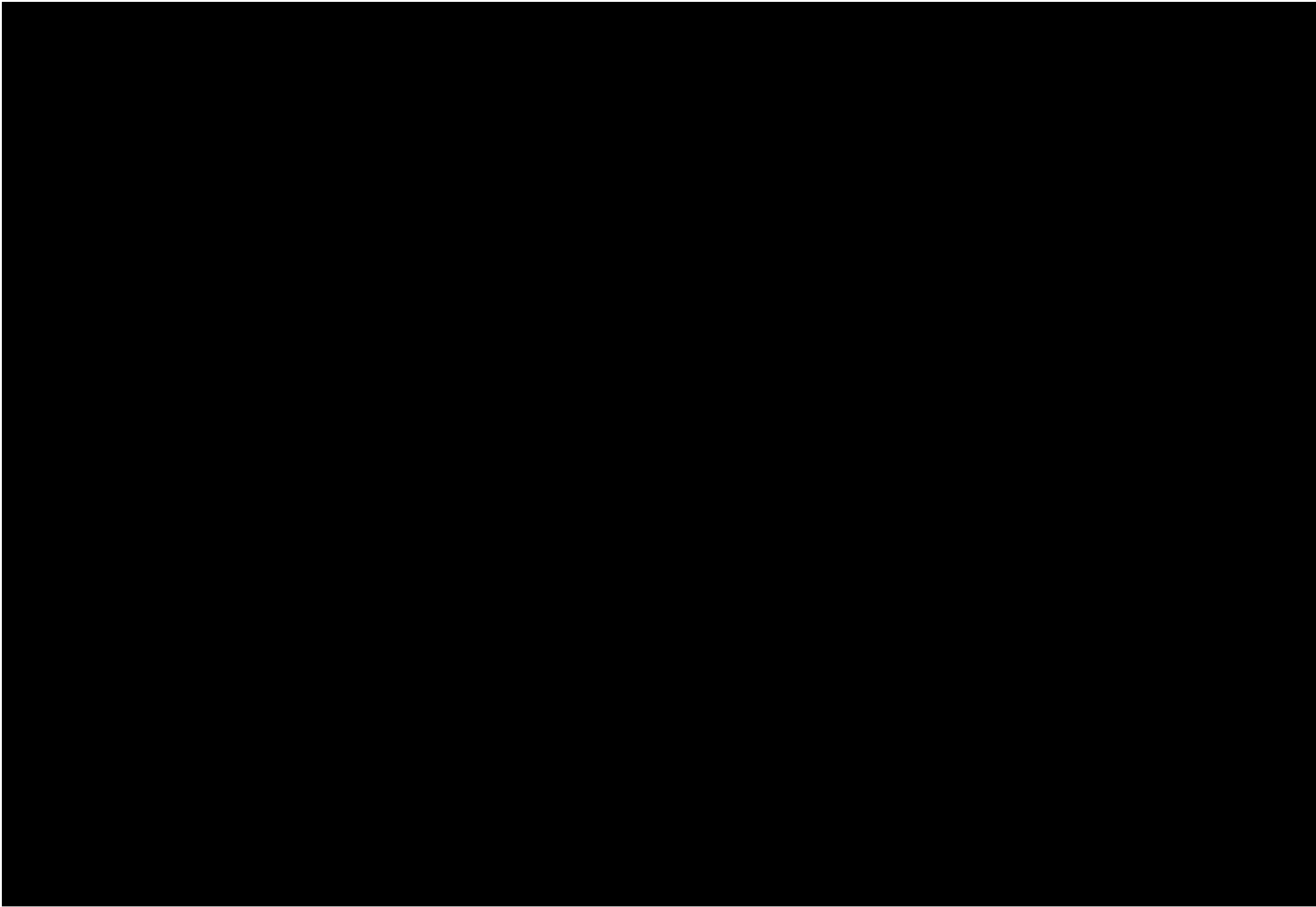


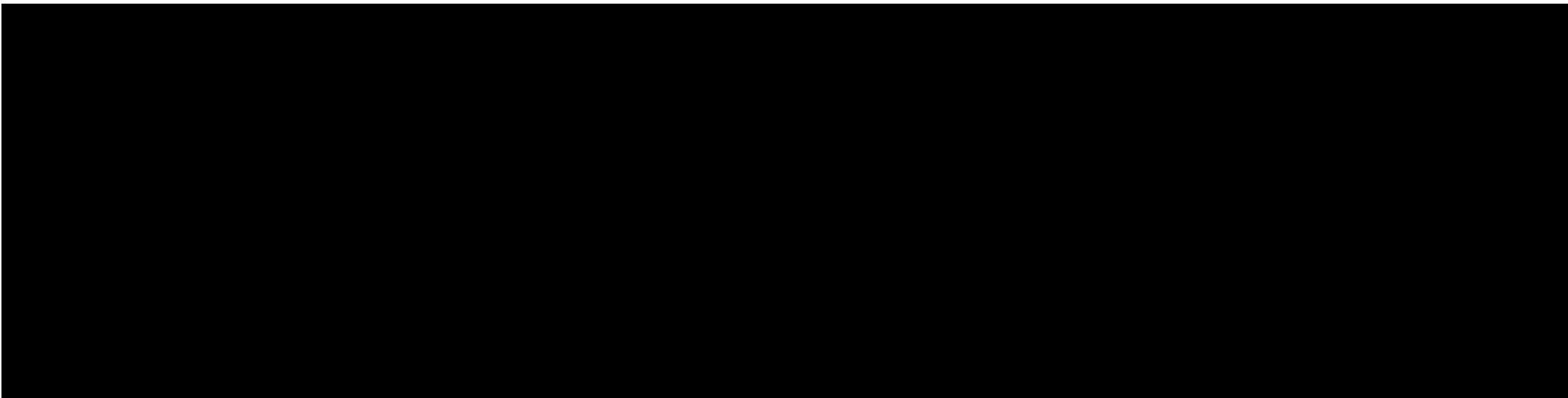
Bruce Barbour
Acting Chairperson

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Our Reference:22/058624
Contact Officer: Jen O'Farrell

SENSITIVE

21 April 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
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Brisbane QLD 4001

Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners,

RE: Request for additional information Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry)

I refer to your correspondence dated 13 April 2022, in which you have requested additional information to supplement information provided by the Crime and Corruption Commission (CCC).

Which personnel are involved in the preparation of the project closure report? Is it only members of the investigation team that are involved in the preparation of that report?

1. The Operations Manual section MM01: Matter management, planning and conduct provides the phases of a CCC investigation, including the procedures relevant to the post-delivery stage (see section 4.2.4).
2. The key management document in the post-delivery stage is the Investigation Completion Report, which comprises the following sections:
 - a) Part A: Finalisation
 - b) Part B: Post-delivery assessment
 - c) Part C: Closure.

3. The Case Manager is responsible for completing the Investigation Completion Report, including (Part C: Closure). At the discretion of the Case Manager, other Commission Officers may be involved in drafting the report. This may include the Case Officer and other members of the multi-disciplinary investigation team.

Is there any process for external review of the conduct of investigations, and decisions to commence any prosecutions arising from those investigations, after those matters have been concluded? (In this context, 'external review' means review by employees or officers of the Crime and Corruption Commission who were not involved in the investigation or prosecution, or persons or entities external to the Crime and Corruption Commission.)

If there is such a process for external review:

- **When are external reviews undertaken? Are they undertaken at the conclusion of all investigation matters, or only in certain cases and if so, what are those categories of matters?**
- **What is the seniority and experience level of the personnel conducting any such reviews?**
- **Do the reviews consider the appropriateness of decisions taken in investigations and the appropriateness of decisions to commence prosecutions (such as whether those decisions had a proper basis in evidence and complied with Crime and Corruption Commission policies and procedures, including the Code of Conduct)?**
- **Do the reviews consider whether conduct during investigations and decisions to commence prosecutions give rise to suspicions of "improper conduct" that might give rise to a requirement to notify the Parliamentary Crime and Corruption Committee and the Parliamentary Crime and Corruption Commissioner under section 329 of the *Crime and Corruption Act 2001*?**

Current review practices

4. The post-delivery stage includes a post-delivery assessment to measure whether the investigation achieved its purpose, how well the investigation was undertaken and whether there are any lessons or opportunities for future improvement (see Section 4.2.4), however, the CCC does not have a formal policy requiring external review of matters post-prosecution.
5. The existing post-delivery assessment occurs within one month of the decision to finalise an investigation matter in the Case Management System (see sections 4.2.3 and 4.2.4 of MM01).
6. That timeframe facilitates timely reflection on the conduct of the investigation, leveraging the knowledge of those involved in the investigation, and provides the opportunity for a rapid feedback loop to existing investigations.
7. However, closely coupling the post-delivery assessment process with the finalisation of the investigation necessarily limits the process to outcomes known at that time. One month post-finalisation is too short a timeframe to review the longer-term outcomes associated with the CCC's work. This holds true whether the result of a CCC investigation is procedural recommendations to a unit of public administration, recommendations to government for legislative change, or charging a person with an offence (see point 11 for some examples).
8. While the CCC's Operations Manual does not require a review after prosecution outcomes are known, in reality, the CCC has several processes in place that capture lessons learned post court outcome, including:
 - a) The Case Manager and lawyer assigned to the investigation generally meet with the Chairperson and Senior Executive Officer (Corruption) to discuss the prosecution outcome. This enables matters to be considered on a case-by-case basis and the Senior Executive Officer (Corruption) to feed these lessons back to corruption investigators and legal officers.

For example, in Investigation Dugong, when the charges were discontinued in relation to Adrian Raedel and Tosh Murphy, a meeting was held with the SEO (Corruption), the Case Officer, the allocated lawyer and the Director Corruption Legal to reflect on the advice and consider other outcomes that might be appropriate in the circumstances.

- b) Conducting targeted professional development on key matters. For example, in November 2021, the Deputy Director of Public Prosecutions, Todd Fuller QC, attended the CCC to deliver a presentation titled 'Learnings from the Stenner Matter'. The presentation canvassed inherent difficulties of a perjury charge, and the application of the law to the prosecution against Michelle Stenner. The presentation was arranged as the facts of the matter (relating to a closed hearing) were highly specific and relevant to the work of the CCC.
- c) Providing continual feedback to commission officers about prosecution outcomes to improve understanding of relevant matters.

9. Other existing review mechanisms are:

- a) A judicial review in relation to the CCC's activity, which properly is regarded as an external review, pursuant to section 332 of the *Crime and Corruption Act 2001* (Qld). However, this is only available when an investigation is being conducted, or is about to be conducted. It does not enable a judicial review to occur after an investigation has concluded.
- b) While it has not been done in recent history, the CCC could initiate an external review on its own initiative. There is currently no process preventing such an external review or need for any legislative amendment for the CCC to undertake such a review.

Comments about post-prosecution review

- 10. The CCC recognises that there is merit in revisiting the investigation, once prosecution outcomes are known, to identify if and how the prosecution outcomes offer lessons for the earlier phases of the investigation, including the decision to commence prosecutions.
- 11. Any discussion of post-prosecution review should consider the time elapsed between the CCC investigation and court outcome. The conclusion of the prosecution can often be years after the arrest is made, particularly in very complex matters or investigations involving multiple defendants. We provide some examples.
 - a) For Operation Windage, the first charges occurred on 20 June 2017, the CCC published a report about this investigation on the 18 August 2018. Some of the defendants' matters are still proceeding through the courts, and others have been finalised. For example:
 - i. Paul Pisasale was first charged on 20 June 2017; his matters were finalised on 24 September 2020.
 - ii. Wayne Myers was charged 8 November 2017; his matters were finalised in the Court of Appeal on 10 September 2019.
 - iii. Wayne Innes was first charged on 30 August 2017; his matters were finalised in the District Court on 3 May 2019.
 - b) For an investigation into the Hope Vale Council, the defendant Lee Robertson (Robertson) was charged on 2 August 2015. Robertson stood trial for fraud in the District Court Maroochydore between 1-5 February 2021, some eight years after the CMC's investigation commenced. On 5 February 2021, the jury returned a verdict of not guilty. Further information regarding the Robertson prosecution is outlined at page 25 of Attachment K to the CCC's submission, dated 1 April 2022.
- 12. The CCC proposes to amend its Operations Manual to require a post-prosecution review when appropriate, once prosecution outcomes are finalised.

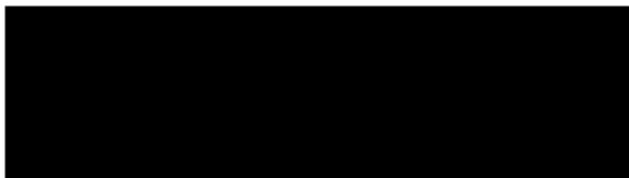
13. The decision to undertake a post-prosecution review will likely consider different factors to those considered at post-investigation closure, including the complexity of the matter, whether charges were discontinued, whether there were changes in prosecutors, the availability of the original investigation team, the impact of a judicial decision on current investigations, and the exercise of the judicial discretion (such as those found in s. 130 of the *Evidence Act 1977* (Qld)).
14. As the ODPP and the CCC share the responsibility of learning from prosecution outcomes, the CCC will begin consultation with the ODPP to determine an effective model, including consultation on the circumstances where a post-prosecution review would be conducted in partnership with the ODPP.

Suspensions of improper conduct during investigations and decisions to commence prosecutions

15. All Commission Officers are inherently aware of their obligations to report improper conduct (s. 329 of the *Crime and Corruption Act 2001* (Qld)), irrespective of whether that conduct occurs during an investigation or decision regarding the decision to commence a prosecution.
16. The obligation on Commission Officers is to report as soon as suspicion is formed. There should be no delay.
17. Equally, if corrupt conduct by a commission officer was observed by a Magistrate, Judge, or Prosecutor in commencing a prosecution, or during a prosecution, they have an obligation to report the corrupt conduct.
18. The process for an external party to make a complaint about the conduct of commission officers is outlined on the CCC's website. Such allegations are addressed as allegations of improper conduct, and may or may not be notified to the PCCC, depending on the nature of the allegation in accordance with the approved protocol.
19. In recent history, we know of two complaints about the conduct of a commission officer during court proceedings. More information can be provided on request.

Please do not hesitate to contact me or the CCC's CEO should have you have questions in relation to the submission.

Yours sincerely



Bruce Barbour
Acting Chairperson

encl.

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Our Reference: 22/062099
Contact Officer: Jen O'Farrell

SENSITIVE

26 April 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
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Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners,

RE: Request for additional information Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry)

I refer to your correspondence dated 19 April 2022, in which you have requested additional information to supplement information provided by the Crime and Corruption Commission (CCC).

The Inquiry has sought clarification of two matters, said to arise from the Parliamentary Crime and Corruption Commissioner's understanding regarding disclosure of hearings evidence. Those relate to:

- i) Disclosure of compelled material to co-accused
- ii) Whether provision of material in those circumstances is "legally suspect" (as it is said is the Parliamentary Commissioner's view)?

1) The CCC is aware of criticism which has previously been made of its approach to disclosure. The criticism flows in two directions. In the PCCC's most recent 5-yearly review the Queensland Law Society, particularly through its representative Mr Ken McKenzie, criticised the explanation provided to witnesses in hearings regarding what use may be made of their evidence. Mr Mackenzie (a criminal defence lawyer, and member of the QLS's Criminal Law Committee) submitted that the CCC does not

sufficiently explain to witnesses the ways in which their hearings evidence might be disclosed to third parties. Despite this, he maintained that no changes are required to the regime of disclosure, and “[i]t is patently in the interests of justice that a witness’s evidence at the [CCC] should be disclosed to an accused person if the witness will be called to give evidence against the accused.”

- 2) In his most recent meeting with the PCCC on 25 February 2022, the Parliamentary Commissioner, Mr Michael Woodford, articulated the issue as follows:

Mr CRANDON: Because you have touched on that, it has prompted a question that I have probably asked various people their views on. We have had witnesses talk to the committee about this particular aspect. It is about the Star Chamber powers. We have heard from a range of witnesses over time, and the Queensland Police Union, the Queensland Law Society and barristers have all said that they have major concerns about the way in which the Star Chamber powers are being used in industrial matters—I think that was the Queensland Police Union—but also in other matters where a witness might be told that anything they say within a Star Chamber cannot be used against them. However, then under discovery, everything they have said in a Star Chamber has to go to the defence of anyone who might have been charged, which is concerning. The advice to the witness is perhaps not up to scratch; that is my terminology. Would you care to comment on that as part of that overall issue you were just talking about?

Mr Woodford: Yes. A classic example of what you are alluding to is where you have a number of people who are charged with an offence; there are multiple codefendants. One defendant has been down to the CCC and been compulsorily examined on the basis that it is private and confidential and nothing will be used against that person unless they commit an act of perjury in that hearing. The current interpretation of the particular provision—I do not have the act with me at the moment—is that if a codefendant requests of the Crown any and all materials that may be relevant to the case—and the Crown would bounce back through the investigating officer who may be that seconded officer to the CCC—‘any and all material’ may include a co-accused’s or a codefendant’s compelled evidence. The current view—and this has been a view held in Queensland for many years—is that that material is required to go to the codefendant.

Some may say—and many lawyers may say—that that is a great unfairness to the defendant who has been down to the CCC to be examined in the conduct of his or her case in the criminal trial. There may be a sort of general view that if you have a number of defendants go in a trial together they are all heading in the same direction. That is not always the case. A defendant whose material has been disclosed can be in a position where his theory of his or her defence or how the case is being conducted is going that way and the codefendant—one or more—is going in the opposite direction. Of course, those other defendants are armed with the detail of the position of that defendant because they have been down to the CCC, compulsorily examined and required to dot every ‘i’ and cross every ‘t’ so far as they can under the threat of proceedings against them if they do not—failing to comply.

That is an issue. It came up in a matter in the District Court that I was involved in, one particular matter—and I am sure I am one of a thousand-odd barristers who have practised in crime, so I am sure it comes up elsewhere. It is a matter I cannot go into much detail on, but it was a real concern of the court in a quizzical sense of, ‘Hang on, you’re assuming under this section that all of this material is legitimately going to the codefendant.’ How is that happening? You have lawyers seeing the potential for the injustice of a person going to the CCC and then having all of their innermost thoughts on things put out there.

- 3) As a general proposition, the CCC provides material in accordance with what it understands its legal obligations to be. That is informed by the *Crime and Corruption Act 2001* (‘CC Act’), the disclosure provisions in the *Criminal Code Act 1899* (Qld) (‘Criminal Code’), and the common law which informs those considerations. These considerations generally apply to evidence given by witnesses in CCC hearings, but are considered here specifically through the lens of the question – as they relate to the disclosure of hearings evidence as between co-accused.

Disclosure to co-accused

- 4) Section 201 of the CC Act provides as follows:

201 Commission must give evidence to defence unless court certifies otherwise

- (1) This section applies if a person is charged with an offence before a court and anything stated at, or a document or thing produced at, a commission hearing (the *evidence*) is relevant evidence for the defence against the charge.
 - (2) On being asked by the defendant or the defendant's lawyer, the commission must give the evidence to the defendant or the defendant's lawyer unless the court makes an order under subsection (4).
 - (3) A request under subsection (2) may generally identify evidence to be given to the defendant or defendant's lawyer.
 - (4) On application by an authorised commission officer, the court must order that the evidence not be given to the defendant or defendant's lawyer if the court considers that it would be unfair to a person or contrary to the public interest to do so.
 - (5) Evidence given to a defendant or a defendant's lawyer under subsection (2) may be used only for the defence to the charge.
 - (6) A person who uses the evidence as permitted under subsection (5) does not contravene section 202.
- 5) The threshold question is whether evidence given in (or produced to) a commission hearing is relevant evidence for a person's defence against a charge. That section is not understood to be limited to evidence given by the person charged. Section 201(2) provides that if asked, the CCC must give the evidence to the defendant (or their lawyer) unless the court makes an order under section 201(4).
- 6) Section 201(4) allows a court to make an order that the evidence is not to be given to the defendant if the court considers that it would be unfair to a person or contrary to the public interest to do so.
- 7) Only two s.201(4) applications are known to have been contemplated by the CCC; one arising from an investigation undertaken in 2007 and another in 2021. Only the prior mentioned matter proceeded to hearing and an order was obtained from the Supreme Court that the evidence of one witness was not be disclosed to the applicant or their lawyer.
- 8) The circumstances in which a s.201(4) application may be made is currently under review, and is informed by the human rights considerations raised in the recent decision of *SQH v Scott*.¹
- 9) As a general proposition, then, the Parliamentary Commissioner's understanding is correct that, in cases involving co-accused, if one co-accused requests another's compelled evidence, it is routinely provided under s.201 of the CC Act.
- 10) However, it should be noted that in cases where there are actual co-accused (ie jointly charged defendants in the same proceeding, with the same prosecutor) it should not generally be the case that such compelled evidence would be disclosed by the DPP. That is because High Court decisions such as *Strickland v DPP*² and *Lee (No 2)*³ make clear that a prosecutor generally

¹ [2022] QSC 16.

² [2018] HCA 53.

³ (2014) HCA 20.

should not be in possession of an accused's compelled evidence. Where there are co-accused, compelled evidence of any of those co-accused would not be expected to be in the possession of the prosecution.

- 11) That being said, disclosure of hearings evidence may also be made by investigating police as part of the criminal disclosure process. Police may be in authorised possession of the evidence of co-accused for the purposes of their investigation, as permitted by orders made by the presiding officer under s.180 of the CC Act. If permitted under such an order, investigators may disclose hearings evidence due to disclosure obligations as set out in the Criminal Code. But in those cases, such disclosure would be made to the requesting defendants but not the prosecutor, as disclosure would be prohibited by the s.180 order.

Legal basis for provision of material to co-accused

- 12) The CCC strongly disagrees with the Parliamentary Commissioner's view that the provision of such material in those circumstances is "legally suspect".
- 13) The CCC's disclosure of hearings evidence in such circumstances is understood to be consistent with its obligations under statute and common law.
- 14) Without reference to the Parliamentary Commissioner's complete position, it is difficult to entirely discern the basis on which he contends that such disclosure is "legally suspect". However, it may be informed by the context provided for the question – which relates to issues of admissibility which arise by reason of s.197.
- 15) The question is relevantly framed as follows:
- "The Parliamentary Commissioner considers the terms of section 197(2) of the *Crime and Corruption Act 2001* which does not limit its coverage to use by the Crown of an answer, document, thing or statement given or produced by an examinee who invokes section 197(1) during a compulsory examination by the CCC. An argument is available that an answer, document, thing or statement given or produced by a defendant in the CCC is not admissible against that defendant, at the instance of a co-accused".
- 16) To be absolutely clear, the CCC agrees entirely with the position that s.197(2) is not limited in its application to the Crown and "that an answer, document, thing or statement given or produced by a defendant in the CCC is not admissible against that defendant, at the instance of a co-accused."
- 17) However, the contention that disclosure of such material is "legally suspect" may tend to conflate questions of relevance, use and admissibility.
- 18) Section 197 confers a 'direct use immunity'. It does not confer a derivative use immunity. While there may be other avenues (such as the discretion of a trial judge to refuse evidence on the 'unfairness ground') to restrict other uses of evidence, s.197 only operates to prohibit its admission in proceedings. Evidence which is inadmissible by reason of s.197 may nevertheless be used by a person.
- 19) Evidence which is inadmissible may nevertheless be relevant to an accused's defence. The Court of Appeal in *R v Spizzirri* [2000] QCA 469 (Spizzirri) (which dealt with production under a

subpoena) made abundantly clear that the concept of disclosure in criminal proceedings was wider than the concept of admissibility. "It would have been sufficient that [the materials sought] armed the defence with information it might fairly have pursued with the complainant towards that potentially significant forensic goal, the erosion of his credit" (per de Jersey CJ at [7]).

- 20) The Court in *R v Rollason & Jenkins; ex parte A-G (Qld)* [2007] QCA 65 (Rollason) further considered the question of relevance in the context of the disclosure provisions under the Criminal Code. The Court there considered the issue of relevance in the context of those disclosure provisions, again taking a broad approach to what may be 'relevant'. The Court considered the intent of the disclosure provisions as requiring disclosure of matters broader than that evidence which would tend to prove or disprove the prosecution case, or establish a defence, and instead encompassed material that would tend to help the case for the accused person.
- 21) As noted above, s.201 of the CC Act mandates disclosure of relevant evidence when asked, unless an order is made under subsection (4) to relieve the CCC of that obligation. The primary question under s.201(1) is whether the evidence is 'relevant evidence for the defence against the charge'. In some circumstances it will be necessary for a defendant to provide further information to enable the CCC to understand why evidence given in a hearing may be relevant to their defence. In other cases it will be self-evident. Ordinarily the evidence given by a co-accused in relation to the offending with which they are jointly charged will be self-evidently relevant to the defence.
- 22) Consistent with the broad approach to 'relevance' in considering disclosure in criminal proceedings as indicated in cases such as *Spizzirri* and *Rollason*, the CCC considers the question of 'relevance' for the purposes of s.201 as broadly encompassing information that would tend to help the accused person. That is also consistent with the statutory provision, which requires disclosure unless an application is made under s.201(4).
- 23) As a practical matter, the evidence which a defendant has given in a hearing is ordinarily highly likely to be relevant to a co-accused's defence, but particularly where the co-accused chooses to give evidence. At the very least, a co-accused who has been examined about the subject matter of the charges will have provided their (hopefully honest) version of the offending in which they and their co-accused were involved. A person may have given evidence which weakens the case against another co-accused. Or they may have given answers which undermine their own credibility should they choose to give evidence (such as adverting to matters another defendant may be able to positively refute, thereby strengthening their own position).
- 24) An interesting evidentiary question may arise in relation to an accused who has given evidence in a hearing and subsequently gives evidence in their own defence which is inconsistent with that hearing's evidence. To refer back to the question posed, the CCC's view is that even in those circumstances, the defendant's evidence would not be admissible against them even as a prior inconsistent statement. However, it may be permissible (it is ultimately a matter that would require close regulation by the trial judge) to cross-examine the witness on the basis of the evidence the witness previously gave. It may even be possible to ask the witness whether they had ever given a different version as to what occurred, although this may be

objectionable. Depending on the nature of the cross-examination, this may present complex issues for a trial judge. But that is a very different question as to whether such information ought be disclosed.

- 25) The other way in which hearings transcripts of co-accused may come to be disclosed is under the disclosure obligations which regulate criminal proceedings.
- 26) As noted above, hearings evidence may be published to investigating police (whether 'internally' for police seconded to the CCC, or 'externally' to police in joint investigations).⁴ Where hearings evidence is so published, it is pursuant to orders under s.180 of the CC Act, which restrict the uses which may be made of that evidence. This may include in relation to an investigation, or for use in criminal proceedings.
- 27) Where an order under s.180 permits use in criminal proceedings, it will exclude provision to prosecutors where the evidence is of the defendant, and the provision would be to a prosecutor prosecuting that defendant. This is to avoid infringing the prohibitions in *Strickland* and *Lee*, and to address the risk to prejudice of the defendant's fair trial rights. It follows that under such a non-publication order, where there are co-defendants, the evidence of those co-defendants cannot be published to the prosecutors involved in the matter.
- 28) Chapter Division 3 of Chapter 62 of the Criminal Code (ss590AB-AX) deals with the disclosure obligations imposed on the prosecution in criminal proceedings. It provides the conditions under which things in the possession of the prosecution must be disclosed.
- 29) What is in the "possession of the prosecution" is defined by s590AE of the Criminal Code very widely, and extends beyond the actual prosecutor. It includes a thing in the possession of the arresting officer, but also a thing the arresting officer is aware of, and would be able to locate without unreasonable effort. As a result, a thing may be in the "possession of the prosecution" (and thus required to be disclosed) despite the fact that the person appearing for the prosecution may be prohibited from, in fact, possessing it. It is through this mechanism that an arresting officer may have an obligation to disclose hearings evidence which the actual prosecutor may not have.
- 30) Section 590AB of the Criminal Code sets the general parameters of the prosecution's disclosure in the following terms:

590AB Disclosure obligation

- (1) This chapter division acknowledges that it is a fundamental obligation of the prosecution to ensure criminal proceedings are conducted fairly with the single aim of determining and establishing truth.
- (2) Without limiting the scope of the obligation, in relation to disclosure in a relevant proceeding, the obligation includes an ongoing obligation for the prosecution to give an accused person full and early disclosure of—
 - (a) all evidence the prosecution proposes to rely on in the proceeding; and
 - (b) all things in the possession of the prosecution, other than things the disclosure of which would be unlawful or contrary to public interest, that would tend to help the case for the accused person.

⁴ For example, see *NS v Scott* (2017) 269 A Crim R 284.

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- 31) The Court in *Rollason* expressly rejected the proposition that the reference to a 'statement' in s.590AH of the Criminal Code was to be read as a reference to "a statement of actual or potential evidential value in the proceeding". What was sought in that case was affidavits in support of telecommunications interception warrants. These were not statements which were to be relied upon in the proceeding (and in most circumstances would likely not be admissible), but was nevertheless considered to be a 'statement of a proposed witness for the prosecution in the possession of the prosecution', and were thus required to be disclosed under s590AH of the Criminal Code.
- 32) A co-accused is not a compellable witness, and thus could not be considered a 'witness for the prosecution' as contemplated in s.590AH of the Criminal Code. However, for witnesses who are not co-accused, it is on this basis that hearings evidence of proposed witnesses is ordinarily disclosed as part of the prosecution brief.
- 33) Section 590AJ of the Criminal Code deals with disclosure which must be made upon request. Those include:
- i) a copy or notice of any thing in the possession of the prosecution that may reasonably be considered to be adverse to the reliability or credibility of a proposed witness for the prosecution
 - ii) a copy of any statement of any person relevant to the proceeding and in the possession of the prosecution but on which the prosecution does not intend to rely at the proceeding
 - iii) a copy or notice of any other thing in the possession of the prosecution that is relevant to the proceeding but on which the prosecution does not intend to rely at the proceeding
- 34) Again, it must be observed that these criteria are not confined by reference to 'admissibility', but of relevance to the prosecution. Noting the approach propounded in *Rollason*, which disavowed equating 'relevance' with 'admissibility' in these circumstances, these provisions would ordinarily be considered as capturing hearings evidence of witnesses in CCC proceedings, including those of co-accused.
- 35) Section 590AQ of the Criminal Code relieves the prosecution of the disclosure obligations that would otherwise apply under that chapter division, where the disclosure would be contrary to the public interest. The court is ultimately responsible for balancing the competing public interests and deciding whether such information should be disclosed. (It is not clear whether s590AQ would have application to this issue. Subsection (2) provides a non-exhaustive list of reasons why disclosure may be contrary to the public interest. These broadly echo established categories of public interest immunity. None of those articulated circumstances captures this scenario – where disclosure of one co-accused's compelled evidence to another may prejudice their right to a fair trial, although s.590AQ(2)(a)(iv) may have some application).
- 36) It may also be possible to bring a public interest immunity claim for relief from any residual obligation to disclose such evidence. The law on public interest immunity is reasonably well-established, as is the notion that an accused receiving full disclosure of all relevant material for the purposes of their defence is a strong public interest consideration weighing in favour of disclosure.

- 37) There has been no judicial consideration of this issue in these circumstances. So far as the CCC is aware, the court has not been asked to consider whether the bare issue of disclosure between co-accused was sufficient to justify an order for non-disclosure under s.201(4), having regard to the issues of fairness to any person and the public interest, or solely on the grounds of public interest immunity. Section 201 was considered recently in *SQH v Scott*,⁵ where the Court (Williams J) held that the result under s.201 was not a 'foregone conclusion', and that the court could make an order under s.201 in appropriate circumstances.
- 38) The CCC then approaches the question of disclosure on the basis that the statutory provisions which govern such disclosure (s.201 of the CC Act, and the disclosure obligations under the Criminal Code) evince a statutory intention which favours such disclosure. This is reinforced by the interpretation which has been given to disclosure provisions under the *Criminal Code*, and the broader principles of disclosure in criminal cases, by the Queensland Courts.

Other approaches

- 39) Other jurisdictions have different statutory schemes which regulate the disclosure of hearings evidence. Of particular note is the legislation which governed the then Australian Crime Commission ('ACC') (now Australian Criminal Intelligence Commission). As opposed to the CCC's governing legislation which presumes disclosure in the absence of a court order, where the ACC examiner grants a certificate prohibiting disclosure of hearings information (as they must in certain circumstances), a defendant would then need to apply to the court for an order for disclosure of that evidence.
- 40) This legislation, and the resolution of disclosure claims under it, was considered by the Queensland Court of Appeal in *DBH v Australian Crime Commission & Ors*.⁶ This approach represents a legislative scheme which has a presumption against disclosure as a counterpoint to the CCC's statutory scheme which (in our view) presumes in favour of disclosure.
- 41) There may be some merit in considering such an approach, where the presumption is against disclosure, but allowing a defendant to apply to the court for an order permitting disclosure. It is difficult for the CCC to assess competing fairness and public interest considerations in determining whether information should be released under s201. These considerations could appropriately be balanced by mandating disclosure (absent an application that such disclosure would be contrary to the public interest) where the person is to be called as a prosecution witness in a proceeding, or where their evidence otherwise falls within s202.
- 42) In other cases, a defendant could apply to the court for an order requiring disclosure, if it can be demonstrated that the public interest favours that disclosure. It may be preferable for the prosecutor with carriage of the proceedings (QPS or DPP) to be the contradictor to such an application. However, that may pose its own practical difficulties as in some cases the prosecution may not be in possession of that information, or may be prevented from having possession of it.

⁵ [2022] QSC 16.

⁶ [2014] QCA 265

Conclusion

- 43) While reasonable minds may differ about the approach taken to disclosure of hearings evidence – and particularly the complexities which arise when there are co-accused involved – the CCC does not agree with the characterisation of its approach as ‘legally suspect’. That characterisation appears to proceed from a fundamental misapprehension of the important distinction between issues of relevance (as that term is understood in relation to disclosure in criminal proceedings) and admissibility.
- 44) If there is to be a departure from the CCC’s disclosure obligation in accordance with the CC Act, the *Criminal Code* and the relevant common law, in relation to co-accused’s hearings evidence, that is a matter of policy which would require careful consideration and stakeholder consultation.
- 45) Please do not hesitate to contact me or the CCC’s CEO should have you have questions in relation to the submission.

Yours sincerely

A large black rectangular box redacting the signature of Bruce Barbour.

Bruce Barbour
Acting Chairperson

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SENSITIVE

3 May 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinquiry.qld.gov.au

Dear Commissioners,

**RE: Request for additional information from the Commission of Inquiry into
specific matters relating to the Crime and Corruption Commission
(Commission of Inquiry)**

I refer to your correspondence dated 26 April 2022, in which you have requested additional information from the Crime and Corruption Commission (CCC). Each matter will be addressed separately.

1. With respect to the Executive Leadership Team (ELT) please advise:
 - To which position does each member of the ELT report, specifically which positions report to the Chairperson, CCC and which positions report to the CEO (noting that the Chairperson of the CCC is the chair of the ELT)?
 - What relationship, if any, exists between the ELT and the Office of the Commission?
 - What matters fall within the scope of the Office of the Commission as compared to the ELT?

The Office of the Commission and matters falling within the scope of the Office of the Commission

1) Your letter uses the term "Office of the Commission". As shown in the detailed organisational chart provided to the Commission of Inquiry via letter on 11 April 2022, the "Office of the Commission" comprises the Chairperson, Deputy Chairperson, Ordinary Commissioners, Chief Executive Officer (CEO) and two administrative staff

who support the CEO and Commission (it also includes the Internal Auditor to provide necessary separation from other CCC functions and a direct reporting line to the CEO).

- 2) The "Office of the Commission" is an administrative construct used for human resource reporting and budget purposes only. It does not make decisions and has no power vested in it as an entity.
- 3) The "Office of the Commission" is distinct from the specific responsibilities of the positions comprising it, including the CCC Commissioners (being one full-time Chairperson (who is also a Commissioner) and four part-time Commissioners, one of whom is the Deputy-Chairperson) and CEO, all of whom have defined responsibilities under the *Crime and Corruption Act 2001* (Qld) (CC Act).
- 4) CCC Commissioners are responsible for providing strategic leadership and direction for the performance of the CCC's functions, and the exercise of the CCC's powers, by the Chairperson, CEO and CCC officers (CC Act, s. 251). The CCC Commissioners, as a group, are also responsible for the preparation of strategic and operational plans (CC Act, s. 251(2)(a)) and adopting and submitting to the Minister a budget which the CEO is responsible for developing (CC Act, s. 259).
- 5) The CEO is responsible for the administration of the CCC (CC Act, s. 253(1)), and for the financial accountability functions and public record powers. (CC Act, s. 269).
- 6) The CEO is subject to the direction of the Chairperson for the exercise of all functions and powers delegated by the Chairperson (CC Act, s. 253(3)(a)). In respect of all other functions and powers, the CEO reports to, and is subject to the direction of, the Commissioners as a group (CC Act, ss. 253(3)(b); 253(4)). A description of the CEO role is also provided for in the CCC submission dated 1 April 2022, at paragraphs 43-48.

The role of ELT

- 7) The Executive Leadership Team (ELT) comprises the Chairperson, CEO, Senior Executive Officer (SEO) (Crime), SEO (Corruption), General Manager (GM) Operations Support and GM Corporate Services.
- 8) The ELT is a governance committee comprised of the most senior leaders and executives at the CCC. It is a construct that is typical across the Queensland public sector and recognises the leadership role senior executives provide to the agency they are employed in, and to the broader public sector.
- 9) By virtue of their roles, the ELT share the responsibility and accountability for the CCC's performance. While each member of the ELT performs a specific role, their effectiveness in that role and the performance of the CCC as a whole, is a product of their collaborative efforts and that of the Divisions they lead.
- 10) The ELT plays a critical stewarding role – working as a team to drive vision, results and accountability. The ELT supports the CCC Commissioners by leading strategically and taking a broad view of the public policy landscape, stimulating genuine debate of complex matters, leading and responding to change, providing robust governance and supporting quality decision making, mobilising and leveraging resources to build capability and maximise output, developing strategic networks, driving performance and promoting a healthy workplace.
- 11) The ELT does not execute any power that is appropriately delegated to specific roles – whether those roles are a member of the ELT or not. In undertaking its role, the ELT complements and supports the appropriate decision maker to execute their responsibilities and make sound decisions.

- 12) ELT's functions and composition are provided for under the ELT Charter (Attachment A), Governance Framework, Operating Model, Operational Framework and Operations Manual. Further information regarding the ELT is provided at paragraphs 49-51 of the CCC's submission dated 1 April 2022.

ELT reporting arrangements

- 13) Individual members of the ELT do not report to the "Office of the Commission". Their reporting obligations depend on their role. In summary, members of the ELT performing operational functions report to the Chairperson whereas members of the ELT performing support functions report to the CEO. All members of the ELT report to the CEO on matters of administration.
- 14) The SEO (Crime) and SEO (Corruption) are responsible to the Chairperson for the proper performance of the crime and corruption functions respectively (CC Act, s. 245(3)). This includes the full range of activities relating to combating major crime and reducing corruption, including the development of operational strategies and plans to support the CCC's purpose and Strategic Plan, selection and prioritisation of matters and projects to support the delivery of operational activity, deployment of investigative methodology and tactics to progress operational activity (including use of powers), and identification of prevention strategies.
- 15) With respect to the crime function, some decisions are, of course, subject to approval of the Crime Reference Committee (see paragraphs 127-129 of our Submission).
- 16) The SEOs are also responsible for management of the human resources and budget allocated to their divisions. Reflecting the legislative responsibilities of the CEO, the SEOs report matters relating to the administration of the CCC and financial accountability to the CEO, and more broadly as part of the ELT.
- 17) The GM Operations Support is responsible for the Witness Protection program and providing specialist technical capabilities to CCC investigations. In providing specialist technical capabilities in support of crime and corruption investigations, the GM Operations Support liaises directly with the SEOs and other senior leaders of the crime and corruption divisions. In relation to the Witness Protection program, the GM Operations Support is responsible to the Chairperson, as that position is the primary decision maker under the *Witness Protection Act 2000*. The GM Operations Support is also responsible for management of the human resources and budget allocated to their division, and reports to the CEO on these matters of administration.
- 18) The GM Corporate Services is responsible for corporate support functions and reports to the CEO.

Relationship between ELT and the Office of the Commission

- 19) ELT's stewardship and leadership role, as described above, is achieved through the informal collaborative working partnerships that develop in a leadership team and via formal mechanisms structured to support timely decision making across the matter or project lifecycle, as outlined in the Operating Model.
- 20) ELT Portfolio Assessment meetings are held weekly, and Corporate and Portfolio Review meetings are held monthly:
- a) *Portfolio Assessment*: The ELT is responsible for considering and advising on new matters. For operational (i.e. the assessment of corrupt conduct complaints, or proposals to commence an investigation) and non-operational matters, the proposals will have been assessed as meeting the established criteria by appropriate decision-makers in the Divisions. ELT will consider issues such as whole-of-agency workload and prioritisation, resource management (particularly the input and coordination of shared support capabilities),

- financial and risk management, and strategic risks and issues. The purpose of ELT's consideration is to ensure investment is optimised and strategic objectives are met.
- b) *Portfolio Review*: For matters that are approved by the appropriate decision maker, ELT will monitor their progress to ensure quality and timeliness. ELT focuses on reviewing the implementation of the investigation or project against the investigation or project plan that was approved by the decision maker (i.e. scope, time, resources, budget, risks, outcomes and benefits).
- 21) The Chairperson is the Chair of the ELT. As the senior executive responsible for the administration of the CCC, the CEO supports the Chairperson perform this role by providing the ELT secretariat function (distributing the agenda and papers, taking minutes).
- 22) The ELT, as a whole, does not have any distinct relationship with the Office of the Commission. Individual reporting relationships exist as outlined in the previous section. However, monthly reporting from each Division is provided to the CCC Commissioners.
- 2. The Queensland Police Service (QPS) has indicated the General Manager, Operations Support (a Detective Chief Superintendent) oversees the CCC's Police Group with oversight over QPS officers seconded to the Crime division, the Corruption division and the Operations Support division. Do you agree?**

With respect to the role of General Manager, Operations Support please advise:

- **What relationship if any exists between the role of the General Manager, Operations Support and police officers seconded to the CCC, specifically with reference to police seconded to the Crime Division and Corruption Division?**
 - **What if any is the relationship between the General Manager, Operations Support and the Senior Executive Officer (SEO) (Crime)? Similarly, what is the relationship between the General Manager, Operations Support and the SEO, Corruption?**
 - **What is the role of the Strategy and Performance Officer who reports to the General Manager, Operations Support?**
- 23) We have previously provided the structure of the CCC and with respect to the GM Operations Support, it details those functions/services for which that position is responsible.
- 24) Police officers within the Crime and Corruption divisions report to the respective SEO, through the organisational reporting structure.
- 25) The GM Operations Support does not have any operational responsibility for officers seconded to either of the crime and corruption divisions.
- 26) What the GM Operations Support does have responsibility for, with respect to officers in crime and corruption, is administration relating to QPS compliance training (e.g. active armed shooter, firearms training, domestic and family violence training), and certain administrative matters (e.g. leave must be registered on the QPS HR system not the CCC HR system). That position also has responsibility for maintaining the connectedness between seconded officers and the QPS, with respect to major changes occurring within the home agency (i.e. QPS).
- 27) The GM Operations Support is also a member of Police Resource Committee, which manages the deployment and reintegration of police officers seconded to the CCC. The Committee acts as a review and recommending body to the CEO and the GM, who are jointly responsible for overseeing the effective and efficient deployment of the police cohort in the CCC (CC Act, s. 255).

- 28) As mentioned previously, the GM Operations Support is a member of ELT and routinely collaborates with ELT members (including the SEOs).
- 29) As the GM Operations Support is responsible for the coordination of the support services to the Crime and Corruption Divisions, the GM Operations Support meets regularly with the operational leads in Crime and Corruption to plan and prioritise operational support activities.
- 30) Any significant resourcing or prioritisation issues that cannot be resolved will be raised by the GM Operations Support with the SEO's and/or ELT.
- 31) Strategy and Performance Officers are a standard position in the QPS establishment. It is not a role that is specific to the CCC.
- 32) At the CCC, the Strategy and Performance Officer supports the GM Operations Support and undertakes responsibilities focused on:
 - a) the administration of the Operations Support Division (rostering, corporate and performance reporting, policy management, maintenance of risk registers, cost centre management, facilitating police resourcing meetings)
 - b) the administration required to maintain connectedness between seconded officers and the QPS (related to, for example, secondments, onboarding and off boarding, mandatory QPS training).
- 33) In undertaking their duties, the Strategy and Performance Officer works closely with business areas across the CCC, and maintains a reporting relationship with the QPS parent command – Deputy Commission Strategy and Corporate Services.

3. The QPS has indicated the Executive Director, Corruption Operations (a Detective Superintendent) and Executive Director, Crime Operations (a Detective Superintendent) report up to the General Manager, Operations Support (a Detective Chief Superintendent).

With respect to these positions please advise:

- **Have these positions always been occupied by seconded police officers and if so, is there a reason for this?**

- 34) The QPS's representation of these reporting relationships is not accurate.
- 35) As outlined in our letter of 11 April 2022, the Executive Director, Corruption Operations reports to the SEO Corruption and Executive Director, Crime Operations reports to the SEO Crime.

Executive Director Crime Operations

- 36) The Executive Director Crime Operations works in close partnership with other law enforcement agencies, including the QPS. This is a leadership position that oversees complex joint agency investigations with the common goal of combating and reducing the instances of major crime.
- 37) The role primarily has a management responsibility to coordinate resources of the business unit, and that naturally includes deep knowledge of policing strategies which lead to successful outcomes.
- 38) Further, the ED Crime Operations sits on QPS committees (Operations Review Committee, Operations Resource Committee), and the CCC's membership on these committees is essential to CCC engagement and coordination with the QPS.

- 39) The CCC's position is that having a police officer perform this role is critical to the success of the Crime function.
- 40) Further, being a police officer, the ED Crime Operations has the capabilities that come with being a police officer, the details of which we provided in our Submission dated 1 April 2022. Specifically, police officers bring to the CCC capabilities specific to their performance in (or in this case, in a leadership position over) investigative roles (see paragraphs 532-536). This is in addition to the other capabilities that police officers offer the CCC (see paragraphs 154-156), and supported by ongoing training and development to maintain their capabilities (see paragraphs 147-153).
- 41) The Executive Director (ED) Crime Operations role has, to the best of our knowledge, always been occupied by a police officer.

Executive Director (ED) Corruption Operations

- 42) The ED Corruption Operations was a civilian role (under another position title) until approximately 2011. At that time, the Misconduct area of the CMC decided to make it a police role and it has been a designated police establishment position since that time.
- 43) Given that partnerships with the QPS are not essential to the role, together with the fact that the secondment term of the incumbent is nearing its end, there is an opportunity to re-assess the capabilities required of the role to determine the most appropriate resource model.
- 44) The CCC has taken some initial steps to progress consideration of this issue. In late 2021, the CCC advertised internally to fill the role on a temporary basis; both police and civilian CCC officers could apply. While in that circumstance, the closed merit process resulted in a seconded police officer being selected as the successful applicant, the CCC remains supportive of reviewing the position and recruiting based on the capabilities essential to the role.

4. Your submission dated 1 April 2022 notes that in "2018, the CCC commenced a comprehensive review leading to reform of its governance, policies and processes to deliver improved outcomes". With respect to this comprehensive review please advise:

- What was the impetus for this comprehensive review?
- Was this comprehensive review led internally, or was an external entity (such as a consultant) engaged to deliver these business improvement activities?

5. Please provide a copy of any report (internally or externally generated) of this comprehensive review.

6. Your submission dated 1 April 2022 references an "Organisational restructure" which occurred in 2019, noting that further information can be provided on request. With respect to this organisational restructure please:

- explain the impetus for this restructure, and what this restructure involved, and
- any primary/key document (such as a report) which informed this restructure.

- 45) Because of their interconnectedness, we have dealt with these questions together. Attachment B shows how the early initiatives (shown as Horizon 1) delivered greater consistency of approach and focus on outcome across the CCC. This enabled the CCC to leverage that consistency to achieve a stronger focus on efficiency and effectiveness, and to develop strategies to position the CCC for the future and innovate its functions and services.

-
- 46) In 2018, the CCC commenced the development and implementation of a new Operating Model and Operational Framework to achieve greater consistency and governance of CCC operations. The Operations Manual was developed subsequent to (and dependent on) those instruments.
- 47) Following the implementation of the Operating Model, Operational Framework, and Operations Manual, it was recognised that further work was needed to better position the CCC to achieve its operating and strategic objectives, understand the CCC's critical capabilities for current and future service delivery and how best to uplift those capabilities and structure the organisation.
- 48) The then much-larger ELT (heads of Operations Support, Intelligence, Financial Investigations, Crime, Corruption, Legal Services, Policy and Research, Strategic and Corporate Services), assisted by Deloitte Consulting, agreed the CCC's critical capabilities for current and future service delivery, and co-designed the CCC's structure in line with the new operating model (two strategy workshops were held on 13 December 2018 and 1 February 2019).
- 49) That review indicated a number of challenges with the existing structure, specifically:
- a) high CEO span of control
 - b) complex governance structure
 - c) unclear accountabilities
 - d) strategic capabilities grouped with corporate capabilities
 - e) potential cases of capability duplication.
- 50) The revised capability-led organisational structure aligns with the CCC's operating model, reflects the CCC's three primary "service lines", reduces the CEO span of control and enables the CEO to focus on core service areas (within the CEO's remit), provides clear accountability for capability delivery and development, simplifies governance, groups capabilities thereby reducing duplication, and prioritises and resources strategic and transformative initiatives (necessary to deliver the CCC *Futures* strategies that were developed in 2020).
- 51) Attachment C provides the finalised report presented to the CEO.
- 52) The work undertaken in the comprehensive review continues, as guided by strategy documents that form the CCC *Futures* strategies (see Attachments D to H).
- 53) The CCC wishes to maintain confidentiality over attachments A to H on the basis that they are internal documents.
- 54) In the event the Commission of Inquiry determines to maintain confidentiality over parts of this correspondence, the CCC requests that, if an individual or entity seeks access to any confidential information, including for example under the *Right to Information Act 2009* (Qld) or some other process, the Chairperson or the CEO of the CCC be informed and afforded the opportunity to provide submissions in relation to the particular request.

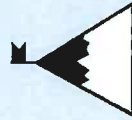




Digital Strategy 2020–2024

ATTACHMENT B

*Connecting people, insights and technologies to reduce major crime
and improve the integrity of public institutions*



Our ambition

A resilient, connected, augmented and automated CCC that enables the delivery of smarter and more simple services to reduce major crime and improve the integrity of public institutions.



Our opportunity

Build and maximise our digital capability (platforms, systems, tools and applications) to provide our people the tools to get ahead of crime and corruption, which is increasingly enabled by sophisticated technologies.



Our 2020–2021 priorities

- Ongoing delivery of strategic digital projects including Nexus and the GRC.
- Build data and insights infrastructure that centrally stores all CCC data in the cloud to enable the CCC to apply a collection of tools to better extract, store, visualise, augment and analyse data to improve service delivery.
- Design and feasibility of artificial intelligence technology to equip investigators with the capability to analyse vast amounts of complex unstructured data.
- Improve system integration and interoperability to increase business intelligence, organisational resilience and connectedness.



Our goals

1. Improved service model

Improve our digital service model to increase resilience, connectedness, efficiency and effectiveness.

2. Improved stakeholder experience

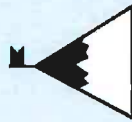
Improve the experience of our stakeholders when interacting or collaborating with the CCC.



Insights Strategy 2020–2024



*Connecting people, insights and technologies to reduce major crime
and improve the integrity of public institutions*



Our ambition

Effectively leverage research, intelligence, data, analytics and external partnerships to increase operational efficiency and effectiveness and deliver innovative solutions against major crime and corruption.



Our goals

1. Empower people with data

Our people and stakeholders have access to the right information at the right time. They understand what data is available and know how to use it.

2. Enhance agency performance

- Improved quality and timeliness of assessments and investigations.
- Improved operational and intelligence gathering capabilities that enable targeted and pro-active action.
- Effective internal processes that create increased capacity of our people.



Our 2020–2021 priorities

- Complete requirements gathering and design to ensure we put in place the right analytics infrastructure.
- Data and insights lifecycle management to ensure we coordinate the development and delivery of insights use cases across the CCC.

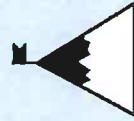


Our opportunity

- Take advantage of the increasing crime and corruption digital footprint to deploy advanced analytics.
- Integrate data assets for comprehensive intelligence gathering.
- Leverage our unique legislative powers to collect and analyse data to reduce major crime and corruption.

Workforce Strategy 2020–2024

*Connecting people, insights and technologies to reduce major crime
and improve the integrity of public institutions*



Our ambition

The CCC will continue to evolve as a crime and corruption workforce of the future so that we can keep “ahead of the game” to reduce crime and improve the integrity of public institutions in the Queensland community.



Our opportunity

To ensure that the CCC has the workforce it requires to deliver on its strategic objectives.



Our goals



Our 2020–2021 priorities

- Embed the Strategic Workforce Planning model into business planning processes to put our people in the right place at the right time.
- Review the HR policy suite to simplify, differentiate and tailor entitlement to the needs of the CCC.
- Rebuild the Recruitment and Selection process with a focus on candidate experience to get access to the best people.
- Define the requirements for a future one-stop shop for HR data to improve decision making.

1. The work

We use insights, digital technology and innovation to deliver measurable value by focusing on the things that matter and create impact.

2. The worker

Our people are a diverse, engaged and adaptable workforce with the right mix of experience, specialist skills and personal attributes.

3. The workplace

We foster a “great place to work”, differentiated from other public sectors, underpinned by a strong performance culture and robust workforce planning and management.

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Our Reference: 22/070134
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SENSITIVE

6 May 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinquiry.qld.gov.au

Dear Commissioners,

**RE: Request for additional information from the Commission of Inquiry into
specific matters relating to the Crime and Corruption Commission
(Commission of Inquiry)**

I refer to your correspondence dated 3 May 2022, in which you requested the Crime and Corruption Commission (CCC) provide additional information by 6 May 2022.

On this occasion, the CCC would appreciate an extension of the deadline until 11 May 2022 to facilitate the preparation of a comprehensive response.

On 5 May 2022, Ms Brigita Cunnington requested, via a telephone conversation with the CCC Chief Executive Officer, the CCC provide:

1. the then Crime and Misconduct Commission's (CMC) supplementary submission to the then Parliamentary Crime and Misconduct Commission's 3-year review of the CMC (dated 18 August 2003). We understand that is a supplementary submission made as part of the PCMCs Report Number 64.

[REDACTED]

The supplementary submission and legal advice are attached. For completeness, we have also enclosed the primary submission to the PCMC review dated April 2003.

The CCC also advises that the Parliamentary Crime and Corruption Committee has requested we provide to it our submissions to the Commission of Inquiry. Can you please advise whether you have any objection to the CCC providing the submissions along with the responses provided to additional information requests?

[REDACTED]

Yours sincerely,

[REDACTED]

Bruce Barbour
Acting Chairperson

CRIME AND MISCONDUCT COMMISSION

Three-yearly review to the PCMC

April 2003

A large, stylized, abstract graphic in the background, rendered in a grey, textured, halftone-like pattern. It features several overlapping, curved, and angular shapes that create a sense of movement and depth. The graphic is positioned behind the text, with some elements appearing to frame the title.

Crime and Misconduct Commission

Three-yearly review to the PCMC

2003

April 2003

VISION

That the CMC be a powerful agent for protecting Queenslanders from major crime and promoting a trustworthy public sector.

MISSION

To combat major crime and improve public sector integrity.

THE CMC VALUES:

- ▶ integrity
- ▶ accountability
- ▶ excellence and innovation.

THE CMC WILL:

- ▶ act with independence, impartiality and fairness in the public interest
- ▶ show commitment to the Rule of Law
- ▶ embrace excellence, professionalism and teamwork in everything we do
- ▶ be responsive to our clients, and work collaboratively with our stakeholders
- ▶ respect and value our staff
- ▶ demonstrate leadership, innovation and flexibility in performing our duties.

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Abbreviations

ACC	Australian Crime Commission
ACC	Aboriginal Coordinating Council
AFP	Australian Federal Police
CJC	Criminal Justice Commission
CMC	Crime and Misconduct Commission
COMPASS	CMC complaints system
DATSIP	Department of Aboriginal and Torres Strait Island Policy
DOGIT	Deeds of Government in Trust
DPP	Director of Public Prosecutions
ESC	Ethical Standards Command
FOI	Freedom of Information
ICAC	Independent Commission Against Corruption (NSW)
ICC	Islander Coordinating Council
NCA	National Crime Authority
ODPP	Office of the Director of Public Prosecutions
PCJC	Parliamentary Criminal Justice Committee
PCMC	Parliamentary Crime and Misconduct Committee
PIM	Public Interest Monitor
PPRA	<i>Police Powers and Responsibilities Act 2000</i>
PSAA	<i>Police Service Administration Act 1990</i>
QAO	Queensland Audit Office
QCC	Queensland Crime Commission
QPS	Queensland Police Service
SIU	Strategic Intelligence Unit
TI	Telecommunications interception
WPU	Witness Protection Unit

Chapter 1

Purpose of this submission to the PCMC

This submission has been prepared to assist the Parliamentary Crime and Misconduct Committee (PCMC) undertake its three-yearly review of the Crime and Misconduct Commission (CMC), under section 292(f) of the *Crime and Misconduct Act 2001*.

The primary focus of the submission is on informing the Committee about what we have been doing in our key areas of responsibility, so that a proper assessment can be made of our performance. We also identify legislative and procedural changes that we consider would enable us to be more effective.

This submission does not address fundamental questions such as whether the CMC has an ongoing role to play in combating major crime, reducing misconduct, improving public sector integrity, and protecting witnesses. We have assumed that, given the *Crime and Misconduct Act 2001* has only been in force for 15 months, the Committee accepts that these functions should be performed by the CMC, and that the primary focus of the review is on how effectively we are discharging them.

The submission should be read in conjunction with other documents — such as our annual reports and various public documents (all of which are available on our website) as well as our bimonthly confidential briefing papers to the PCMC — which provide more detailed information about our activities.

NEW DIRECTIONS

The most significant change to the Commission since the last three-yearly review is, of course, the merger of the former Criminal Justice Commission (CJC) and the Queensland Crime Commission (QCC) to form the Crime and Misconduct Commission. The merger has integrated two successful organisations to produce a second-generation crime-fighting body, which has already capitalised on increased efficiencies through sharing of resources and information. The impact and successes of the merger will be discussed in more detail throughout this submission.

In the performance of its Crime function, the CMC adopts the operational philosophy that underpinned the QCC's effectiveness. The merger has, however, enhanced the Crime function's ability to respond to the incidence of organised and serious crime and paedophilia by increasing its crime-fighting capacity in certain key areas. The combined organisation has achieved this by delivering enhanced research, strategic intelligence, surveillance and administrative support to the Crime function.

With the increased powers provided by the new *Criminal Proceeds Confiscation Act 2002*, the CMC is contributing even more to the disruption of crime networks, through recovering the financial gain associated with illegal activity.

The Crime and Misconduct Act also brought about a change in the way in which we carry out some core functions, particularly the Misconduct function. The CJC began the process when it launched Project Resolve, an innovative approach to handling police complaints. This approach is now being developed on a larger scale, not only through the Queensland Police Service (QPS), but through the wider public sector. As a result, senior managers throughout the public sector are becoming involved in the frontline fight against misconduct and

corruption and taking responsibility for nurturing an integrity culture within their organisations. The CMC has increased its oversight role, with a view to continuous improvement within public-sector agencies and to maintaining public confidence in the complaints systems. We will still conduct investigations where matters are complex, involve serious or sensitive allegations, or require use of Commission powers.

The CMC is aware of the need to undertake all of our functions in a timely manner. While we do not intend to sacrifice quality and thoroughness for the sake of speedy resolution, we have been reducing the number of outstanding investigations, particularly those that have been ongoing for over 12 months. Given the more complex nature of investigations being undertaken regularly by the CMC, we expect to complete 90 per cent of pursuable misconduct and corruption investigations within 12 months, and 90 per cent of full and short reviews within four weeks.

OUR HISTORY

The Crime and Misconduct Commission is an amalgamation of the Criminal Justice Commission (CJC) and the Queensland Crime Commission (QCC).

The CJC was established by the *Criminal Justice Act 1989* to help restore confidence in Queensland's public institutions following the revelations of the 1987–89 Fitzgerald Inquiry into police corruption. In addition to investigating police and public sector misconduct, the CJC also for several years assisted the police in investigating organised and major crime. In 1997, this function was taken over by the newly formed Queensland Crime Commission (QCC), under the *Crime Commission Act 1997*. The QCC was also specially tasked with investigating paedophilia.

The Crime and Misconduct Act heralded the emergence of a single organisation focused on three outputs: combating major crime, improving public sector integrity, and offering witness protection.

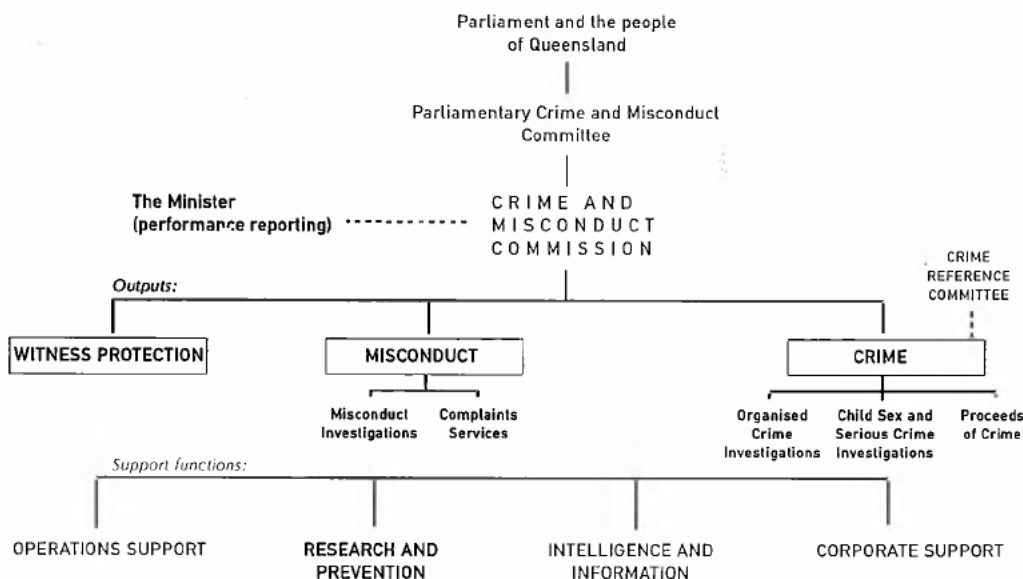
The merger, as foreshadowed in parliamentary debates, has resulted in increased efficiencies, synergies and opportunities. This is nowhere more evident than in:

- the Crime function, which takes advantage of the surveillance, technical, intelligence, research, prevention, and information technology resources of the organisation
- the Research capacity — research data is now better able to provide information to operational activities on the nature of major criminal activity
- the Intelligence function — where resources have been streamlined and the strategic intelligence functions of the former Commissions have joined forces, strengthening the function and enabling a more efficient sharing of intelligence.

The CMC's continued success will depend largely on its capacity to balance outputs with a commitment to forging partnerships with other law enforcement agencies, public sector agencies, and the general community.

OUR STRUCTURE

The CMC is structured in a way that allows organisational effort to be directed towards delivering outputs while meeting accountability obligations. The following organisational chart indicates to whom the CMC is accountable, its business units supporting the outputs, and the areas in which it produces output for the government.



The CMC has a staff of 295, comprising lawyers, police, accountants, investigators, social scientists, intelligence analysts, computing specialists, administrators and support staff. Its expense budget for 2002–03 is \$31.3 million, as approved by the Minister (the Premier).

OUTLINE OF WORK-AREA FUNCTIONS AND RESPONSIBILITIES

Crime

The Crime function combats major crime, which includes organised crime such as drug trafficking, serious crime such as unsolved murders, and child-sex offending. It achieves results through the use of multidisciplinary teams and QPS taskforces. Associated with these activities is the administration of the Criminal Proceeds Confiscation Act 2002, which enables the CMC to take steps to confiscate assets likely to have been unlawfully acquired.

Misconduct

The Misconduct function receives and handles complaints, takes a leading role in building the capacity of agencies to prevent and deal with misconduct, and conducts misconduct investigations. Like the Crime function, the Misconduct function relies on the use of multidisciplinary teams to investigate complaints (especially serious matters or where the public interest is involved). The CMC may decide to investigate a matter alone or in partnership with the relevant agency, or hand the matter back to the agency to deal with itself, subject to some form of monitoring by the CMC.

Witness Protection

The Witness Protection function offers protection to people who are in danger because they have helped a law enforcement body, such as the CMC or the QPS, do its job. It may, for example, assist people meet their court commitments or relocate them out of harm's way (including create new identities). It conducts these activities in accordance with the *Witness Protection Act 2000* and section 56 of the *Crime and Misconduct Act 2001*.

Research and Prevention

The Research and Prevention area has staff devoted to undertaking research that supports the outputs of Combating Major Crime and Improving Public Sector Integrity. This includes liaising with Indigenous groups and individuals, researching matters of particular significance to law enforcement or policing, producing resource materials to assist agencies prevent misconduct, and working with agencies to address their particular misconduct risks. Activity for 2003–04 is focused on policing, capacity development, crime prevention, drugs, paedophilia and Indigenous liaison.

Intelligence and Information

The Intelligence and Information area has functions that assist the CMC achieve its required outputs by, for example, developing targets of interest to the CMC, disseminating intelligence to other law enforcement agencies, maintaining an intelligence database, and managing and developing the organisation's electronic and hard-copy information systems.

Operations Support

The Operations Support area, led by the senior senior police officer attached to the CMC, coordinates the activities of police working in the CMC. The area contributes to the achievement of outputs by providing, along with its coordination role, expert staff in forensic computing, and surveillance and technical services.

Corporate Support

The Corporate Support functions assist all areas in the CMC to operate effectively in the achievement of outputs. They maintain the CMC's internal and external accountability systems and provide services in the areas of legal advice, corporate governance, administration, finance and human resources.

THE FUTURE

The CMC has embraced the recent changes to both its organisational and operational focus, and looks forward to continuing to be a relevant and effective body in its second decade of operation. It has been said that all it takes for evil to flourish is for good people to do nothing. The CMC is committed to not only maintaining its vigilant watch over misconduct and major crime within this State, but looks forward to working in partnership with other law enforcement agencies and the public sector to ensure that the integrity of this State is maintained and continues to improve.

The CMC acknowledges the importance of its own operations being subject to the effective oversight of the Parliamentary Crime and Misconduct Committee, aided by the Parliamentary Crime and Misconduct Commissioner.

Chapter 2

How the CMC's special powers aid investigations

The CMC has three main outputs — combating major crime, improving public sector integrity, and protecting witnesses. This chapter focuses on the first two (see chapter 9 for a detailed discussion of the third). It:

- explains the CMC's jurisdiction in the areas of crime and misconduct
- explains what the CMC's special powers are and how they aid investigations
- looks at some recent developments that may have an impact on future operations
- explains some necessary amendments to the *Crime and Misconduct Act 2001* that have already occurred, and discusses the need for further amendment
- raises the issue of telephone interception powers and how these would further enhance the CMC's ability to conduct effective investigations.

JURISDICTION

Crime function

The CMC has not been given a general jurisdiction to investigate criminal offences. Its Crime function is limited to matters involving 'major crime', and then only if the major crime in question has been referred to it by the Crime Reference Committee.¹ 'Major crime' refers to criminal activity involving an indictable offence punishable by a term of imprisonment of not less than 14 years, or criminal paedophilia or organised crime.

The Crime Reference Committee may refer major crime to the CMC on its own initiative when it is satisfied that it is in the public interest to do so, and that an investigation into the matter is unlikely to be effective using the powers ordinarily available to the QPS.

The result of this legislative framework is that most investigations into major crime in Queensland continue to be conducted by the police. The CMC undertakes general and targeted investigations of certain categories of criminal activity involving major crime that come within the terms of a reference from the Crime Reference Committee. The Act allows these investigations to be carried out by the CMC with the assistance of a QPS taskforce, or through operational agreements with other law enforcement agencies.

The CMC supports the current legislative framework for crime investigations.

1 The Committee, chaired by the CMC's Assistant Commissioner, Crime, comprises the CMC Chairperson, the Commissioner of Police, the Chair of the Australian Crime Commission, the Commissioner for Children and Young People and two persons appointed by the Governor in Counsel as community representatives, of whom one at least must have demonstrated interest in civil liberties and one at least must be a female.

Misconduct function

The CMC's role in the misconduct area is to raise the standards of integrity and conduct in public sector agencies and, at the same time, to ensure that complaints about official misconduct and police misconduct are dealt with appropriately. Misconduct may be tackled by the CMC in one of three ways:

- 1 It may investigate the matter itself (especially serious matters or when the public interest is involved).
- 2 It may investigate the matter in partnership with the relevant agency.
- 3 It may hand the matter back to the relevant agency to deal with itself, subject to some form of monitoring by the CMC.

The Crime and Misconduct Act requires the CMC to hand matters back to a relevant agency for investigation wherever it is practical to do so, but, at the same time, it gives the CMC more power (compared to the former Criminal Justice Commission) to monitor the processes and outcomes of agencies' investigations.

The CMC fulfils its monitoring role by obtaining interim reports, reviewing selected matters after they have been investigated, and reviewing how random and targeted classes of matters have been dealt with. In addition, it may help agencies deal with matters referred to them by assisting them to prepare investigation plans, by sitting in on interviews with witnesses and subject officers, and by providing financial analysis.

The CMC considers that the current Act provides the appropriate powers to enable it to investigate major matters, and to monitor the way that agencies deal with complaints of misconduct.

SPECIAL POWERS OF THE CMC

Hearings

One of the special coercive powers given to the CMC is the power to require persons to attend and give sworn evidence at hearings concerning any matter relevant to the performance of its functions, including major-crime and misconduct investigations. The granting of such a power is a vital part of the CMC's response to the growing sophistication of those engaging in corrupt activity — a sophistication that can defy ordinary investigative methods.

The hearings power is a potent investigative tool because it greatly enhances the CMC's ability to break through the 'wall of silence' that frequently characterises institutionalised corruption. However, we are acutely conscious of the need to use such special powers in a discerning way with appropriate regard to the public interest in reducing corruption and calling wrongdoers to account, on the one hand, and the rights of the individual on the other.

Hearings are mainly used:

- to secure the evidence of uncooperative persons, often in cases of professional confidentiality issues
- to secure evidence that is otherwise unobtainable to use in proceedings against persons of interest
- to eliminate possible scenarios and refocus investigations.

The interim report from the Royal Commission into Corrupt or Criminal Conduct by Western Australian Police Officers made observations regarding the benefits of hearings, including public hearings, into the allegations it was considering. The report found that subjecting the issues and allegations to the hearing process and, in some cases, to public exposure was in the public interest and led to a refinement of the issues and a creation of public awareness of the actions taken to deal with possible corruption. The report also expressed the view that the inability of a corruption agency to conduct hearings would be a substantial impediment to its operations.

Two examples of the CMC's successful use of the hearings power for misconduct investigations are set out below:

Alleged police misconduct. The CMC conducted a joint operation with the QPS Ethical Standards Command (ESC) after a police investigation into an allegation against two officers had been frustrated by the refusal of a key witness to cooperate. The witness, a friend of the subject officers, was summoned to a CMC hearing, and his evidence was later provided to the ESC.

Alleged corruption in a local government. As part of a CMC investigation into allegations about corrupt arrangements between a council officer and a company, the CMC called the officer to a hearing. At the start of the hearing, the CMC already knew that the officer had received one benefit, but during the hearing he admitted receiving many more and also to corrupt arrangements with two other companies.

The hearing power is also used frequently and effectively in the performance of the CMC's Crime function. Since 1 January 2002, hearings have been held in 17 separate major crime investigations (7 organised crime, 8 serious crime and 2 paedophile matters). These hearings were held over 97 days, with 128 witnesses attending, including 13 interstate witnesses.

In organised-crime investigations, hearings are used in various contexts and for a range of purposes, such as:

- in the early stages of an investigation, to debrief informants who may need to avail themselves of the protection against self-incrimination available in hearings
- after the arrest of the targets and the execution of search warrants (often within days of the arrest), to examine associates of operational targets
- to gather evidence to strengthen the existing case against the targets; for example, by extending the currently charged trafficking period in drug investigations
- to gather evidence of money-laundering activity associated with illegal drug activity and identifying the whereabouts of proceeds of such activity.

Frequently, the CMC's organised-crime investigations are conducted conjointly with other law enforcement agencies such as the QPS, the AFP, the ACC and the Australian Customs Service. Witnesses are often confronted with telecommunications interception product (TI product) in cases where it is available by virtue of the involvement of a Commonwealth or interstate law enforcement agency. TI product is particularly potent in drug investigations, given that mobile telephones are indispensable to the ability of drug dealers to conduct their business activities. In numerous cases, witnesses who have steadfastly maintained their non-involvement in any illegal activity with the targets, immediately recant when intercepted telephone conversations are played to them. Once they have recanted, they may well proceed to give evidence of their associations and activities that goes further than the information already known to investigators.

Other strategies used by the CMC include confronting witnesses with surveillance videos and, on occasion, with covert police operatives to whom they may previously have made incriminating statements.

Serious-crime matters (i.e. major crime consisting of criminal activity involving an indictable offence punishable by at least 14 years imprisonment) are invariably referred to the CMC by the QPS for the primary, if not sole, purpose of enabling the hearings power to be used.

Since the CMC's inception on 1 January 2002, 10 serious-crime matters have been referred to us for investigation, most of which have involved actual or suspected murders, and in one case, an attempted murder.

The purposes for which the use of the hearings power has been sought have been widely varied. They have included the following:

- to secure the evidence of uncooperative persons to whom the suspect is believed to have made admissions of involvement in the serious crime
- to overcome the concerns of a cooperative witness relating to professional confidentiality issues
- to secure the evidence of numerous uncooperative eyewitnesses to a serious crime, and thereby reinforce the 'rule of law' in a small rural community
- to test the version of a suspect so as to assess (and possibly exclude) the suspect's involvement in the serious crime.

In appropriate criminal paedophilia investigations, the hearings power is able to advance the investigation significantly or to assist in achieving crime-prevention outcomes. It is a particularly effective tool in breaking down the 'wall of silence' that frequently surrounds paedophile activity, and in gaining an insight into the paedophile sub-culture.

Two examples of the successful use of the hearings power for criminal paedophilia investigations are set out below:

Allegations of child-sex offending at a nudist resort. In the course of a CMC investigation, various home movies were seized that depicted consensual sexual activity by numerous persons, some of whom appeared to be under the age of consent. The evidence suggested that the proprietor orchestrated the sexual activity and filmed it for his own gratification. The CMC was able to identify the persons depicted in the home movies, all of whom were by this time adults. The persons were called to hearings so they could give full and frank accounts without incriminating themselves.

Prevention of child-sex offences. A prisoner who was soon to be released from prison was suspected of making preparations for the commission of offences on the children of vulnerable families with whom he had an association. In order to achieve crime-prevention as well as tactical-investigative outcomes, the CMC conducted a hearings program on an overt basis to alert the target to our interest in his suspected activities. Several fellow inmates of the target were called to the hearings to help us ascertain the nature and extent of the preparations. The parents of the children considered to be at risk were also called to hearings to be examined as to the nature of their past associations with the target and their proposed dealings with him upon his release from custody. A valuable preventive outcome of the hearings was that many of these persons expressed their intention to stop associating with the target and to ensure that he had no contact with their children.

The CMC considers that its current powers to hold public and private hearings are appropriate and effective.

As well as its hearings power, the CMC has a number of covert and compulsory powers at its disposal in the fight against misconduct and major crime. These are:

- ▶ the power to issue notices to produce (for the Crime and Misconduct functions)
- ▶ the power to use surveillance devices (for the Crime and Misconduct function)
- ▶ the power to conduct covert searches (for the Crime function)
- ▶ the power to conduct overt searches (for the Crime and Misconduct functions)

Production notices

The power to issue production notices, which require persons to produce stated documents or things within a specified time, is particularly effective in obtaining financial records to enable money trails to be established in relation to fraud or corruption investigations.

The Crime and Misconduct Act empowers the Chairperson or his delegate to issue a notice requiring the recipient, within the time specified in the notice, to provide information or produce a stated document or thing that the Chairperson or his delegate reasonably believes is relevant to a crime, misconduct or civil-confiscation related investigation.

This power is used extensively by the CMC in the course of its investigations. A total of 217 notices have been issued for the purposes of major-crime investigations since the CMC's inception, most of which related to organised-crime investigations. For misconduct investigations, 259 notices have been issued. For both functions, the power is most frequently used to seek the production of financial records from banks and other third-party institutions in order to build a financial profile of targets, their close relatives and associates and other people of interest. Under the CMC's new civil-confiscation role, 10 notices to produce have already been issued.

This power is highly effective because it is a streamlined process that does not require the making of any external application. However, strict accountability processes are in place to ensure that the power is used appropriately and discriminately. A written application must be made for the issue of each notice, setting out in detail the nature of the investigation and the relevance of the documents or things sought to the investigation.

Confidential notices. Under the Act provision may be made in an attendance notice or a production notice that the notice is a confidential document. Subject to certain exceptions, it is an offence for the recipient of such a notice, or anyone else who is or becomes aware of its existence, to disclose the existence of the notice to anyone else without reasonable excuse.

This provision can be useful in preserving the integrity of an investigation. For example, it can be used if an investigation will be prejudiced by the target becoming aware that associates are to be called to a CMC hearing to give evidence of their dealings with him or her.

However, we are well aware of the practical limitations of the provision. There will always be a risk of recipients simply not complying with the confidentiality clause, particularly if the recipient comes from a criminal milieu.

Our approach is that notices should not be issued as confidential notices as a matter of course, but only when it is considered that there is some tactical or forensic purpose to be

served in including such a clause. The written application for a confidential notice must include detailed reasons for the inclusion of a confidentiality clause.

Most of the notices issued for crime and misconduct investigations since the CMC's inception have not included confidentiality clauses.

Surveillance devices

The CMC has the power to use surveillance devices for crime investigations and, to a more limited extent, for misconduct investigations.

Crime investigations may use:

- listening devices
- visual surveillance devices
- tracking devices
- devices containing any combination of the above
- data-surveillance devices.

Under the Act, Misconduct investigations may use listening devices.

As well as the surveillance powers available under the Act, police officers attached to the CMC are able to apply for warrants under the *Police Powers and Responsibilities Act 2000* (PPRA).

Since the CMC's inception, 12 surveillance warrants have been obtained by CMC officers in the course of three major-crime investigations, issued either under the Act or the PPRA. Four surveillance devices have been obtained for misconduct investigations.

Apart from the legal resources involved in the making of an application for a surveillance warrant, considerable time and effort is required on the part of surveillance and technical officers in safely installing, maintaining and ultimately removing the devices in question with minimal risk of operational compromise. However, the greatest resource impost relates to the necessity of establishing a listening or monitoring post for the duration of the period during which the device may be operational (which may be up to 30 days), and staffing the post with monitoring officers throughout that period, generally on a 16–18 hour a day basis. These factors mean that surveillance devices are used judiciously.

Covert searches

The CMC's Crime function has also been provided with extensive powers enabling it to search premises and vehicles covertly. This is a highly useful investigative tool as it enables the search and seizure of relevant evidence while still enabling the covert phase of an investigation to continue, thereby allowing more evidence of criminal activity to be gathered.

The Crime and Misconduct Act permits the CMC to apply to a Supreme Court judge for a covert search warrant in crime investigations.

While covert search warrants issued under the Act are available in all three areas of major crime — organised crime, serious crime and criminal paedophilia — to date we have obtained five covert search warrants, either under the Crime and Misconduct Act or the PPRA, and all of these have related to organised-crime investigations. However, as with other covert strategies, covert searches are resource intensive, and this consideration tends to limit the extent to which the power is used.

Overt searches

The ability to obtain a warrant enabling law enforcement officers to enter and search premises and seize relevant evidence is a basic tool for any criminal investigation, and is available for both crime and misconduct investigations.

CMC officers undertaking misconduct investigations have obtained 65 search warrants since 1 January 2002.

During this period, CMC officers undertaking major-crime investigations have obtained a total of 25 search warrants, either under the Crime and Misconduct Act or the PPRA, 16 of which were sought in organised-crime investigations, and 9 in paedophile investigations. However, these figures do not accurately reflect the extent to which search warrants have been used in the course of major-crime investigations, as they do not include any PPRA warrants obtained by QPS officers who are members of CMC-QPS taskforces established under the Act to help the CMC carry out crime investigations, nor do they include PPRA warrants obtained by officers of other partner agencies (for example, the ACC and the AFP) in the course of joint crime investigations.

The CMC is of the view that the investigative powers presently given to it under the Act in respect of its crime, misconduct and civil-confiscation jurisdictions should be maintained.

NEW HORIZONS

Cross-border investigations

In December 2002, a Discussion Paper on cross-border investigative powers for law enforcement agencies was circulated to all of the Commonwealth, State and Territorial agencies whose officers were involved in a Joint Working Group on the topic during 2002. The CMC is represented on the Joint Working Group, as is the Department of the Premier and Cabinet, Justice and Attorney-General, and the QPS.

The proposed scheme would provide a powerful tool for the CMC (and the QPS) to pursue serious investigations across state borders, without being required to seek further approval from the courts or authorities in other States.

An officer-level Joint Working Group on National Investigative Powers was formed as a result of a decision taken at the Leaders' Summit on Terrorism and Multi-Jurisdictional Crime on 5 April 2002 to create a national set of powers for cross-border investigations covering controlled operations, assumed identities, electronic surveillance devices and witness anonymity. The Summit agreed that the model legislation would be settled within 12 months. The Standing Committee of Attorneys-General and Australian Police Ministers was asked to prepare model legislation suitable for implementation in all jurisdictions.

The model legislation has been prepared at officer level, but has not been endorsed by Government at this stage.

The scheme basically proposes that the various jurisdictions involved will agree to the minimum levels put forward for the use of certain powers, and minimum safeguards for the approval and auditing processes for such powers. Each jurisdiction will also agree to recognise process issued under legislation passed by the other jurisdictions, if the legislation complies with those minimum standards.

Once this process is complete, it is intended that authorisations issued in one jurisdiction will be able to be relied upon in any of the others — tracking devices validly obtained in one State will be able to be followed into another, assumed identities issued in one State will be able to be used in any other cooperating jurisdiction, and controlled operations approved in one State will be able to operate under the approval in another.

One important issue for the CMC during any legislative process that may be undertaken in Queensland to support cross-border investigations will be preserving the status quo in relation to its controlled operations and surveillance-device powers. Presently, these powers can be used for the investigation of misconduct or ‘misconduct offences’, as well as for the investigation of serious indictable offences, major crime or organised crime.

The minimum standard proposed for use of these powers in the model legislation is an offence punishable on conviction by imprisonment for a period of three years or more. It is clear, therefore, that the other jurisdictions will not recognise legislation that includes ‘misconduct’ as a basis for use of the powers. It will be necessary, if Queensland proceeds with this scheme, for the CMC’s misconduct powers to be preserved separately from the powers for which it is intended to seek mutual recognition (which will have to relate to indictable criminal offences at the minimum level prescribed).

In the CMC’s submission, the policy reasons that led to the CMC being able to access controlled operations and surveillance-device powers for the investigation of official misconduct and police misconduct remain valid today, and the introduction of a scheme for mutual recognition of powers to be used in cross-border investigations should not result in a lessening of those powers. The CMC will continue to work in consultation with the Department of Premier and Cabinet, Justice and Attorney-General, and the QPS to ensure that it does not.

The CMC seeks the Committee’s support in maintaining the present powers during any legislative amendment process that may result from the National Investigative Powers initiative.

Private entities exercising public functions

In its submission to the three-yearly review conducted by the PCJC in 2000–01, the CJC noted that bodies that carry out public functions had changed in recent times from consisting almost entirely of government departments and statutory authorities to include bodies established by Government under companies legislation, and other subsidiary bodies intended to conduct commercial activities. The submission noted that policies favouring commercialisation and corporatisation had supported the trend in this and other States to create such bodies. That trend and the growing trend towards outsourcing the provision of certain essential government services to private contractors or consultants has continued in the ensuing years.

A prime example of the trend at that time was the use of private contractors to carry out the Government’s important corrective services responsibilities. Those private contractors have now been brought within the jurisdiction of the CMC.

In its Report No. 55, March 2001, the PCJC noted the CJC’s submission, and commented:

The Committee believes this is a complicated and difficult issue. Quite aside from the complex policy considerations involved, and as the CJC has pointed out, it would be difficult to draft a definition of ‘unit of public administration’ which would cover all appropriate bodies, but not extend to bodies which ought not to be covered. It is beyond

the scope of the time constraints of the present review to consider the matter in any detail.

The Committee recommended that the next Parliamentary Committee give consideration to the complex issue of the extent to which, if any, private bodies exercising public functions and the jurisdiction of the CJC should be extended to cover such bodies.

The question that was raised at that time, and which remains an issue, is whether the CMC's core concern should be limited to bodies that come within the present definition of 'unit of public administration', or alternatively should include entities that spend public funds or perform public functions. There certainly seems to have been, in the past, a public expectation that bodies that are publicly funded or carrying out public functions would automatically fall within the CJC's jurisdiction (an example being the controversy caused by the remuneration package of a senior executive at Energex, a body that was not within the CJC's investigative jurisdiction).

The Independent Commission Against Corruption (ICAC) in New South Wales has a much broader jurisdiction in respect of entities that are publicly funded or carry out public functions, even when those entities are private individuals or commercial organisations.

This has been achieved by a broad definition in the *Independent Commission Against Corruption Act 1988* of both 'public authority' and 'public official'. The definition of public authority includes, for example:

A person or body in relation to whom or to whose functions an account is kept of administration or working expenses, where the account:

- i) is part of the accounts prepared under the Public Finance and Audit Act 1983, or
- ii) is required by or under any Act to be audited by the Auditor-General, or
- iii) is an account with respect to which the Auditor-General has powers under any law, or
- iv) is an account with respect to which the Auditor-General may exercise powers under a law relating to the audit of accounts if requested to do so by a Minister of the Crown.

In respect of 'public official', the definition includes private or commercial entities that carry out public functions by including as a public official:

- (m) an employee of or any person engaged by or acting for or on behalf of, or in the place of, or as deputy or delegate of, a public authority or any person or body described in any of the foregoing paragraphs.

The CMC is of the view that entities that carry out public functions should be subject to scrutiny by the CMC, especially where public funding is involved. Consideration should be given to adopting a definition similar to that employed by ICAC. While concern has previously been raised that such a definition may then include the CMC, that particular consequence could easily be avoided by use of an exclusory provision in the definition, as in the present Act.

Terrorism

Most terrorism offences fall within the CMC's jurisdiction through the category of major crime. Investigation of these offences is presently the subject of an 'umbrella reference' from the Crime Reference Committee. While many of the CMC's present powers would assist in investigating and preventing terrorism offences, a number of the powers could be supplemented to enable a more effective response to the unique aspects of terrorism offences.

Surveillance. Presently, surveillance warrants under both the Crime and Misconduct Act and the PPRA require a suspicion that a specified person has been, is, or is likely to be involved in a major crime and is likely to be at a certain place. This is in contrast to covert search warrants, which may be issued on the grounds that evidence of a major crime is at a place, or is likely to be taken to a place, within the next 72 hours.

Both the Crime and Misconduct Act and the PPRA should be amended to enable applications for surveillance warrants to be sought in circumstances where a place is being used to prepare for or plan terrorist activities, but the identities of the individuals are not known. The application should not have to specify that a 'relevant person' is likely to be at the place. Rather, like a covert search warrant application, the application would be based upon a belief that evidence about a terrorist or plans for a terrorist act would be obtained through the covert monitoring of conversations at the place or covert visual recording of images from the place. The grounds for issuing surveillance warrants should also be broadened to include cases where there are reasonable grounds for believing that evidence of the commission of a major crime is likely to be obtained by use of surveillance devices at a place.

Emergent covert searches. While the Crime and Misconduct Act and the PPRA allow for emergency use of surveillance devices and contain emergent overt search powers, they contain no provisions for enabling the conduct of an emergent covert search in appropriate circumstances. *Both Acts should be amended to allow an authorised Commission officer to conduct a covert search without a warrant if they reasonably suspect that a thing at a place is evidence of a major crime and, unless the place is immediately entered and searched, the evidence may be concealed or destroyed or its forensic value diminished.* This power would naturally be subject to the appropriate post-search approval provisions.

Additional-powers warrants for Crime investigations. These warrants enable officers to, among other things:

- enter premises where the records of a financial entity or associate of a person being investigated are held and to inspect and copy such records
- seize passports, travel documents, instruments of title etc., which are found in the possession of a person concerned in an investigation
- to compel a person to furnish an affidavit or statutory declaration relating to various matters such as property, financial transactions or the movement of money.

Additional-powers warrants, presently available under sections 157 to 165 of the Crime and Misconduct Act for misconduct investigations, should also be made available for crime investigations due to their potential utility in a counter terrorism investigation.

Serious indictable offences. Under the PPRA, the definition of serious indictable offences does not include potential serious terrorist activity involving merely extensive destruction of property; there must also be a loss or endangerment of life. *The CMC is of the view that the definition of serious indictable offences should be extended to include instances where there is only extensive destruction of property.*

Special constables. The *Police Service Administration Act 1990* (PSAA) defines the position of 'special constable' in section 1.4. The power to appoint special constables is contained in section 5.16 of the PSAA, and section 5.16(3) provides that the provisions of the PSAA apply to a special constable as if he or she were 'an officer'. However, the definition of a 'police officer' in the PPRA does not include a 'special constable'.

The CMC uses civilian operatives to carry out some of its surveillance and investigative duties. In the past, these operatives were appointed as special constables when necessary, which allowed them to assist in carrying out certain police activities (such as the execution of search warrants) and also protected them from criminal liability on the same basis as sworn police officers when they were carrying out duties such as physical surveillance of suspects (which may on occasion require minor breaches such as traffic offences or trespass on private property to be committed).

In view of the PPRA definition of 'police officer', the argument has now been raised that the appointment of 'special constables' does not have the effect of bringing a person so appointed within the PPRA powers, or within the protections specified in many Acts for police officers. They would not be afforded the protection in the following provisions, for example:

- Police officers are afforded protection under sections 144 and 305 of the Transport Operations (Road Use Management) Act
- Police officers are permitted by section 17 of the PPRA to trespass on a person's property in the execution of their duty
- Police officers may establish road blocks in urgent situations under section 24 of the PPRA
- Police officers may search a public place, dig up land and photograph evidence without a warrant under section 31 of the PPRA
- The protection from disclosing methodologies in court under section 454 of the PPRA applies only to police officers.

An amendment of the PPRA to include special constables within the definition of a police officer would allow the CMC to have appropriately qualified civilian operatives appointed as special constables to assist in carrying out their functions.

The CMC seeks the Committee's support for the above legislative amendments to assist the Commission to combat terrorism, which falls within the major-crime jurisdiction.

AMENDMENTS TO THE CRIME AND MISCONDUCT ACT IN THE WAKE OF THE MERGER

The drafting of the Crime and Misconduct Act was a major undertaking for the officers of departments who were involved in the project. It became clear in the months following the merger that some important issues had been overlooked and that some of the provisions in the Act had unintended consequences. Soon after the merger, we began working with officers of Premier's Department to ensure that amendments were drafted that would facilitate the continued successful operation of the CMC. Minor amendments to the Act were passed on 1 January 2003, as Schedule 3 of the *Criminal Proceeds Confiscation Act 2002*. These amendments included:

- An amendment to section 335(3), which clarified that any publication of information to the CMC was protected from action for defamation. This amendment was made retrospective to 1 January 2002, to ensure that those who provided information to the CMC after the Act commenced were fully protected.

- Several minor amendments were made to clarify the different procedures that apply to claims of privilege in relation to crime investigations and misconduct investigations.
- The applicability of the privilege against self-incrimination in relation to crime and misconduct matters was clarified.
- Provisions were passed to clarify that the CMC could deal with surveillance-device material accumulated by the former CJC and QCC, and also that the CMC could revoke or amend non-publication orders made by the former CJC and QCC.

The operation of the CMC under the new Act will continue to be assessed so that any further amendments that may be necessary can be requested.

One matter that has been identified since the recent amendment process is the need to clarify the power of the CMC to direct a witness to produce a document or thing at a CMC hearing when the item has not been required to be produced under the terms of the attendance notice served on the witness.

Section 82 of the Act enables the Chairperson to issue an attendance notice requiring a person to attend a CMC hearing for one or more of the following purposes:

- (a) to give evidence
- (b) to produce a stated document or thing
- (c) to establish a reasonable excuse or claim of privilege under section 72 or 74.

Under section 188, a person who is required to produce a document or thing to a CMC hearing under an attendance notice must produce the item at the hearing, unless the person has a reasonable excuse. It is an offence not to do so.

Section 192(1) of the Act provides that a witness at a CMC misconduct hearing must answer a question put to them at the hearing by the presiding officer. However, there is no clear power for the presiding officer to require a person appearing at the hearing to produce a document or other thing that was not referred to in the attendance notice. Not infrequently, the CMC becomes aware of the existence of a relevant document or thing during evidence.

Furthermore, unlike section 192(1) of the Act, which creates an offence for someone not to answer a question put at the hearing, there is no penalty for a refusal to produce a document or thing that has not been required under the attendance notice.

It is possible to draft a notice to produce requiring immediate production of the document or thing. However, this is a cumbersome process and could afford the witness an opportunity to destroy the item.

The power sought by the CMC exists in the *Independent Commission Against Corruption Act 1988* (NSW).

The CMC seeks the Committee's support for an amendment to allow presiding officers at CMC hearings to order the production of documents or things, in terms similar to the power under the Independent Commission Against Corruption Act.

TELEPHONE INTERCEPTION POWERS

Queensland is now the only State in Australia without telephone interception powers.

The telecommunications interception power is generally regarded as one of the most effective investigative tools for law enforcement agencies. It is also generally acknowledged as a less intrusive power than the use of listening devices, because a person's residence or office does not have to be covertly entered to enable telephone interception to take place, and the conversations of all persons who enter a residence or office are not recorded.

The value of telephone interception powers has been recognised by all law enforcement agencies in Australia, and by previous Committees. The CMC's position has been canvassed in numerous publications from 1995 to the present day. These publications are listed below:

15 February 1995 — CJC— Telecommunications Interception and Criminal Investigation in Queensland: A Report

The CJC gave close consideration to the law enforcement benefits and cost effectiveness of telephone interception, and to the safeguards and accountability mechanisms contained in the *Telecommunications (Interception) Act 1979* (Cwlth). The conclusion reached was that the capacity of the CJC and the QPS to combat organised and major crime would be significantly enhanced by providing them with a strictly regulated power to intercept telecommunications. The CJC was also satisfied that the Act provided an appropriate framework for regulating the use of this power and for protecting legitimate privacy rights.

There were considered to be clear law enforcement benefits from using telecommunications interception. The view was expressed that for some types of offences, such as those connected with organised crime, telecommunications interception was the only method by which the offences could be detected and evidence of other offences obtained. The CJC submitted that, compared with listening devices, telecommunications interception was a less intrusive and higher quality method of surveillance and considerably more cost effective. Moreover, it was noted that interceptions produced higher quality evidence which had been instrumental in securing convictions.

Report 29 — 1995 — PCJC — A review of the CJC's report on Telecommunications Interception and Investigation in Queensland.

The PCJC was satisfied that:

- 1 The capacity of the QPS and the CJC to combat crime, especially major and organised crime, would be enhanced by providing those agencies with the power to intercept telecommunications.
- 2 Telephone tapping was as intrusive but more cost effective than other electronic surveillance procedures already permitted under Queensland law.
- 3 The *Telecommunications (Interception) Act 1979* (Cwlth) contains inadequate mechanisms for protecting privacy and for ensuring that the power to intercept telecommunications is not abused.
- 4 It would be inappropriate and impractical for the QPS and the CJC to have to rely solely on cooperation with Commonwealth law enforcement agencies to access the powers of the *Telecommunications (Interception) Act 1979*.
- 5 With further safeguards, the power should be granted to the QPS and the CJC.

Report 45 — June 1998 — Three-Yearly Review of the CJC by the PCJC

The PCJC noted that the government of the 47th Parliament introduced the Telecommunications (Interception) Queensland Bill in March 1998. This Bill was not passed prior to the calling of the election. Accordingly, the fate of that Bill was at that time uncertain. The Committee expressed the view that detailed consideration of relevant issues was not possible within the time frame for the tabling of that report. However, the Committee considered that it was an opportune time to assess the appropriateness of the Commission's powers and the safeguards placed upon them, and that consideration of this issue by the next Committee may be appropriate.

Report 50 — PCJC — 1999 — A report on the Introduction of the Telecommunications Interception Power in Queensland

The CJC submitted that all three of the Queensland agencies — the CJC, the QCC and the QPS — had over time sought the telecommunications interception power and were continuing to seek access to that power. In the public information paper on Project Krystal, a joint study and assessment of organised crime by the QPS and the QCC, those agencies stated that 'telephone interception capabilities are essential to the effective disruption of organised crime'.

The Committee recommended that the CJC should be able to operate its own separate interception facility, but should, wherever appropriate, cooperate with other agencies to the fullest extent possible, with a view to the maximisation of efficiencies and the minimisation of costs.

Report 55 — March 2001 — Three-Yearly Review of the CJC by the PCJC

The Committee noted that the CJC sought the Committee's continued support for its request to be granted the telecommunications interception power and for it to be able to establish a suitably secure and independent interception facility, rather than a shared facility with the QPS or the QCC.

The Committee was satisfied that the CJC's ability to carry out its functions would be enhanced by giving it the power of telecommunications interception. The Committee was further satisfied that appropriate safeguards and controls on the use of such power were available.

The Committee recommended that:

- 1 The CJC be given the power of telecommunications interception, with safeguards, as set out in the Committee's Report No 50.
- 2 The CJC be able to operate its own interception facility, and receive appropriate funding to allow it to do so.
- 3 The CJC should, in relation to any telecommunications interception activities, wherever appropriate, cooperate with other agencies to the fullest extent possible, with a view to the maximising of efficiencies and the minimising of costs.

Despite these recommendations, the CMC still does not have access to telecommunications interception powers.

While for some investigations, telephone intercept product can be obtained through joint investigations with Commonwealth and interstate law enforcement agencies, this access is not available for the vast majority of investigations conducted by the CMC. As a result, greater use has to be made of covert operatives, who are put at higher levels of risk (due to the limits on intelligence able to be obtained on targets and their associates without telecommunications

interception). In the case of investigations into police, the CMC also has to go to the trouble and expense of recruiting interstate covert operatives to enable the operations to take place.

Telecommunications interception, on the other hand, can be used to target individuals, rather than picking up all conversations at a location, and is an extremely efficient and safe covert strategy that allows more informed and selective use of other surveillance strategies. For some types of offences, such as those connected with organised crime, this may be the only method by which offences can be detected and evidence of other offences obtained. Compared with some listening devices, telecommunications interception consistently produces high-quality evidence, which is often far more convincing because it records both sides of the conversation.

Evidence obtained through telephone interceptions can be crucial to the success of an investigation. A clear example of this was the recent investigation by ICAC into corrupt conduct at Rockdale City Council. In the course of the investigation, 34 telephone interception warrants were issued, which resulted in extensive evidence, including intercepted telephone calls and SMS text messages, being obtained. Hearings were then held and sufficient evidence was obtained to make findings of corrupt conduct against two councillors, two go-betweens and two developers. Recommendations have been made to the NSW Director of Public Prosecutions in respect of charges against these individuals.

Should telecommunications interception powers be introduced, it will be necessary for the CMC to establish a suitably secure and independent telephone interception facility, rather than a shared facility with the QPS, or a Commonwealth agency. Anything less would compromise the investigation of police corruption. While there may be some additional costs associated with the establishment of independent facilities, the difference between the annual operational costs of a joint facility compared to the combined costs of separate facilities would be minimal. The CMC notes the support from previous Committees in this regard.

Data-surveillance devices

The inability of the CMC to use telecommunications interception powers has affected its ability to use the data-surveillance device power.

The Act's extension of the definition of a surveillance device to include a data-surveillance device is novel. Neither the *Criminal Justice Act 1989* nor the *Crime Commission Act 1997* referred to such a concept. In January 2002, soon after the CMC's inception, it became aware of an advice that had been provided by the Commonwealth Solicitor-General on 4 January 2002 about the applicability of the *Telecommunications (Interception) Act 1979* (Cwlth) to e-mail messages received by personal computers. This advice raised the question of whether the use of data-surveillance devices on personal computers would infringe the provisions of the Telecommunications Interception Act.

Having considered the advice and obtained its own legal advice on the issue, the CMC determined that the use of data-surveillance devices on computers connected to the Internet might not be permissible without a Telecommunications Interception Act warrant. The power is still available for use by the CMC on stand-alone computers; however, the use of the power for the investigation of criminal paedophilia has been substantially limited by this restriction.

The CMC seeks the Committee's continued support in recommending that telecommunications interception legislation be introduced in Queensland, and if such legislation is passed, that funding be made available for the CMC to establish its own secure and effective interception facility.

Chapter 3

Investigating and preventing major crime

This chapter focuses on the CMC's major-crime function. It covers some of the same ground mentioned in chapter 2 regarding jurisdiction, and then looks in detail at the three components of major crime:

- ▶ organised crime
- ▶ criminal paedophilia
- ▶ serious crime.

The remainder of the chapter discusses the CMC's role in the emerging area of civil confiscation, explains the important roles strategic intelligence and 'human sources' play in fighting organised crime, and gives an overview of the CMC's work in the area of crime research and prevention.

JURISDICTION

As stated in chapter 2, the Crime and Misconduct Act gives the CMC investigative powers that are not ordinarily available to the police service. The CMC is not, however, nor does the Act intend it to be, an alternative police service. Rather, the scope of its activities is limited to major crime (see chapter 2 for definition). Because it is not funded or resourced as a police service, the CMC's effectiveness depends on its partnerships with the QPS and other law enforcement agencies, its specialist multidisciplinary approach to investigations, and the focused use of its exclusive powers.

The Crime Reference Committee refers major crime to the CMC either on its own initiative, or at the request of the Commissioner of Police or the Assistant Commissioner, Crime.

Section 26 of the Crime and Misconduct Act provides that the CMC performs its Crime function by:

- gathering evidence for the prosecution of persons for offences
- gathering evidence for the recovery of the proceeds of major crime
- liaising with, providing information to, and receiving information from other law enforcement agencies and prosecuting authorities, including agencies and authorities outside Queensland, about major crime.

Section 23 of the Act also empowers the CMC to help prevent major crime. Some of the ways in which it may perform this function are set out in section 24 of the Act. The CMC's crime-prevention efforts are not limited to referred major crime, but involve a range of activities that draw on its expertise in identifying and targeting issues for which positive prevention outcomes are possible.

The CMC supports the present legislative framework regarding the referral of matters for investigation by Crime.

In considering the CMC's role in the investigation and prevention of major crime, it is helpful to consider each of the three areas of major crime — organised crime, criminal paedophilia and serious crime — separately.

ORGANISED CRIME

The Crime and Misconduct Act defines organised crime as:

criminal activity that involves indictable offences punishable on conviction by a term of imprisonment not less than seven years, two or more people, substantial planning and organisation or systemic and continuing activity and a purpose to obtain profit, gain, power or influence.

The CMC adopts an holistic approach to its role in the investigation and prevention of organised crime in Queensland and draws upon a wide range of organisational expertise and resources. In particular, it seeks to implement proactive and innovative investigative strategies with a high probability of tactical success. These strategies are based upon sound crime research and accurate and timely intelligence. They are aimed at dismantling or disrupting organised-crime networks and at achieving prevention outcomes.

In determining its investigative priorities, the CMC uses a risk-assessment methodology based on the threat criminal markets pose to the people of Queensland. This entails an ongoing evaluation of criminal markets and the rating of networks/individuals operating within those markets.

The CMC's objective is to significantly disable organised-crime networks and reduce the viability of organised-crime markets. These goals entail not merely the incarceration of key members of the networks, but also the financial incapacitation of the networks themselves.

The CMC's operational activities in the area of organised crime involve three phases:

- 1 Target identification — This is a part of the strategic intelligence process, which involves developing business case proposals for consideration of tactical-target development. The process is explained in greater detail below under the heading 'Strategic intelligence'.
- 2 Tactical target development — This phase tests the conclusions reached in the identification phase and progresses the investigation by traditional investigative methodologies, new innovative methodologies and, when appropriate, the CMC's special powers. Target development is undertaken in two multidisciplinary, structured, investigative teams. Each team operates under the direction of an Operations Coordinator, and consists of a senior sergeant and two sergeants of police, a senior financial investigator and a financial investigator, and an intelligence officer and assistant intelligence officer. Legal input and support for each team is provided by a lawyer on a case-by-case basis. The objective of this phase is to develop compelling cases for full tactical investigation.
- 3 Tactical investigation — The CMC does not have independent investigative capacity to conduct complex and protracted investigations itself. Although it has the two dedicated multidisciplinary organised-crime teams described above, the CMC largely depends on police taskforces established under the Crime and Misconduct Act to advance tactical investigations that reach this phase. The joint QPS-CMC Executive Team provides strategic direction for all joint investigations.

The CMC's commitment to intelligence-based target-identification processes does not limit its ability to become involved in those QPS operations that it and the QPS identify as suitable and appropriate for the involvement of the CMC. Alternatively, matters may come to us by

way of a direct request from the QPS for assistance. For example, we recently held an extensive hearings program in support of an organised-crime investigation initiated by the QPS in a regional centre.

The CMC is committed to a multi-jurisdictional approach to combating organised crime. Experience suggests strongly that organised-crime networks, particularly those operating in drug markets, ignore state borders and engage in trade in or across several States. This means that it will frequently be possible to enter into joint investigative arrangements. The CMC often seeks to involve, in particular, national law enforcement agencies that have under Commonwealth legislation the capacity, not available to Queensland law enforcement agencies, to intercept telecommunications between suspected crime syndicate members. This capacity is crucial to the effectiveness of organised crime investigations and the successes recently achieved are largely attributable to the availability of that capacity through the involvement of national agencies, especially the Australian Crime Commission.

That capacity, and its effectiveness as an investigative tool, remains unavailable in investigating wholly 'local' networks (e.g. syndicates of armed robbers) and, despite highly developed cooperative arrangements, national and interstate agencies whose jurisdiction is limited to interstate or transnational crime are unable to assist.

The CMC's ability to contribute to the fight against organised crime in Queensland is enhanced by the existence of several broad 'umbrella' organised-crime references or referrals. These matters were referred to the CMC, or the QCC, by the Crime Reference Committee or its earlier equivalent in order that organised criminal activity falling within the terms of the referrals could be investigated without the necessity of a specific referral from the Committee. The umbrella referrals in the area of organised crime that are of most significance are as follows:

- the Freshnet referral, which relates to criminal activity undertaken by members of 'established criminal networks', who, for example, have an understanding of law-enforcement methodology, or have access to law enforcement or regulatory information
- the Gatekeeper referral, which relates to criminal activity involving money laundering
- the Counter-Terrorism referral, which relates to a wide range of organised criminal activity undertaken to advance a political, religious or ideological cause and with the intention of coercing or intimidating the government, the public or a section of the public.

Internal accountability processes exist whereby CMC lawyers provide formal legal advice as to whether a proposed organised-crime investigation can be undertaken under an umbrella referral. If the advice is in the affirmative, the proposed investigation is commenced by the CMC without further formality. Alternatively, the matter may be made the subject of a specific referral from the Crime Reference Committee. However, since the CMC's inception, no specific organised-crime referrals have been sought from the Committee and, although extensive investigations have been undertaken, they have all proceeded under the terms of an umbrella referral. Effective organised-crime investigations undertaken recently are Twine/Tuna and Soho/Aero (see below).

The primary role the CMC plays in the prevention of organised crime is to disrupt and deter criminal networks, including charging individuals and confiscating criminal proceeds. Imprisoned individuals, stripped of their ill-gotten gains, are effectively prevented from continuing their criminal involvement, and become an example to like-minded individuals of the risks to be encountered in participating in organised crime.

In addition, the CMC seeks to achieve preventive outcomes in relation to organised crime by drawing upon its research, intelligence, and legal resources in order, where appropriate, to inform the public, its partner law enforcement agencies and other agencies and policy makers about emerging organised-crime threats and ways in which such threats may be combated by preventive, legislative, investigative or social initiatives.

Organised-crime operations

Operation Twine/Tuna. This was a joint operation with the QPS and National Crime Authority (now the Australian Crime Commission). The subject of the investigation was a suspected criminal network involved in amphetamine production and trafficking. The network, which had interstate connections, was based on the near North Coast. The CMC conducted investigative hearings in Brisbane and Gympie. Extensive financial investigations, plus telephone interception provided by the NCA, substantially advanced this investigation, which resulted in the charging of 30 people with serious drug offences (including trafficking), weapons and property offences, the restraint of property valued at \$1 million and the seeking of a pecuniary penalty of \$6.5 million dollars. In short, the operation incapacitated the targeted criminal network.

Operation Aldwych. This was a joint investigation with the QPS, which started out as a QCC initiative. The subject of the investigation was the suspected involvement of a family group and their associates in the large-scale production and distribution of cannabis. Investigative hearings were held in Brisbane and Cairns and property searches were conducted in Far North Queensland. Extensive financial investigations were conducted to assess the level of illegal profits. The investigation resulted in four people being charged with cannabis production and trafficking in cannabis, a cannabis crop with an estimated value (on maturity) of \$7 million being located and destroyed, and the restraint of property valued at \$1.8 million.

Operation Roast. This was a joint investigation with the QPS into the suspected illegal activities of an extended Sunshine Coast family. The family was suspected of a large cannabis cultivation conducted on several properties. As a result of the CMC's investigative hearings and substantial financial investigations, the suspected masterminds were charged with cannabis production and trafficking. Property, including real estate, motor vehicles, bank accounts and a share portfolio to a total value of \$750,000, was restrained.

Operations Soho and Aero. Operation Soho was a major investigation launched in August 2001 to target a suspected criminal network operating on the Gold Coast. The targets were suspected of involvement in the importation into Australia from Canada of large quantities of ephedrine hydrochloride, a precursor chemical commonly used in the production of amphetamine. Shortly after the start of the operation, we discovered that the principal offenders in the network had strong links with other identities throughout South-East Queensland, South Australia and New South Wales.

Given the interstate links and the sophisticated nature of the drug network, we decided on a joint agency approach to the investigation, entering into a partnership with the NCA, the QPS and the AFP. Significant evidence was soon gathered against the suspects as a result of this multi-jurisdictional approach. Throughout the course of the investigation, other persons were identified who had suspected criminal links to Operation Soho targets. As a result, Operation Aero was established.

With the close of Operation Soho on 14 January 2003, a number of search warrants were executed in South East Queensland and elsewhere. Twenty persons were arrested/charged

with a total of 75 serious criminal charges including drug trafficking (amphetamines), supply and possession of drugs, importation of restricted goods, production of dangerous drugs, possession of illegal handguns, stolen motor vehicles and fraud-related offences.

Over \$4.1 million worth of property and other assets (including a Gold Coast canal home, two luxury vessels and motor vehicles, and bank accounts) were seized and restrained under the new Queensland civil-confiscation legislation. During the searches various amounts of amphetamine and cannabis were also seized along with several stolen motor vehicles (including a Harley Davidson motor cycle) and 1,000 ecstasy tablets.

In addition to the action conducted on 14 January, other arrests and seizures were made throughout the life of the investigation for various tactical reasons. There were seven arrests, the seizure of 36 kilograms of cannabis, 20 kilograms of precursor chemicals used in the production of amphetamine, \$79,700 cash, 300 ecstasy tablets, 300 grams of cocaine and a number of illegal handguns. The NSW Crime Commission also assisted the investigation by restraining property and assets in that State of over \$1 million.

Operation Aero closed on 5 February 2003 with 16 warrants being simultaneously executed at the Gold Coast, Rockhampton and Adelaide. Seven people were arrested on a total of 20 criminal charges including drug trafficking (amphetamines, cannabis and ecstasy), supplying dangerous drugs and possession of unlicensed firearms. One restraining order was served concerning a property and bank account totalling \$74,000.

CRIMINAL PAEDOPHILIA

As with other kinds of major crime, the CMC's ability to investigate matters involving criminal paedophilia depends upon a referral for investigation from the Crime Reference Committee. Unlike the former QCC, the CMC has no standing statutory reference to investigate criminal paedophilia.

It should be understood that the investigation of criminal activity involving child-sex offending remains the primary responsibility of the QPS. The CMC plainly does not have the staffing and other resources to assume wide-ranging or overriding responsibility for the investigation of such offences throughout the State. Accordingly, the task for the CMC has been one of determining the areas of child-sex offending in which it can best make a positive contribution.

The areas on which the CMC has concentrated to date have been

- offending by networked or recidivist extra-familial child-sex offenders
- offending by persons who use the Internet as a tool in locating and grooming potential child victims.

This approach recognises that the QPS and its regional Juvenile Aid Bureaus are better equipped to respond to complaints of intra-familial offending, which continues to represent the bulk of offending brought to the notice of law enforcement agencies.

Since the CMC's inception, the Crime Reference Committee has referred five matters involving criminal paedophilia to the CMC for investigation. Three of the five matters were referred at the request of the Assistant Commissioner, Crime, and related to specific extra-familial offenders. One of these resulted primarily from target identifications undertaken in the course of strategic intelligence gathering in relation to paedophilia. (The role of strategic intelligence in paedophilia investigation and prevention is addressed in greater detail below under the heading 'Strategic intelligence'.) The fourth referral was sought by the Assistant

Commissioner, Crime, to enable the CMC to investigate persons who use the Internet to facilitate the commission of child-sex offences. This 'umbrella' reference is referred to as Atrax.

The fifth referral is known as Artemis. It was sought by the Assistant Commissioner, Crime, in July 2002 to streamline the CMC's ability to investigate extra-familial child-sex offending by networked or recidivist paedophiles.

In cases where the QPS seeks the CMC's assistance to investigate criminal activity that potentially falls within the terms of the Artemis referral, or in cases where the CMC seeks of its own initiative to investigate such matters, internal accountability processes exist whereby CMC lawyers provide formal legal advice as to whether the proposed investigation can be undertaken under the umbrella referral. If the advice is in the affirmative, the proposed investigation is launched by the CMC without further formality. To date, one investigation has been undertaken under the Artemis referral.

In those cases considered to fall outside the terms of Artemis — for example, a matter involving intra-familial offending — it remains necessary for the Crime Reference Committee to refer such a matter to the CMC.

The CMC's paedophile investigations, including its ongoing Internet-based investigations, are undertaken by a single multidisciplinary team comprising three police officers, an intelligence analyst, an assistant intelligence analyst and a lawyer. As is the case in relation to organised crime, many of the CMC's paedophile-related investigations are conducted jointly with officers of the QPS.

The CMC is conscious of its crime-prevention function in its conduct of paedophile-related investigations, and endeavours to use methodologies designed to achieve preventive as well as tactical-investigative outcomes. In one case, the CMC held hearings in a paedophile-related investigation with a strong preventive focus in that the purpose of the hearings was to elicit evidence of preparations by a convicted paedophile to commit child-sex offences upon his release from prison. The investigation identified several vulnerable children who were assessed as being at particular risk of molestation by the paedophile. Steps were taken to minimise, if not eliminate, the risk to them in those circumstances.

Other investigations by the CMC's paedophilia team have resulted in:

- the arrest of a serving Victorian police officer for transmitting child pornography. The officer's residence in Melbourne was searched and three computer hard drives were seized. The hard drives are currently being forensically examined.
- the arrest of a person in Western Australia who has been charged with possession of child pornography with intent to sell and supply.
- the arrest of a man in New South Wales for publishing and possessing child pornography. New South Wales investigators have indicated that this man showed no remorse, and have assessed him as a potential serial child rapist.

The CMC supports the present legislative framework regarding the referral of matters for investigation by Crime.

Paedophilia Investigations

Operation Atrax. The purpose of Operation Atrax has been to identify, locate, gather evidence against and prosecute child-sex offenders who are using the Internet to commit, organise, or aid in the commission of child-sex offences. Since 1 July 2000, the six Atrax operations have identified 112 persons of interest, in Australia and overseas.

The CMC proactively investigates suspected child-sex offenders who use the Internet to communicate with each other or with their potential child victims, or to swap child pornography. Our investigations have not only identified offenders based in Queensland, but also offenders living interstate and overseas. The interstate- and overseas-based matters were referred to the appropriate law enforcement agencies for further attention. Eighteen people have been prosecuted in Queensland and interstate for Internet-related child sex offences. This includes the prosecutions in Queensland of three people charged with attempting to procure a child for the purposes of sexual abuse. The charges are the result of three separate operations where CMC officers, acting in covert capacity, proactively identified the suspects.

Operation Verona. This operation commenced as a result of information received by CMC officers about a suspected child-sex offender living in North Queensland. The information indicated that the person had been charged with committing a sexual assault on a four-year-old child; however, the charge was withdrawn due to evidential difficulties. The information also indicated that the same person had shown suspicious interest in a 10-year-old child residing nearby. It was also said that the subject was communicating on the Internet with other suspected child-sex offenders and that they were using encrypted messages.

The investigation was advanced in partnership with the QPS Taskforce Argos. CMC and QPS officers travelled to North Queensland and executed search warrants on the suspect's residence and his place of employment. Child-pornography images were found on the subject's home computer. Further inquiries were made to identify potential victims and to ascertain the extent of suspicious Internet communications. The subject was charged with six offences related to indecent treatment of children and rape. The inquiries continue.

Operation Alaska. Information was received by the CMC's Strategic Intelligence Unit that an owner/manager of a business in South East Queensland had suspicious connections with young boys. This person was previously the subject of an unsuccessful QPS investigation. A joint CMC-QPS strategy was developed to investigate the allegations and a specific CMC paedophilia reference was granted by the Reference Committee to advance the matter. The subject was charged with 47 offences relating to indecent treatment of children and with attempting to pervert the course of justice.

Operation Opera. CMC intelligence indicated that a convicted child-sex offender who was due for release from prison had strong potential to re-offend. The intelligence indicated that the subject's methodology was to befriend vulnerable parents to gain access to their children. The intelligence also indicated that the subject had a support network that he could use for the purpose of gaining access to children and eventual re-offending. Steps were taken to protect a particular child specifically identified as at risk. An order was obtained under section 19 of the Criminal Law Amendment Act to impose reporting conditions on the subject upon his release. Investigations continue.

SERIOUS CRIME

Serious crime is defined as criminal activity involving offences for which the maximum penalty is 14 years or more imprisonment and which do not involve organised crime or criminal paedophilia.

The Crime and Misconduct Act permits matters involving serious crime to be referred to the CMC upon the application of the Commissioner of Police, the Assistant Commissioner, Crime, or the Crime Reference Committee. To date, however, all referrals have been at the request of the Commissioner of Police. This reflects the practical consideration that such matters involve investigations into unsolved murders, arsons and similar offences not likely to involve organised crime or paedophilia.

It follows, in the case of all of the CMC's serious-crime referrals, that the Crime Reference Committee has been satisfied that the following statutory preconditions under section 28(2) of the Act have been met, namely:

- i) the QPS has carried out an investigation that has not been effective
- ii) further investigation is unlikely to be effective using powers ordinarily available to police officers
- iii) it is in the public interest to refer the matter to the CMC.

The Act does not define 'effective' in the above context. The CMC's view of its meaning for the purposes of section 28 is that the existing QPS investigation has not yielded a body of evidence capable of sustaining a prosecution case with reasonable prospects of success, and that further investigation using ordinary police powers is unlikely to result in the securing of such evidence.

Serious-crime investigations ordinarily involve a process of value adding to police investigations by the use of coercive powers and, in particular, the hearings power.

Instances of the CMC's use of hearings to attempt to reactivate stalled or frustrated police investigations include cases where:

- there was no identified suspect
- there was an identified suspect, but insufficient evidence to enable the suspect to be charged
- there were several alternative suspects
- someone had already been charged with the crime, but others were suspected of involvement.

The precise role undertaken by the CMC in a serious-crime investigation depends upon the particular circumstances of the matter. However, as was adverted to earlier in dealing with investigative powers, serious-crime matters are almost always referred to the CMC for the main, if not sole, purpose of enabling resort to be made to the CMC's hearings power.

The holding of hearings is the culmination of a process begun at the time of preliminary consultations between the CMC and the QPS before a matter is referred to the CMC for investigation. This process entails moving forward from an initial, and sometimes very general, proposal by police investigators for the conduct of hearings to the development of a specific hearings strategy designed to maximise the outcomes to be derived from the hearings. Such strategies involve comprehensive briefings to CMC lawyers on all available evidence and consultation about the identity of witnesses.

The scope to use parallel covert strategies in conjunction with a hearings program is also assessed and, where it is considered appropriate, such strategies are adopted in order to maximise investigative outcomes.

The CMC's role in serious-crime investigations is essentially to gather evidence to progress the investigation. The CMC does not provide any official report to the QPS upon the conclusion of hearings, nor does it provide formal advice as to whether anyone should be charged or what charges should be laid. Informal consultation does occur at the request of investigating police, but the ultimate responsibility for charging remains with the QPS.

Unlike organised crime and criminal paedophilia, serious crime offers little scope for crime-prevention initiatives. The matters under investigation are generally crimes already committed rather than ongoing or prospective criminal activity and the focus is accordingly on identifying the perpetrator and gathering sufficient evidence to enable a successful prosecution.

The CMC is of the view that its involvement in solving serious crime value adds to police investigations and supports the legislative framework regarding referral of serious crime.

Examples of serious-crime investigations

Operation Enchanted. At the request of the QPS, the CMC became involved in investigating an attempted murder. The matter related to a savage attack upon a middle-aged man in his Central Queensland home in January 2000. As a result of the attack, the victim is now physically and intellectually incapacitated. We held a series of hearings at which family members and other persons were examined as to the circumstances of the incident and their dealings with other family members in its aftermath. The hearings obtained evidence implicating the victim's two sons. Both sons have since made full admissions to police and have been arrested on charges of 'attempted murder' and 'doing grievous bodily harm'.

Operation Caribbean. At the request of the QPS, the CMC investigated the transportation of stolen beef trim (off-cuts of meat sold for sausages and meat pies) from Victoria into Queensland. Approximately 120 suspect transactions, involving one Victorian and two Queensland companies, took place between February 1997 and May 2000 at a value of \$1.4 million. Witnesses from Queensland and Victoria were called to hearings. The witnesses were involved to some degree in the relevant businesses or in the receipt of payments for suspect transactions. The evidence we obtained included proof of the authorship of various documents seized under warrant, the procedures of the various businesses as to the sale and transport of meat, the roles of various individuals in the businesses, the pricing of the meat, and procedures as to payment for the purchase of meat. That evidence, which will be essential to any prosecution case against the suspects, also revealed a previously unknown line of inquiry. No charges have been laid at this stage, but the police are continuing investigation.

CONFISCATION OF CRIMINAL PROCEEDS

The CMC recently gained increased powers under the *Criminal Proceeds Confiscation Act 2002* to assist it to combat major crime. The main object of this Act is to remove the financial gain and increase the financial loss associated with illegal activity, whether or not a particular person is convicted of an offence because of the activity. The Act allows proceeds of crime to be confiscated without the need for a prior conviction.

Conviction-based confiscation is founded on the principles of punishment and deterrence; however, because of the inherent limitations of linking particular assets to particular crimes, it has proved to be relatively ineffective.

Civil confiscation, on the other hand, is founded on the principle of restitution and is concerned with returning to the community the benefits of financial gains obtained through illegal activity. Under civil confiscation, persons with apparent wealth beyond their means who are shown on the balance of probabilities to have been engaged in criminality can be called upon to explain their wealth. If such persons cannot show that their assets had a lawful source then, because such assets represent an unjust enrichment (ill-gotten gain), they are liable to be forfeited. The rights of innocent third parties with interests in restrained property are not affected.

In Queensland in the 2000–01 financial year, \$1.2m was recovered under the conviction-based confiscation legislation. In contrast, in New South Wales under civil confiscation legislation in the same period, assets valued at \$23.5m were restrained and the realisable confiscation orders totalling \$9.5m were made.

As stated above, the CMC has responsibility for the day-to-day conduct of the civil confiscation scheme. The reasoning behind this is three-fold:

- 1 it separates proceeds-of-crime recovery from the police investigation function so that allegations of trade offs between criminal charges and asset forfeiture do not arise
- 2 it separates the asset-confiscation function from the DPP's criminal-prosecution function, thus obviating any potential for plea bargaining to seek lesser sentences/charges in exchange for asset forfeiture
- 3 it imposes levels of accountability through the oversight of the Crime Reference Committee, the CMC, the Parliamentary Commissioner and ultimately the PCMC to ensure that powers are used and investigations conducted appropriately.

Many of the matters progressed under the civil confiscation scheme emanate from investigations conducted by the QPS and other law enforcement agencies. The CMC's strong partnerships with these agencies maximise the effectiveness of the civil confiscation function.

The CMC is developing a Memorandum of Understanding with the QPS to deal with the manner in which matters suitable for civil confiscation are dealt with by the respective agencies. In addition, the CMC has created and resourced a dedicated asset-confiscation team, developed and implemented procedures for the civil confiscation function and has also developed and implemented a specific purpose-built database that tracks and records civil confiscation matters.

The development of these initiatives to give effect to civil confiscation has been achieved by the CMC without additional funding from government.

In the period between 1 January and 4 April 2003, the CMC restrained assets valued at more than \$6.6 million, made application for forfeiture of assets valued at more than \$4 million and made application for a proceeds assessment order for the sum of \$8.395 million.

The Criminal Proceeds Confiscation Act enhances law enforcement powers in Queensland to restrain/confiscate property derived from criminal activity. In practice, processes under the Act occur concurrently with investigative activity and are integrated into the overall major-crime strategy of the CMC, particularly in the organised-crime area. The removal of the criminal assets base is important not only because it deprives criminal elements of their illegally acquired assets, but also because it reduces their financial capacity to continue the criminal enterprise.

The CMC's lead role in civil confiscation places it in a strong position to enhance the overall outcomes of its activities in all areas of major crime. Its lead role also means that it provides an invaluable service to other law enforcement agencies, particularly the QPS in its fight against crime.

The CMC supports the present legislative framework for civil confiscation.

STRATEGIC INTELLIGENCE

An important aspect of the CMC's work in the organised-crime area is strategic intelligence. Through this capability, the CMC monitors various crime markets in Queensland to identify emerging trends or changes in threat levels. Where matters are identified to be of concern, projects are commenced with a view to producing timely, accurate and useful intelligence for both the CMC's use and for advice to other stakeholders.

In addition to the CMC using intelligence in support of its own work, it also endeavours to share relevant intelligence with other agencies and, where appropriate, the public. One way we do this is through producing and disseminating Crime Bulletins and Intelligence Digests.

- Crime Bulletins are produced as unclassified documents for public consumption, and are designed to heighten community awareness of organised-crime issues, trends and forecasts.
- Intelligence Digests are classified 'in-confidence' documents produced for law-enforcement use, and provide information about emerging trends in Queensland and the risk they pose.

Both these products are now well established and feedback from recipients of recent publications indicate they are positively regarded by the CMC's clients both in Queensland and interstate.

In addition to the bulletins and digests, the CMC also produces more substantial strategic intelligence assessments on specific issues where there is a potential for the issue to affect law enforcement in Queensland. We research and analyse past and current developments and assess both the current and future threat, or risk level, posed by the issue. The findings help determine priorities for deployment of resources. The combining of intelligence and research skills in the preparation of such assessments has proved to be an added advantage of the newly structured Strategic Intelligence Unit (SIU), which was established as a multidisciplinary unit of experts in strategic intelligence, research and financial investigation.

In the past year, one significant strategic assessment, one crime bulletin and four intelligence digests have been completed. Two further strategic assessments, a bulletin and a digest are currently under preparation. All of the completed publications have received strong commendations from clients. Of particular interest in one case was the feedback from the UK National Criminal Intelligence Service, which had a common interest in the subject of the strategic intelligence assessment.

Target development

In addition to the production of intelligence publications, strategic intelligence resources are involved in the development of targets that warrant full investigation under one of the major-

crime references. Similar target-development activity was conducted independently by the QCC and the CJC. Since the merger, the CMC has centralised this activity within the SIU. The Unit forms a vital bridge between the crime and misconduct areas and is in a position to identify any overlap in investigations that can occur when crime investigations uncover corrupt activity or when misconduct investigations uncover organised-crime activity.

Target development involves identifying indicators of potential significant criminal activity by one or more individuals, and the planned collection and analysis of data in order to determine the nature and extent of the criminal activity and its scope in terms of networks etc. The time necessary to develop targets varies depending on the availability of information. Development frequently involves close liaison with a number of partner law enforcement agencies such as the QPS, the ACC and the AFP and other interstate agencies.

During 2002 and early 2003, 25 target developments were undertaken. Of these, 13 concerned organised crime, six concerned criminal paedophilia, and six concerned misconduct. Four organised-crime matters and four criminal-paedophilia matters were referred as suitable targets for further investigation. Of the organised-crime matters, two have become full CMC investigations while the other two were referred to the QPS where they are being further investigated. The four paedophilia matters became subjects of investigation by the CMC's Egret investigation team or the QPS Taskforce Argos.

Tactical Intelligence

Intelligence analysts are also an integral part of our multidisciplinary approach to major-crime investigations. In addition to supporting the investigation process, intelligence personnel are responsible for ensuring the collation of intelligence to our database and the dissemination of useful intelligence to other agencies. A total of 573 intelligence reports were collated to the CMC's Intelligence Recording and Analysis System (IRAS) during 2002.

Arising from these reports, 213 disseminations were made to partner agencies; 112 of these were via electronic transfer to the Australian Criminal Intelligence Database (ACID) for sharing with other law enforcement agency personnel who use ACID. The remaining 101 disseminations were specific to particular agencies, primarily the QPS, for further attention. These reports covered issues such as organised crime and drug networks, paedophile matters, amphetamines syndicates, outlaw motorcycle gangs, and money laundering.

Feedback on the CMC's disseminations indicates that they are regarded by recipients to be of value and in many cases of considerable value. On a number of occasions, successful enforcement action has resulted from the disseminated intelligence.

The CMC is of the view that the Strategic Intelligence Unit has a vital role to play in combating and preventing major crime within Queensland and believes that it is appropriate for the CMC to maintain its own intelligence database with the present ability to share relevant information with other law enforcement agencies.

'HUMAN SOURCES'

An important investigatory and intelligence tool, particularly in the organised-crime area, is the use of individuals who are in a position to provide confidential information. Often referred to as 'informants', such individuals or 'human sources' have the potential to provide timely and accurate information that is not available from other sources. Identifying,

recruiting and handling such sources is not, however, without considerable difficulties and risk to both the individuals and the officers involved.

In recognition of the importance of using such sources and the risks involved, the CMC has developed comprehensive policy and related procedures covering this strategy. Additionally the CMC has developed dedicated training for its officers. The 'Human Source Operations Course' was designed and jointly run by officers from the CMC in partnership with the ACC (then the National Crime Authority) in the latter half of 2002. A further course was conducted in March 2003. The course provides a practical guide to human-source operations and satisfies an important and previously largely unsatisfied requirement for law enforcement officers to be trained to handle human sources for strategic and tactical operations. Feedback from participants and instructors has been extremely favourable, and further courses are planned for late 2003 and 2004.

The provision of training courses is a key factor in building the capacity of law enforcement agencies to combat and prevent major crime.

The CMC is of the view that it should continue to be active in this area and encourage the attainment of best practice standards not only among its own officers but also in other law enforcement agencies around the world.

CRIME RESEARCH AND PREVENTION

The Commission undertakes a wide range of research exercises in support of its functions relating to both organised crime and criminal paedophilia. Research examining illicit drug markets and the nexus between drug use and crime is a major focus of the current research program. Additionally, research examining the handling of sexual offences by the criminal justice system, as well as uncovering the correlates of sexual abuse of children and the criminogenic consequences of such abuse, is also a key focus of CMC research.

The CMC also undertakes crime-prevention research and activities. This involves, for example, research into identifying the efficacy and effectiveness of treatment programs for offenders as well as identifying best practice initiatives in the areas of drugs, paedophilia, and fraud prevention.

Major research initiatives in support of the CMC's crime and crime-prevention functions are:

- ▶ amphetamines research
- ▶ Drug Use Monitoring, Australia (DUMA)
- ▶ illicit drug use in Queensland
- ▶ prevalence of detected alcohol and drugs among hospital emergency room attendees
- ▶ drug treatment and crime prevention
- ▶ child-sexual abuse and prevention programs.

Amphetamines research

Working collaboratively with Queensland Health, the CMC has undertaken a statewide research project aimed at enhancing knowledge of the nature and extent of amphetamine markets in Queensland. This project employs an innovative research design to access a

usually invisible population of more than 600 (primarily injecting) amphetamine users. The project provides detailed information about illicit drug use, price structures, market distribution patterns, the drugs/crime nexus, and drug-related victimisation.

Drug Use Monitoring, Australia (DUMA)

The CMC maintains an ongoing research project drawing upon the DUMA data, which is administered by the Australian Institute of Criminology. These data involve quarterly interviews and urinalyses from detainees in police watchhouses. Information for the DUMA program provides a unique source of trend data with respect to market characteristics (an early indicator of the 'heroin drought', for example), as well as drug-user profiles and information on the nexus between drugs and crime.

Illicit drug use in Queensland

This research involves a statewide survey of 3,000 respondents aged 18 years and over. The aim was to obtain baseline indicators of illicit drug-use patterns and attitudes across Queensland households to use in comparing general household illicit drug-use patterns with the patterns of drug use from high risk samples of arrestees (e.g. DUMA) or individuals in drug-abuse treatment programs.

Prevalence of detected alcohol and drugs among hospital emergency room attendees

This project identifies the prevalence of illicit drug use among individuals entering hospital emergency rooms. The first phase of this research took place at the Southport hospital in late 2002 as a collaborative exercise with the Queensland Alcohol and Drug Research Education Centre. The research project provides a further source of benchmark data in terms of levels of drug use (and attitudes towards drug use) by people admitted to hospital emergency rooms for treatment.

Drug treatment and crime prevention

This research project involves critically examining the available empirical research on the effectiveness of the major drug-treatment programs currently in use in Queensland. The main focus of the research is in integrating information about the effectiveness of drug treatments (i.e. 'what works') with information on available programs available in Queensland. The project will emphasise productive directions for investing drug-treatment resources into the future.

Child-sexual abuse and prevention programs

Although there are many child-sexual abuse prevention programs currently employed across a wide variety of contexts, the overwhelming majority of these programs have not been adequately evaluated. This project has three aims: first, to review research on the effectiveness of child-sexual abuse prevention programs; second, to identify the characteristics of effective programs; and third, to provide useful advisory material relating to the application of child-sexual abuse prevention programs in Indigenous communities.

Chapter 4

Building integrity in the public sector

This chapter explains in detail how and why the CMC's focus, when it comes to handling complaints, is different from that of the former CJC's. It examines how complaints are now handled, confronts the vexed issue of timeliness, and outlines the strategies the CMC is adopting to help public sector agencies build their capacity to prevent and deal with their own misconduct.

OVERVIEW

An important lesson from the last 10 years is that responsibility for preventing public sector misconduct needs to be shared by agencies, rather than simply being left to oversight bodies like the CMC. A truly integrated integrity system is one where a commitment to integrity is shared by all players in the system from political leaders down. It is a system where a management culture of ethical conduct predominates and is supported by institutional checks and balances.

While a mature public sector must accept responsibility for its own integrity, managers cannot be expected to accept responsibility if they are not given the ability to manage important aspects of their officers' behaviour. Managers who bear responsibility for resolving complainants' concerns and for disciplining officers are more likely to have ownership of the problem and more likely to be committed to timely solutions.

The CMC recognises that misconduct thrives in an atmosphere of management neglect or where there are inadequate controls, checks and balances. Modelling by management of behaviours, attitudes and values of the highest standards is a powerful influence in establishing high ethical benchmarks within an organisation. The CMC also recognises that, despite the best prevention efforts, some misconduct will continue to occur within organisations.

At the same time, the CMC continues to investigate serious corruption and misconduct and matters where the public interest requires an independent investigation or the agency involved lacks the capacity to investigate. See chapter 5 for details about the CMC's Misconduct Investigations function.

The thrust of the CMC's new approach to complaints handling is to empower managers to take responsibility for ensuring their officers act ethically. The CMC must support the public sector in this regard in raising the standards of integrity and reducing misconduct. It does this by enabling agencies to deal with misconduct in a timely and appropriate way, through building their capacity to do so, and by facilitating an efficacious and efficient system for handling complaints. Concurrently, it must satisfy the public interest by monitoring the way in which agencies deal with particular cases of misconduct.

The CMC is committed to its dual roles of 'watchdog' on the one hand and 'capacity builder' on the other. This role is reflected in the legislation and the CMC Strategic Plan 2002–2006.

The CMC supports the new focus for dealing with misconduct promoted by the Crime and Misconduct Act.

HANDLING OF COMPLAINTS

The Crime and Misconduct Act provides a choice of three ways in which the CMC can ensure that a complaint of misconduct is dealt with appropriately. The CMC may:

- 1 deal with the complaint itself
- 2 deal with the complaint in cooperation with another agency
- 3 refer the matter to the agency to deal with, subject to some form of monitoring by the CMC.

Section 34 of the Act provides that the CMC must apply the following principles when performing its misconduct function.

- (a) Cooperation — to the greatest extent practicable, the CMC and units of public administration should work cooperatively to prevent and deal with misconduct.
- (b) Capacity-building — the CMC plays a lead role in building the capacity of units of public administration to prevent and deal with cases of misconduct effectively and appropriately;
- (c) Devolution — subject to the other principles, action to prevent and deal with misconduct in a unit of public administration should generally happen within the unit;
- (d) Public interest — the CMC has an overriding responsibility to promote public confidence in the integrity of units of public administration and, if the misconduct does happen within a public sector agency, in the way it is dealt with.

The CMC should exercise its power to deal with particular cases of misconduct when it is appropriate having primary regard to the following:

- the capacity of, and the resources available to, a public sector agency to effectively deal with the misconduct
- the nature and seriousness of the misconduct, particularly if there is reason to believe that misconduct is prevalent or systemic within a public sector agency
- any likely increase in public confidence in having the misconduct dealt with by the CMC directly.

The CMC has primary responsibility for dealing with complaints of official misconduct² within public sector agencies, including the QPS. Where a decision is made to refer a matter to the public sector agency to deal with, the CMC has a statutorily defined role to monitor the way agencies deal with complaints of official misconduct.

For agencies other than the QPS, complaints that fall outside the definition of official misconduct are not required to be reported to the CMC, and the CMC has no monitoring role in relation to them.

2 Official misconduct is defined in section 15 of the Crime and Misconduct Act as:

Conduct that could, if proved, be —

- a) a criminal offence; or
- b) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.

However, for the QPS, the CMC has a broader role. While the QPS has primary responsibility for dealing with police misconduct,³ the CMC retains a monitoring role, albeit not as strong a role as it has for official misconduct.⁴

The second reading speech provides some insight into the intention of the Act's new framework for dealing with misconduct by police:

To ensure appropriate supervision and control of the exercise of responsibility for dealing with police misconduct, the commission must be notified of, and maintain a monitoring role over police misconduct ... The commission has stronger powers of supervision and control over official misconduct investigations where they have been referred to agencies to investigate solely or jointly.

One consequence of requiring police to investigate police misconduct is the freeing up of organisational resources to focus on oversight and more significant investigations. This results in improved efficiency and timeliness of all investigations.

The CMC supports the current statutory framework regarding our role in the handling and investigation of complaints.

ASSESSMENTS

The CMC has delegated authority to certain officers to make determinations about the most appropriate action to be taken to deal with a complaint. Those officers are assisted in making that decision by the advice of one or both of the CMC's assessment committees (the Complaints Services Assessment Committee and the Misconduct Assessment Committee) based upon their consideration of the complaint and the information gathered on it. The CSAC meets daily and the MAC meets three times a week and otherwise as required.

In accordance with the Act, an assessment commences with the principle that 'action to prevent and deal with misconduct should generally happen within the unit' subject to the cooperation and public interest principles which provide that the CMC has 'an overriding responsibility to promote public confidence'. The capacity of the public sector agency to deal with the matter must also be considered.

Having regard to those principles, and the circumstances of the case, and any relevant factors informing the application of the principles, the CMC may decide to:

- investigate the complaint itself
- deal with the complaint in cooperation with the relevant agency (including the QPS)
- refer the complaint to the relevant agency to deal with, subject to monitoring
- in the case of police misconduct, assume responsibility for dealing with the complaint by way of investigation
- take no further action.

3 Police misconduct is defined in schedule 2 of the Crime and Misconduct Act as conduct (other than 'official misconduct') that:

- is disgraceful, improper or unbecoming an officer
- shows unfitness to be an officer, or
- does not meet the standard of conduct reasonably expected by the community of an officer.

4 The close monitoring available under section 48(1)(c) of the Act is not available for police misconduct.

In some cases, the CMC receives a complaint that appears to indicate quite serious misconduct. However, the initial information gathered suggests that there may be an innocent explanation for what happened. In such cases the CMC will refer the matter to the agency to deal with by way of carrying out further inquiries and providing an early report to the CMC for review so that the CMC may decide whether:

- the agency should continue to deal with the matter, or
- the CMC should assume responsibility for and investigate the matter either itself or in cooperation with the agency.

The assessment process is designed to gather all the relevant information in as timely a way as possible to enable the CMC to assess the best course of action. Relevant information may come from external sources such as the complainant and the agency concerned, or from internal sources such as the CMC's Monitoring and Support Unit, intelligence analysts, and research and prevention officers.

During the assessment process, complaints officers communicate with representatives of agencies, usually a designated CMC Liaison Officer, to consult about the capacity of the agency and the agency's view about appropriate action. If the agency is thought to have extensive relevant information, it is contacted straightaway (rather than seeking and awaiting a written report) and arrangements made for information to be gathered by phone contact or attendance at the agency.

In the process of gathering information from complainants, the complainant's desired outcome is clarified.

Assessment of complaints against police

There is a particular process in place to facilitate the 'joint assessment' by the CMC and the QPS of complaints against members of the police service. The Commissioner of Police, through police officers at local, district and regional level, notifies the CMC of complaints against police (under sections 37 and 38 of the Act) by e-mail. The CMC and the QPS Ethical Standards Command are notified simultaneously. Each day, complaints against police are assessed and the ESC advised, by means of a Matters Assessed Report facsimile, of the CMC's view of the appropriate actions to take.

If the ESC does not advise by the close of business each day that it disagrees with any CMC view, the assessment decisions are implemented. Through communication by ad hoc telephone calls or face-to-face meetings or at the regular weekly meeting of officers of the CMC and the ESC, any possible disagreement about what action to take is promptly resolved.

Broader-based outcomes

The CMC continues to focus on broader-based outcomes — that is, not just on establishing whether misconduct has occurred in a particular case, but also on ways to minimise a recurrence of the misconduct and on opportunities to share helpful information with other agencies. Also, information is collated to the CMC's intelligence database and brought to the attention of interested parties, such as the Strategic Intelligence unit and Crime.

The CMC is of the view that its assessment process is both effective and reflects the principles of the Act.

False and frivolous or vexatious complaints

Section 46(2) of the Act provides that the CMC may take no action or discontinue action if it is satisfied that a complaint is frivolous or vexatious, or lacks substance or credibility. No further action is taken in relation to a substantial number of complaints on this basis.

A further category, which may overlap with the above, is the category of false complaint. The CMC considers a complaint to be 'false' when an investigation into the matter reveals that the allegation was untrue and that the person who made the complaint knew it to be untrue. Such complaints are treated seriously because they waste public resources and unfairly damage reputations.

The CMC's brochures on how to make a complaint against police officers and public officials warn people against making false complaints. Where sufficient evidence exists, we recommend prosecution. Sections 217 and 218 of the Act deal with false or misleading statements and documents.

A recent example of prosecution for false complaint involved a complaint made by a man against a police sergeant, alleging that the officer had acted indecently in a public toilet. The CMC's investigation established that, at the time that the indecent act was alleged to have occurred, the sergeant was at a police station reporting that he and another police officer had detected the man committing an offence of driving while disqualified. The complainant pleaded guilty to the offence of driving while disqualified. The man was charged with an offence of making a false complaint. He pleaded guilty to the charge and was sentenced to four months' imprisonment to be served cumulatively with the prison sentence he was already serving. Costs of \$3,600 were awarded against him.

We have introduced a process to ensure that, in the case of each investigation conducted by the CMC, the question of false complaint is considered. A screen on the COMPASS system requires the legal officer in charge of the investigation to consider whether there is evidence to support a charge of false complaint before the file can be closed.

Timeliness of assessments

For the period July 2002 to February 2003, 90 per cent of complaints were assessed within four weeks and 79 per cent within one week. Inevitably, there will be some more complex matters that take more than four weeks to assess. Therefore, we have strategies to reduce the time it takes to conduct an assessment to the greatest extent possible. It is expected that an assessment should not take more than three months.

Each complaint is case-managed through task allocation with expected completion dates, bring-ups, and regular reviews by senior managers of matters under assessment. Monthly statistical reports provide managerial information to facilitate early identification of any problems with timeliness.

We propose to further enhance the timeliness of assessments of complaints related to agencies that have a comparatively high volume of notifications of complaints by using a similar process to that which we have developed with the QPS — as outlined in chapter 6 of this submission. In addition, following proposed quality-assurance reviews, we will identify categories of matters with which agencies can commence to deal immediately under a section 40 direction, while still requiring them to report to us.

The CMC is of the view that it is assessing complaints in a timely manner.

THE MONITORING ROLE

Performing our monitoring role for official misconduct and police misconduct is another critical part of complaints handling. Sections 47 and 48 of the Act empower the CMC to monitor how public sector agencies, including the QPS, deal with a matter by the following means:

- ▶ Issuing advisory guidelines for the conduct of investigations (police misconduct and official misconduct)
- ▶ Close monitoring by the CMC during the course of an investigation by an agency, including the QPS (official misconduct only)
- ▶ Reviewing the finalised investigation report prior to the taking any disciplinary or other managerial action (official misconduct only)
- ▶ Reviewing how the agency, including the QPS, dealt with the matter (or class of complaints) after finalisation (police misconduct and official misconduct)
- ▶ Auditing the way the agency, including the QPS, has dealt with a complaint or a class of complaints referred by the CMC (police misconduct and official misconduct).

Issuing advisory guidelines

The CMC may issue advisory guidelines for the conduct of investigations by the QPS and by public sector agencies.

Because of the close and regular liaison between the CMC and the QPS (particularly the ESC), the established protocols between the two agencies on complaints handling, the investigative experience within the QPS, and the fact that the CMC is consulted on the development of policies and procedures, it is less likely that the CMC will issue advisory guidelines to the QPS than for other agencies.

Further, now that the QPS disciplinary regime under the Crime and Misconduct Act has been operating for 15 months, the CMC has begun consultation with the QPS, at ESC and Regional level, seeking their views on the efficacy and effectiveness of the current disciplinary regime, and any recommendations for legislative, policy and procedural changes. The processes will include reviewing the QPS policy and procedures in relation to the management of the QPS Human Resources Management Manual.

The CMC is currently developing investigation guidelines as part of the Dealing with Misconduct Guidelines for public sector agencies.

Close monitoring

Close monitoring involves monitoring in accordance with section 48(1)(c) of the Act. It requires public officials to report on the progress of an investigation at various times throughout the investigation.

This strategy is employed in circumstances in which it is in the public interest that the CMC maintain concurrent oversight of the investigation of a complaint referred to an agency. The approach is likely to be employed infrequently.

This form of monitoring is characterised by close involvement of the CMC in the progress of the investigation and may also include one or both of the following cooperative strategies:

- providing professional and technical advice to the agency in the development of a case-management strategy for its investigation

- providing investigative, professional, technical or independent assistance or advice in the course of the investigation by the agency.

One of the possible outcomes of closely monitoring an investigation is that the CMC will assume responsibility for and complete an investigation. This situation may occur where, for example, the investigation has revealed evidence of more serious misconduct than initially reported to the CMC and the agency does not have the capacity to deal with that conduct.

Targeted reviews — reviews before and after finalisation

At the time that a complaint is assessed, the CMC decides whether the complaint should be monitored by way of a review, either before or after it has been dealt with by the relevant agency. The decision will depend on the nature and seriousness of the particular complaint.

Review before finalisation. In some cases, the CMC will require the public official to provide the completed report on how the matter was dealt with before any decisions are made about disciplinary or managerial action. The report should include the action proposed to be taken by the agency.

Upon receipt of the report, the CMC will usually fully review the matter, including:

- the adequacy, impartiality and transparency of any investigative process
- the appropriateness of the conclusions and recommendations made as a result of any investigation
- the appropriateness of the decision whether to lay disciplinary charges or not
- where no charges are to be laid, the appropriateness of any other action taken
- where one or more charges are to be laid, the appropriateness of the charge/s and of the tribunal of fact to hear the charge/s
- the appropriateness of any finding and/or disciplinary sanction.

The reviewing officer will examine both the investigation report and any source documents supporting the investigation. Source documents include all documentary evidence, and transcripts, summaries and/or electronic recordings of interviews conducted by the investigator with witnesses and subject officers. The purpose of examining these documents is to ensure that the interviews were sufficiently rigorous and that the investigation was conducted fairly.

Other issues examined include:

- the appropriateness of pre-investigation arrangements, including the choice of investigator and the terms of reference
- the sufficiency of the investigation report
- whether the investigation has identified and made appropriate procedural recommendations to remedy systemic failures that may have contributed to any misconduct.

If the CMC has any concerns about the process, we will discuss these with the agency. As a result, the CMC may require the public official to make further investigations to deal with the complaint. If that happens, we will direct the agency to provide us with a further report regarding those additional investigations.

In all cases reviewed under section 48(1)(c), the CMC reviews the proposed outcome. In conducting these reviews, the CMC acknowledges that there may be a range of courses of action available to the public official. The CMC review will look at whether the choice made is transparent, accountable, justifiable and within the range.

If the CMC disagrees with the proposed outcome, the matter will usually be discussed with the agency before the CMC decides what further action to take.

The CMC has no power to direct an agency about what action to take if the agency does not agree with our advice. However, if we feel strongly about the inadequacy or inappropriateness of the agency's proposed action, the CMC may assume responsibility for the investigation

Review after finalisation. These reviews will not take place until the public official or Commissioner of Police has dealt with the complaint and taken action to finalise the matter before reporting the outcome to the CMC.

Upon receipt of the report on the outcome, the CMC will conduct a timely 'merit and process' review to determine:

- the adequacy, impartiality and transparency of any investigative process
- the appropriateness of the conclusions and recommendations made as a result of any investigation
- the appropriateness of the decision whether to lay disciplinary charges or not
- where no charges are laid, the appropriateness of any other action taken
- where one or more charges are laid, the appropriateness of the charge/s and of the tribunal of fact to hear the charge/s
- the appropriateness of any finding and/or disciplinary sanction.

These reviews will be full-form reviews. In conducting them, the CMC again acknowledges that there may be a range of courses of action available to the public official. The CMC review will look at whether the choice made is transparent, accountable and within the range. If necessary, we will advise the public official concerning the action taken to finalise the matter.

Outcome advice only

Many matters of suspected official misconduct will be referred back to agencies to deal with and the CMC will only be seeking advice on the outcome of the matter after it has been finalised. Gathering this information helps us monitor trends across the public sector, and to provide information to agencies to build their capacity to prevent and deal with misconduct.

Sampling of complaints for the purpose of audit or review will occur within this group of matters. To facilitate the collection of the advice, the CMC will regularly forward a schedule of matters referred to each agency, including details on each allegation relating to each matter for completion by the agency. Also included will be a report on the timeliness of the outstanding matters.

If an agency sends a report on a matter to the CMC in a case where the CMC has sought outcome advice only, the CMC will not review that report, unless the agency specifically requests that the matter be reviewed.

Regular monitoring reports

The CMC has almost completed two review summary reports, one concerning complaints dealt with by the QPS and one concerning complaints dealt with by other public sector agencies, designed to provide advice about any systemic, policy and procedural issues identified by the CMC's full reviews conducted in this financial year.

In addition, the CMC will in the future produce Periodic Review Reports, which will similarly note any systemic and procedural issues identified by the CMC during the course of its full and short reviews and random reviews and audits, and provide advice and make recommendations. These reports will be provided to the relevant agencies to help them strengthen their capacity to prevent and deal with misconduct. The first phase of these reports will be completed by the end of this financial year, and will concentrate on the QPS and the agencies that deal with a high volume of complaints.

During the course of reviews and the preparation of the Periodic Review Reports, the CMC will provide feedback and consult with the relevant agency, giving the agency the opportunity to comment upon the identified issues and provide any relevant information about steps it has already taken to deal with the issues. That information can then be incorporated in the final report.

Review or audit

In addition to the ability to review individual matters referred back to agencies, the Act enables the CMC to review or audit the way that the Commissioner of Police or a public official has dealt with a 'class of complaints'.

In addition, the CMC may review or audit complaints on various other measures, such as timeliness or compliance with particular investigative standards (e.g. recording of interviews).

When the CMC has determined that a particular class warrants review or audit, we will liaise with the agencies concerned to facilitate the review of particular files and to ensure appropriate access to those files relating to the manner in which they have dealt with complaints. These reviews will usually be 'short-form reviews'.

A short-form review is conducted by the reviewing officer examining the investigation report and accepting its contents at face value. Such a review does not involve the examination of source documents supporting the investigation report. Through assessing the contents of the investigation report only, the reviewing officer assesses the agency's compliance with procedural requirements, the appropriateness of the investigator's conclusions and recommendations, and any action taken by the agency.

In conducting these reviews, the CMC acknowledges that there may be a range of courses of action available to the public official. The CMC review will look at whether the choice made is transparent, accountable and within the range.

Audits

In addition, the CMC will audit matters referred to public sector agencies to ensure that agencies are appropriately dealing with matters, and will consult and liaise with agencies, including through Liaison Officers' forums to be held at least twice a year, to ensure that the CMC is aware of emerging and continuing issues of concern. The CMC will continually reassess the capacity of agencies, using results of CMC assessment, monitoring and investigation activities to ensure that we are appropriately determining whether matters should be referred back to agencies or retained by us.

Audit of the QPS

The CMC is currently undertaking an audit of internal investigations by the QPS with a view to determining issues of timeliness and integrity of investigations.

The audit will focus on factors that affect the capacity of the QPS to deal appropriately with complaints; in particular, compliance with:

- timeliness specified by section 18 of the QPS Human Resource Management Manual (HRMM)
- the QPS code of conduct and the amendments to section 18 of the HRMM requiring police investigators not to conduct investigations where there is actual or potential conflict of interest or where they have supervisory responsibility over the subject officer
- section 18 of the HRMM and other established guidelines requiring the electronic recording of all interviews with complainants, witnesses and subject officers
- the required reporting format as prescribed by section 18 of the HRMM
- section 42(7) of the Crime and Misconduct act, which requires the police to advise a complainant about the outcome of a complaint and the reasons for the outcome.

Quality-assurance reviews

Another project is under way to conduct more in-depth capacity assessments of selected agencies that have a high volume of notifiable complaints and to which the CMC regularly refers matters. Six agencies will be the subject of a quality-assurance review: Queensland Health, Education Queensland, Department of Families, Department of Emergency Services, Department of Employment and Training, and Brisbane City Council.

The aims of the review are to:

- identify, assist and support the development of best practice and promote an appropriate and consistent level of dealing with misconduct across all public sector agencies
- confirm our assessment of capacity and provide constructive assistance to agency's including, where appropriate, suggested changes to policies or procedures, resources or training within the organisation.

The results will be combined with the survey result (referred to above), ongoing reviews and any other relevant information to enable us to adequately assess the agencies' capacities to deal with and prevent misconduct.

The methodology is based on the Quality Assurance Reviews conducted by the Australian Federal Police of Commonwealth Agencies Fraud Investigations (as required under the Commonwealth Fraud Control Policy). The process was tested on Q Health in early 2000 with a view to applying it across the public sector on a rotational basis.

CMC officers have attended the Corporate Investigation Unit of the Brisbane City Council to conduct the quality-assurance review of that unit, and a report on that review will be prepared.

A quality-assurance review of Q Health's Internal Investigation Unit is expected to start shortly.

Provision of advice and assistance

The CMC provides advice and assistance to agencies, including the QPS, at various stages throughout the process of dealing with a matter including:

- at the stage of assessment and consultation with agencies about their capacity to deal with a matter referred back to them
- at the request of the agency at any stage while dealing with a matter.

We provide advice on how to deal with a matter as well as offer prevention advice in general and specific cases.

Cooperative investigations

The QPS (under section 42[2]) or another agency (under section 42[4]) may request the CMC to deal with a complaint in cooperation with the agency. In cases where the CMC has agreed to such a request, the cooperation may amount to a 'joint investigation' conducted by the CMC's misconduct investigations with the agency or a supported investigation in which the CMC's Monitoring and Support Unit provides technical and professional expertise and advice and assistance.

Protocols

Queensland Police Service. The procedures and processes for the handling of complaints between Complaints Services and the ESC to ensure timely assessment of complaints and exchange general advice and information have been evolving over the last 12 months. Ongoing review has been necessary for a number of reasons, including as a result of the changing technical environment in which the ESC and the QPS computer system operate, and concerns about the ESC complaints-management system (CMS). The roll-out is now complete and, it is likely that the QPS will soon take steps to address the shortcomings of the ESC's computer database, possibly by acquiring a version of the CMC's complaints and operations management, processing and statistical system: COMPASS. The CMC is intending to assist the QPS with its complaints database, as far as our resources permit in recognition of the fact that timeliness of QPS investigators must be a focus for the ESC in its management of the QPS complaint process.

The procedures and processes for handling of complaints have been refined and improved to the point where documentation of the final version of the protocols can be completed.

Public sector agencies. The CMC is also developing protocols with other agencies that notify the CMC of a significant number of complaints and/or have referred to them to deal with, a significant proportion of complaints received by the CMC concerning the agency or the nature of whose business and/or complaints and/or level of capacity requires special arrangements:

- (a) to facilitate complaints handling both by the CMC and the agency in particular expeditious assessment of complaints
- (b) to facilitate the CMC's monitoring and capacity-building roles and cooperation between the CMC and the agency
- (c) to reflect any directions for notifications of complaints pursuant to section 40 of the Crime and Misconduct Act.

Discussions have already been held between senior officers of the CMC's Complaints Services and Education Queensland, Queensland Health, Department of Families, Brisbane City

Council and other agencies about developing specific protocols with each agency under the Crime and Misconduct Act, to replace the general protocol with the CJC, to provide for new operating arrangements between the CMC and each agency to facilitate complaints handling and reflect any directions under section 40.

Capacity-building survey. For the period July 2002–June 2003, we are intent on obtaining baseline empirical data relating to the following:

- the 'types' and 'levels' of (misconduct) risk associated with units of public administration
- the current capacity of agencies to deal with misconduct
- the current capacity of agencies to prevent future misconduct.

This information will be obtained from a survey, together with extensive liaison with key agencies. These two (concurrent) processes will provide:

- benchmark data that can be used to define the work plan and work strategies of Capacity Development
- comparative data that can be used to:
 - (i) highlight jurisdictional differences in patterns of misconduct (including interstate comparisons)
 - (ii) provide the basis for performance measures for the purposes of the CMC's Capacity Development, Initial Assessment and Monitoring functions.

Timeliness of monitoring

The Backlog Reduction Project (referred to in more detail on page 57) focused on reducing the number of matters where agencies were waiting for the CMC to review misconduct investigations conducted by the relevant agencies. The number of such reviews outstanding was 253 in June 2001 and only 43 in May 2002.

As at March 2003, 90 per cent of full and short reviews are now conducted within four weeks. The number of reviews awaiting completion has been reduced considerably from the position of previous years and, at the end of February 2003, only 17 reviews were on hand.

The CMC is of the view that it is monitoring complaints in a timely manner.

REGIONAL VISITS

The CMC recognises that public sector agencies in regional and rural areas, including local councils, face particular difficulties in dealing with and preventing misconduct. Factors such as the size of the community in which these agencies operate and their distance from other communities and major metropolitan areas can make it more difficult in a number of ways, including:

- It is often more difficult for public officials to separate their social life from their public functions.
- There is often a much smaller pool of applicants for positions in public sector agencies.

Therefore, the CMC has embarked on a program of visits to rural and regional areas to consult with agencies at a regional level to identify ways in which we can help them improve

their response to dealing with and preventing misconduct. The regional visits will provide an opportunity for the delivery of other CMC programs, services and activities to regional areas.

CMC officers from various areas such as Complaints Services and Research and Prevention will travel to at least two major regional areas per year to conduct information sessions and consult with representatives of public sector agencies, including local councils and the QPS, and with members of the public.

In 2002–03, we will have visited five regional centres — a major visit to Cairns and Toowoomba by the Chairperson and officers from Complaints Services and Research and Prevention, a visit to Mount Isa by officers from Complaints Services, and a visit by the Director, Complaints Services to Townsville and Rockhampton.

Online investigation advice

A major project currently being scoped and developed is the Online Investigations Advice Project. The CMC will provide information and assistance to public sector agencies conducting their own investigations. This project will be developed in consultation with agencies to determine how to provide useful and accessible material in a timely manner through an online service.

Consultation with key partner agencies

Section 59 of the Act provides that the CMC and public sector agencies work cooperatively to achieve optimal use of available resources, and that the CMC liaise with and coordinate its activities with the activities of agencies.

Accordingly, we have engaged, consulted and liaised with key partner agencies, such as the Ombudsman, Queensland Audit Office, the Office of Public Sector Merit and Equity, and the Integrity Commissioner to:

- ensure an integrated approach to improving the ability of public sector agencies to deal with misconduct
- assist public sector agencies to integrate misconduct-prevention strategies with other corporate and accountability requirements.

In addition, the CMC will, wherever possible, identify and pursue opportunities to collaborate with organisations, including private-sector organisations, involved in building the capacity of public sector agencies to prevent and to deal with misconduct and improve integrity in the public sector. The CMC will also consult and liaise with bodies in jurisdictions outside Queensland and identify opportunities for collaboration in the production of resources.

The CMC is of the view that it has successfully shifted its focus from merely conducting investigations to helping public sector agencies deal with misconduct. We have positioned ourselves to effectively monitor action by agencies and build their capacity in relation to misconduct prevention.

HELPING AGENCIES PREVENT MISCONDUCT

The CMC continues and extends the work of the CJC in the area of helping agencies prevent and deal with misconduct.

Over the last two years, we have collaborated on misconduct-prevention projects with public sector agencies such as the QPS, the Department of Corrective Services and the Queensland Ambulance Service, as well as universities and local government consultative groups and forums. We have helped agencies develop corruption-risk assessments, and integrate misconduct-prevention strategies and ethics training packages. For example:

- We helped the Prostitution Licensing Authority conduct a risk assessment. Risk analysis sessions were held with all staff of the Authority and a draft report was delivered in August 2001 with a final report presented in early September 2001.
- We worked with the Department of Tourism, Racing and Fair Trading on proposals for restructuring of the thoroughbred racing industry and related policy and legislative matters. Collaboration also continued with the Queensland Harness Racing Board to develop an integrated corruption prevention strategy.
- The Office of Rural Communities (Department of Primary Industries) helped us with the development of an ethics training package to support an overarching code of conduct for Queensland Government Agent Program (QGAP) employees. This code of conduct is being developed in conjunction with Griffith University and the Department of the Premier and Cabinet. QGAP provides a 'one-stop-shop' for a range of government services in rural and regional communities where it is impossible to have a separate local office for each government department. For example a customer going to a QGAP agent might, within the one visit, renew their driver's licence, put in an application for housing assistance, obtain a copy of a birth certificate and get advice on an environmental issue. The QGAP agent is usually an employee of a government department that happens to have an office in the community, or is attached to the local post office. The development of an overarching code of conduct for agents is essential because they represent a large number of individual departments, each with its own agency-specific code that might not always agree on every issue (e.g. acceptance of gifts, or dress code).
- We worked with the Key Centre for Ethics, Law, Justice and Governance at Griffith University on the 'Corruption in Corrections' project. This project aims to develop research methodologies for gauging the extent of, and trends in, official misconduct in Queensland correctional institutions. Information from the study will be used to develop ongoing prevention and monitoring strategies. The study draws on various data sources, including CMC complaints files, surveys of prison officers and other employees, and interviews of prisoners. The project is funded through an Australian Research Council Collaborative Research Grant.
- After a marketing department within a statutory body was accused of fraud and misconduct, we supplied a comprehensive corruption-prevention report to help the agency reduce future risks of official misconduct and corruption. In so doing, we contributed to the development of a new governance structure for the agency, which will provide a much greater level of transparency and accountability. In addition, the implementation of proposals by the statutory body for policy and procedural changes involved a substantial revamping of the policy and procedural framework with far-reaching implications.

Liaison with government agencies

Staying in touch with public sector agencies is integral to the work of the CMC. Accordingly, we consult, liaise and work cooperatively with agencies and other key stakeholders such as the Integrity Commissioner, the Office of Public Sector Merit and Equity, the Queensland Audit Office and the Ombudsman's Office. Our Misconduct Prevention officers were rated highly this year by the Queensland National Integrity Systems Assessment (QNISA) process as an important partner for the advancement of integrity.

They were described as:

- highly relevant to the advancement of integrity in public sector agencies
- providing the most support to public sector agencies
- receiving the most amount of support from public sector agencies.

The QNISA was a world pilot and first stage of a nation-wide assessment of the integrity systems operating in and through public and private sectors. The assessment comprised interviews, questionnaires and workshops involving major integrity agencies and 24 public agencies.

Integrity and capacity-development initiatives

In keeping with a flexible and holistic strategy for misconduct prevention, Research and Prevention activities have been designed to assist agencies to inform their staff about official misconduct, the reporting of suspect behaviour and the carrying out of misconduct-risk assessments.

CMC support has included the preparation and dissemination of a range of publications and educational materials intended to build the capacity of agencies to undertake investigations and generally to enhance agency integrity and increase their level of misconduct resistance.

Capacity-building activities have also included:

- the holding of strategic seminars and workshops for agency staff at all levels
- the presentation of papers in small-group sessions and larger conferences on public sector misconduct, ethics and the detection and prevention of white collar crime
- the preparation of materials for agency induction programs on accountability and public sector ethics
- publishing guidelines, manuals, articles and advisory pamphlets on misconduct prevention and the handling of the impact of an investigation
- presenting lectures to professional bodies and community groups on the role and functions of the CMC and the reporting of suspected official misconduct.

These activities are supported by the development of materials encouraging members of the public to contact the CMC when they suspect serious official misconduct.

Among the more notable recent initiatives has been the development of an Ethics Training Kit for Local Government employees entitled *The Grassroots of Ethical Conduct: A Guide for Local Government Staff and Councillors*. Released in October 2001, this kit contains a facilitators guide, video case study, worksheets and several Prevention Pointers on areas of particular risk and topical interest in local government such as conflict of interest, the use of council resources and the handling of confidential information. Footage for the video case study incorporated segments used with permission from the ABC *Grassroots* television series.

The *Grassroots of Ethical Conduct* kit was distributed to all local governments in Queensland. Since its release, more than 40 councils have participated in 'train the trainer' sessions at regional centres. These sessions have proved highly successful and confirmed the value of the targeted local government program in reaching a wide audience of staff and councillors.

Following publication of the *Grassroots of Ethical Conduct* kit, a further training video and facilitators guide was developed to cater for council management and field staff. This took form in the *Turf it Out* ethical decision-making kit, which can be used as a stand-alone resource or in conjunction with the *Grassroots of Ethical Conduct* kit. The video scenario is widely applicable and complements the highly commended *Public Scrapbook* suite of advisory resource materials on the disposal of scrap materials and low-value assets, which was published in 2002.

The *Public Scrapbook* resources includes a comprehensive reference handbook, an abridged advisory booklet, a best practice checklist guide and practical quick reference brochure. These resource materials were disseminated to all Queensland units of public administration, and owing to demand were immediately reprinted. They have also formed the basis of a number of strategic presentations on scrap disposal to audit groups and agencies.

All advisory materials are reviewed on a regular basis to ensure their continued relevance and topical coverage, while new materials are under constant development. In addition to these major publications and materials, other resources have included the development of policy guidelines or publications on an 'Integrated Misconduct Prevention Strategy', 'Regulatory Risk', 'Conflicts of Interest', 'Sponsorship', 'Secondary Employment' and the collation of research and related materials on misconduct-prevention issues.

To ensure these materials reach a wide audience and facilitate communication with agencies, misconduct-prevention staff are currently working on the development of an expanded web site for the CMC that will form a 'misconduct prevention best practice advisory portal' containing not only CMC-sourced advisory materials and resources but also providing links to other enforcement agencies and key ethical and integrity-related sites. This will enable agencies and the public alike, to gain ready access to prevention best practices and thereby realise maximum impact from our available resources.

The CMC has an important role to play in providing resource materials and advising public sector agencies on how to prevent misconduct.

Chapter 5

Investigating serious misconduct

At the same time as urging public sector agencies to take more responsibility for dealing with their own workplace misconduct, the CMC recognises that there are times when there is no other, or better, solution than for an independent body such as itself to conduct the investigation. Hence, while many investigations of a less serious or more straightforward nature are investigated by internal investigators within public sector agencies, the CMC conducts a significant number of investigations each year itself. This chapter focuses on the CMC's activities and achievements in the area of Misconduct Investigations.

OVERVIEW

The CMC is uniquely suited to investigate serious and complex matters because other agencies do not have its special powers or expertise. We concentrate our efforts on matters such as major fraud within government agencies, drug-related police corruption and sensitive political matters.

A successful conclusion to a CMC investigation may be the bringing of criminal charges, or, just as importantly, the clearing of a person's name or the restoring of public confidence. The independence of the CMC means that the public is assured that no partisanship, political or otherwise, will influence any investigation or its outcome.

CONDUCTING INVESTIGATIONS

Like its predecessor, the CJC, the CMC investigates misconduct through the efforts of multidisciplinary teams, comprising police, civilian investigators, financial analysts, lawyers, intelligence analysts and support staff, who work together towards common investigative outcomes.

Prevention staff are briefed early in an investigation so that they can make timely recommendations to the agency concerned. In this way, the agency can take remedial action at the conclusion of the investigation and without having to await the outcome of any disciplinary or court action.

The Misconduct Investigations function proactively develops matters for investigative or preventive intervention, in addition to responding to complaints. It also ensures that information relevant to the jurisdictions of other agencies is passed to those agencies in a timely manner, through the Strategic Intelligence Unit. Close liaison with the SIU is also maintained to facilitate the cross flow of information between Crime and Misconduct, where investigations may touch on both aspects of the CMC's jurisdiction.

Proactive investigations typically involve the identification of targets through analysis of complaints, intelligence and information around which operational strategies are designed. Reactive investigations are those that are conducted in response to a complaint concerning a specific incident or course of conduct.

The CMC has a covert investigative capacity, which includes the use of surveillance, listening devices and covert operatives. These techniques are used in investigating all types of alleged

misconduct. One example of a proactive investigation in which covert strategies were used effectively is Operation Craven, which recently resulted in the conviction and jailing of two police officers on drug and corruption charges.

The CMC also has the power to conduct investigative hearings to which witnesses may be summoned to give evidence on oath concerning the matter under investigation. Notices to attend (and produce documents) were issued to 50 witnesses in various investigations since the commencement of the new Act.

The CMC takes a number of different approaches in its investigation into serious misconduct and covers a broad range of activities which can be classified as serious misconduct. Examples of some of our more significant investigations since the last review are outlined on the following pages.

Public inquiries

In some cases, complaints or issues brought to the CMC's attention involve wide-ranging allegations that have the potential to reduce public confidence in fundamental systems of government. Often in these cases there are numerous stakeholders who can provide important evidence on the conduct of individuals and insightful perspectives on the processes adopted within the system. The holding of public inquiries has a two-fold benefit:

- 1 It allows a wider gathering of evidence on which findings and recommendations can be based than may usually be acquired during a normal investigation.
- 2 It allows justice to not only be done but also be seen to be done, with the public being involved in the process of reducing corruption and restoring confidence in the system.

Since the last review, we have conducted two public inquiries: The Shepherdson Inquiry, which was conducted by the CJC, and the Inquiry into the Handling of Sexual Offence cases in the Criminal Justice System, which was conducted by the CMC.

Shepherdson Inquiry (2001). This inquiry was important because it exposed deficiencies in the Queensland electoral system — a cornerstone of our democracy — and set higher standards for those involved in politics. While everyone is aware of the Commission's role in detecting official misconduct by police officers and public servants, it is sometimes overlooked that our jurisdiction also extends to the conduct of our elected representatives. The Shepherdson Inquiry was undertaken with sensitivity and impartiality in a highly charged political environment. It emphasised the advantage of having available an independent organisation able to investigate sensitive allegations in a non-partisan and professional way. Were allegations involving the integrity of the electoral system to be raised again in the future, the CMC will have jurisdiction to conduct investigations into the matter and, if appropriate, hold public hearings. Since the Inquiry, significant legislative change has reduced the likelihood of the conduct that was exposed to public scrutiny from recurring.

Sexual Offences Inquiry (2002–03). After charges for indecent dealing were dropped against Mr Scott Volkens, a well-known Australian swimming coach, comment by political leaders and media commentators raised issues about how the QPS and the ODPP handle sexual offence matters in Queensland. Questions were also raised regarding the sufficiency of laws relating to the naming of persons accused of such offences during the criminal justice process. In order to obtain the widest input from relevant stakeholders, the CMC conducted public hearings.

Unlike the Shepherdson Inquiry, a separate misconduct investigation was pursued (see the Volkens Case below), with the public inquiry being conducted under the CMC's research

function. Information from the Volkers Case investigation was also considered in respect of issues raised by the public inquiry.

Restoring confidence in the integrity of government systems

In some cases, allegations are made concerning individuals within the public sector that are not systemic, but have the potential to undermine confidence in government systems. These cases often receive extensive media coverage. Although investigations are conducted out of the public limelight, the CMC often publishes a report on its findings so that deficiencies are exposed and seen to be dealt with. A public report also enables reputations that have been unjustifiably damaged to be vindicated or restored. Sometimes a detailed media release may be all that is required to restore public confidence.

Forensics under the Microscope (2002). In early 2001, the CMC was asked by the DPP to look into aspects of a police investigation that had resulted in the wrongful conviction of a man for rape. (The man's conviction was quashed by a Court of Appeal in April 2001 when fresh forensic evidence proved he was not guilty of the crime.) Our report on the matter was released in October 2002.

As well as examining the police investigation, we also invited 10 organisations with an interest in the relationship between forensic science and criminal justice to provide submissions on the topic, with particular reference to:

- the selection of items for testing and their hand over to scientific staff
- the training for investigators and the suitable providers of that training
- the roles and responsibilities of police investigators and health professionals regarding testing, and the appropriate role of defence counsel in the process.

Spending Public Money (2002). In May 2002, the State Opposition raised concerns of favouritism in the awarding of contracts and grants to a Brisbane-based commercial company, Cutting Edge Pty Ltd, which was said to have too close a relationship with the Queensland branch of the Australian Labor Party and an officer in the Department of State Development.

Although a thorough and exhaustive investigation found no evidence of official misconduct on the part of any person, the investigation did reveal evidence of non-compliance with the State Government Purchasing Policy on the part of the Corporate Communications Unit of the Department of State Development. This non-compliance, although not amounting to official misconduct and not restricted to dealings with Cutting Edge, may have given rise to the perception of favouritism. Hence, the CMC made important procedural recommendations designed to prevent a recurrence of the events that led to these complaints.

The Volkers Case (2002–03). In September 2002, the CMC commenced inquiries into a decision of the DPP to cease criminal proceedings against a well-known Australian swimming coach, Scott Volkers. A full investigation was launched shortly thereafter, amid allegations of secret undertakings, police incompetence and political involvement. The CMC concluded that there was no evidence of official misconduct or police misconduct. However, it criticised the ODPP's handling of the case and recommended disciplinary and managerial action for two of the investigating police.

Police, capsicum spray and a fence paling. A man complained that while being arrested by police he was assaulted by them, including being hit by a fence paling. The incident was caught on videotape by a member of the public. This videotape, which received much media attention, showed a police officer, armed with a fence paling, striking the man, even though he appeared to have dropped his knife and was succumbing to the effects of capsicum spray.

The man also alleged that he was twice kicked by police and again assaulted at the police station by other officers.

Aware of the public interest in this matter, we took over the investigation begun by the Ethical Standards Command of the QPS. We found that the use of force applied by the police officer in using the paling was not unreasonable in the circumstances and did not constitute misconduct or a criminal offence on his part. Evidence, including civilian eyewitnesses, indicated continued provocation by the man and a two-second difference between the dropping of the knife and the striking with the fence paling. The striking was clearly aimed at disarming the man who was, by his own admission, intent on committing suicide. We were not able to substantiate any of the complainant's allegations that he had been assaulted while at the police station, or that the injuries with which he presented were not sustained by him during resistance to his lawful arrest. We also found no evidence of any misconduct by any police officer in relation to the high-speed pursuits or the use of the capsicum spray.

This was a case where a formal public report was not required, but the CMC made public statements regarding its findings, given the general interest in the matter, to restore public confidence in the discretion of police when using force against members of the community.

Sex, drugs and pornography

The investigation of sexual offences and drug usage is not confined to the Crime function of the CMC. Individual cases within the public sector are appropriately dealt with by Misconduct Investigations, with intelligence shared by both functions.

The CMC chooses to investigate many of the cases involving these types of offences rather than send them back to the units of public administration to deal with initially, due to the seriousness of the allegations and the public interest in an independent body conducting such investigations. Further, the use of CMC powers in relation to these types of investigations are often useful in dealing with the matters.

Safeguarding children (2000). An allegation was made to the CJC that a North Queensland primary school principal was going swimming, naked, in a creek near his school with female students. While there was no way this particular allegation could be corroborated, in investigating the matter we discovered serious wrongdoing.

Our investigation identified a student who was likely to have been a victim. We interviewed this child on two occasions. The child denied that anything happened with the teacher. However, while being interviewed by a CMC police officer and a member of the Juvenile Aid Bureau, the principal finally made full admissions to serious sexual offences against the student. He also wrote an 'apology' to the child.

Owing to the overwhelming case against him, the subject officer, who had been suspended at the outset of the investigation, resigned from Education Queensland. He was charged with four counts of indecent dealing with circumstances of aggravation and sentenced to 18 months' imprisonment to be suspended after four months. We gave Education Queensland sufficient material to ensure that he would not be employed again as a teacher.

It should be noted that the vast majority of Education Queensland employees behave properly towards the students in their care. From time to time, however, as outlined above, cases of sexual misconduct are reported. These cases and the publicity they engender can have devastating consequences for the students concerned, the school, the teachers, other employees, and the local community. As a result, the Commission tabled a report in Parliament in December 2000, entitled *Safeguarding Students*, which focused on minimising the risk of sexual misconduct by Education Queensland staff. The report made 35

recommendations to help the department develop policies and procedures in this area. Many of those recommendations have been implemented with a new Code of Conduct being drafted. We have also been instrumental in assisting Education Queensland to establish a misconduct investigations unit, which is increasing the department's capacity to deal with misconduct, particularly with regard to allegations of sexual misconduct.

Improper 'recruitment' activities by a serving police officer (2001–02). In 2001, the Child and Sexual Abuse Unit of the QPS reported an allegation to the CMC that a serving police officer had been 'recruiting' his estranged wife's children as undercover police informants. The officer had been allegedly inducing the children to provide him with samples of pubic hair and photographs of themselves naked, asserting this was part of the recruitment process. We assumed primary responsibility for the investigation of the matter, assisted by officers from the QPS.

Our investigation disclosed evidence that the officer had 'recruited' other groups of people as well as his wife's children. The officer's house was searched, and he was arrested and charged. He was also suspended without pay. On 23 September 2002, an indictment encompassing 13 serious charges against the subject officer was presented in the Brisbane District Court.

Pornographic material found in police officer's home (2002). A senior constable of police was said to possess pornographic material. Similar concerns had been raised with the Commission and the QPS some years previously about this same officer. At that time, a psychiatric assessment had found him fit to continue as a police officer.

A CMC search of the officer's home revealed an electrical stun-gun, a large amount of computer pornography and some pornographic stories detailing child abuse/abduction scenarios (two of which were written by the officer). We referred a brief of evidence to the QPS for disciplinary action for misconduct, and a further assessment of the officer's fitness.

In May 2002, the Deputy Commissioner of the QPS found five charges of misconduct against the subject officer to be substantiated, and he was dismissed. The subject officer's appeal to the Misconduct Tribunal against his dismissal was unsuccessful.

Police officer using drugs on duty (2002). A police officer was said to be using illegal drugs, including while on duty. We searched the officer's residence, finding small amounts of green leaf material in her personal property as well as a small clip-seal bag that contained the remnants of a white powder. Testing of the powder indicated traces of methyl-amphetamine. We then conducted an investigative hearing, at which we used our powers to direct the officer to speak. (These same powers, however, meant that her answers could not be used against her in any civil, criminal or disciplinary proceeding.) The officer admitted to consuming and possessing dangerous drugs while on duty, and to releasing confidential information. She also conceded that she had control of police vehicles and a police weapon when under the influence of dangerous drugs.

The officer resigned from the Service. She later successfully completed a drug-diversion program. Although no criminal charges could be brought against her, a civilian associate of hers was charged with two counts of supplying a dangerous drug (cannabis). These charges have not been dealt with yet.

Supply of drugs to prisoners. A correctional officer was suspected of supplying dangerous drugs to inmates at a North Queensland correctional centre. Our intelligence reports supported these suspicions. We searched the officer's home and found 30 grams of green leaf material and drug utensils. The officer admitted to contact with several known drug

users/suppliers to obtain cannabis for his own use, but denied supplying dangerous drugs to inmates or anyone else.

The officer resigned from his position as a correctional officer. He was offered and accepted minor-drug-offence diversion in accordance with the requirements of section 211 of the PPRA. Information on how drugs were brought into the prison and by whom was passed on to the QPS. Links between inmates and drug suppliers were also identified, as well as deficiencies in prison security.

LOCAL GOVERNMENT COUNCILS

The CMC plays an active role in local government investigations, which often involve allegations of conflicts of interest, bribery, resource misuse and fraud. Due to the seriousness of the allegations, the usefulness of CMC powers and, particularly in the case of smaller councils, the limited capacity of the council to conduct the investigation itself, Misconduct Investigations will often take on these complaints.

Council resources diverted

Council employees were said to be diverting large quantities of road materials belonging to their council and using other council resources, such as labour, equipment and machinery, for their own private purposes. A government employee was also said to be implicated.

We obtained incriminating information about one council officer, but found that the staff who had assisted him had done so in good faith. We obtained similar incriminating information about a senior officer from a government department who, in addition to working in league with the council officer, had been systematically submitting false overtime claims.

In accordance with the advice of the DPP, both the former council officer and the departmental senior officer were charged with stealing as a servant and fraud. Court proceedings are still pending.

Allegations of fraud by a purchasing officer

A purchasing officer of a council was alleged to be receiving cash, gifts and benefits in return for allocating council contracts for the supply of goods and services by a private contractor. Through the extensive use of the Commission notice to discover power, the Commission created a profile of the council officer and private contractor. Private hearings were then used to question a large number of witnesses including the council officer who had admitted to receiving a large amount of cash and gifts from a number of contractors to ensure that they were allocated work. This is a clear example of how the CMC special powers (unavailable to other agencies) have obtained evidence of extensive fraud.

Disposing of scrap ethically

The use and disposal of resources in councils and government agencies are areas that have a potentially wide scope for misconduct to flourish. To this end, and drawing from the experiences gained from misconduct investigations over the years, Prevention has developed a number of resources to assist council officers and public servants in their handling of government resources. One such publication is *The Public Scrapbook*.

While the disposal of scrap may appear to be a trivial issue for some, when it is poorly managed there can be major consequences for both agency and employee. Hence, a suite of resource materials on the effective and ethical disposal of scrap and low-value assets was developed by misconduct prevention staff and published at the beginning of 2002. Copies of

each of the resource materials were disseminated to all stakeholders and state and local government agencies, and requests for further copies are continuing to be received by the CMC.

REVIEW OF OUR PROCESSES

During the last 18 months, the CMC has developed and refined 'Misconduct Investigation Standards', which are used to ensure that our investigations are efficient and effective and accord with legislative requirements. The Standards cover the following aspects related to investigations:

- high quality and transparency (including planning, gathering and assessing, case management, records management, timeliness and reporting)
- ability to withstand internal and external scrutiny (including use of investigative techniques/powers)
- ethical behaviour of investigators
- prevention focus as a desired outcome of investigations

These Standards are used as a benchmark to review completed CMC investigations. Random samples of investigations are chosen and audited by independent reviewers to assess adherence to the approved Standards. For the 2001–02 year, 93 per cent of reviewed CMC investigations met the requirements of the quality standards (compared to a published target of 90 per cent).

In addition to the CMC's program of regular review of its investigation activities, the Parliamentary Crime and Misconduct Commissioner reviews CMC investigations. In July 2002, the Parliamentary Commissioner reported on his review of investigations that were conducted by the CJC during the 2001 calendar year. There were four procedural recommendations arising from that review, which we have addressed. In February 2003, the Parliamentary Commissioner commenced an audit of the records, operational files, and accompanying documentary material held by the CMC. It is expected that the results of this audit will be known in mid-2003.

Timeliness of conducting investigations

A key priority in the investigation of allegations of misconduct is not only to effectively investigate an allegation or suspicion of misconduct, but to do so in a timely fashion. This helps reduce the stress that may be suffered by complainants, subject officers and departmental representatives during the course of an investigation. It is also important to conclude investigations, and where necessary implement misconduct-prevention strategies, as soon as possible in order to restore confidence in the institution in question.

For this reason the CMC has developed various strategies to enhance the timeliness of its investigations including:

- case-management plans in every investigation and operation
- operation plans in all operations
- embedding in the CMC's complaints system (COMPASS) an alarm that automatically alerts officers to the age of the matter at 2, 5, 8 and 11 months
- inclusion in the sample audit of investigations an examination of whether all investigative steps that were taken were necessary

- managerial practices such as performance reviews and management meetings that emphasise the importance of timeliness
- monthly reviews of significant operations by a senior cross-divisional committee and weekly reviews of all investigations by the Director, Misconduct Investigations.

Backlog Reduction Project

In July 2001, a project team was established to finalise some of the older matters, resulting in a 42 per cent decrease in the number of outstanding investigations more than 12 months old (104 investigations in December 2000 reduced to 60 in December 2001). Further vigilance and focus reduced this figure to 22 as at the end of May 2002 and, since then, the number of older cases on hand at any one time has remained at this level. At the end of March 2003, 11 investigation cases on hand were more than 12 months old.

There has been an overall decrease in the number of investigations on hand from 159 in June 2001 to 88 in July 2002. Again, continued vigilance has kept the overall number of outstanding investigations at this manageable level. There were 67 investigations in progress as at the end of March 2003.

However, while there are fewer matters being investigated by the CMC, because of the change in our legislative focus the proportion of sensitive and complex matters since early 2002 requiring investigation has increased. This is mainly because we do not do as many of the 'routine' matters as previously undertaken. The CMC now refers more matters back to the QPS, subject to CMC monitoring, which has the capacity to handle such matters. With the rest of the public sector, the CMC has had to be more circumspect in returning matters, as many agencies still do not have the requisite capacity to conduct investigations.

Whilst we are acutely aware of the importance of timeliness in the conduct of investigations, we are always mindful of achieving a balance between timeliness and quality. This is particularly the case when the matters raised are controversial, subject to extensive public scrutiny, or involve senior government or political figures. The CMC must remain fiercely independent and be thorough in its work, often in the light of criticism of its perceived tardiness, in order to maintain public confidence in our role of overseeing the public sector. In this regard, the CMC's approach has been largely vindicated by the recent report of the Parliamentary Crime and Misconduct Commissioner.

The time taken to complete our investigations is also affected by reporting and other obligations under our Act, which means that our operations will invariably take longer than an equivalent investigation carried out by the QPS. For example, an investigating police officer would usually lay charges without a brief of evidence having been finalised. Normally QPS investigations continue after charges are laid. The extent of the QPS investigation will be limited if after the charges are laid it is apparent that the accused may plead guilty. Certainly, the QPS does not have to obtain the kind of internal and external approval required of the CMC by legislation.

Some time ago, a case arose where the relevant CMC investigation and referral of criminal charges to the DPP took just over six months. Subsequently, the DPP decided that the recommended charges should not be laid, even though there was a *prima facie* case, as there were no reasonable prospects of success. If this case had been handled as a normal police investigation, it is likely that the subject of the investigation would have been charged at an early stage and would have been subject to adverse publicity and increased stress that follows from the laying of charges. In the end, the DPP's decision not to prosecute would not compensate the subject for the unwarranted adverse publicity and increased stress. The time

taken, therefore, is not the only aspect to consider in judging the merits of a misconduct investigation.

With our recent experience regarding the complexity and profile of cases now being investigated by the CMC under our new legislative focus, we will be reviewing our target time frames for undertaking the investigations, so that more realistic targets can be set for the 2003–04 year and subsequent years. In establishing such targets, we look to the output being achieved by other anti-corruption law enforcement agencies to obtain a benchmark for our operations. We note that the Independent Commission Against Corruption in Hong Kong, whose investigative functions in relation to misconduct appear to be similar in focus and scope to those of the CMC, seek to complete 90 per cent of their 'pursuable corruption investigations' within 12 months. Little guidance can be found in like agencies in Australia.

The CMC is of the view that it has improved processes for conducting investigations since the last review and that it will continue to give timeliness a significant focus. It should be added, however, that an emphasis on early completion should not be permitted to compromise quality and thoroughness. Public confidence cannot be maintained if unwarranted short cuts are taken to ensure that an investigation is completed within a pre-determined time limit or estimate.

Chapter 6

Working to improve the Queensland Police Service

This chapter focuses on the CMC's special, cooperative relationship with the Queensland Police Service, which began with the work of the former CJC. It highlights CMC research in the areas of policing strategies, such as problem-oriented policing and beat policing, and troublesome issues such as police use of force, and outlines what the CMC is doing to enhance the integrity of the Queensland Police Service.

OVERVIEW

Since the establishment of the CJC in 1989, a concerted effort has been made to promote the continuous improvement of the QPS, both in terms of higher standards of integrity and higher standards of performance. This has largely been achieved by:

- monitoring and reporting on trends in reported crime and police complaints
- reviewing and evaluating current policing practices and procedures and, where necessary, making recommendations for system or procedural change
- following up on earlier research reports to ensure that there has been adequate implementation of previous recommendations
- conducting trials of new policing strategies in an effort to improve police performance
- providing advice and assistance to the QPS as a result of the CMC's involvement in joint working parties and committees.

The long-term goal of the CMC is to foster the development of a professional and effective police organisation that has the total confidence of the Queensland community.

The following discussion highlights some of the key program areas and initiatives undertaken by the CMC that are aimed at achieving this goal.

POLICING STRATEGIES

An important function of the CMC is to conduct research into police service methods of operation. In recent years, our efforts in this area have been concentrated on two main areas:

- ▶ problem-oriented policing, and
- ▶ beat policing.

Problem-oriented policing

Since the early 1990s, the CMC (and its predecessor, the CJC) has actively encouraged police to take a problem-oriented policing (POP) approach to the delivery of policing services to the community. The POP approach involves a process where police, in conjunction with other agencies, analyse the underlying features of crime and community problems in a systematic way, and then develop, implement and evaluate responses to address those underlying problems, rather than simply reacting to crimes after they have occurred.

To date, we have undertaken three major projects designed to encourage the QPS to adopt POP as a major policing philosophy. The Beenleigh Repeat Calls for Service Project (1996) focused on using the techniques of POP (i.e. problem solving) to reduce the number of repeat calls for service. The Beenleigh Break and Enter Reduction Project (1998) was aimed at using POP approaches to enhance the police response to break and enter, particularly in relation to reducing the risk of repeat victimisation. The CMC's third major project in this area, Project Wesley, is still current. It focuses on whether the application of the techniques of POP by experienced detectives on the Gold Coast enhances the Service's 'investigative response' to crime. Project Wesley is aimed at:

- improving the access, quality and utility of crime-related information to detectives at the Gold Coast Criminal Investigations Branch
- promoting the use and understanding of problem-solving techniques
- assessing the extent to which detectives at the Gold Coast Criminal Intelligence Bureau apply problem-solving techniques
- assessing the strengths and weaknesses of the approach.

We are finalising our evaluation of the project, which will be published in about June 2003.

The CMC is of the view that the QPS has made substantial progress implementing POP in recent years. However, the approach is still seen by most police as something they could do if, and when, they had more time. The challenge for the QPS and the CMC is to continue with their efforts to promote and 'institutionalise' POP.

Beat policing

Beat policing is an operational policing strategy designed to make individual officers responsible for the community's policing needs in a defined geographical area called 'the beat'. Beat officers are encouraged to take ownership of their area and employ proactive strategies to address the underlying causes of crime and community problems within their beat.

To date, the CMC has conducted three evaluations of beat policing. The first followed on from the original trial of beat policing in Toowoomba in 1993. The key findings were that:

- problem-solving strategies were successfully identified and developed
- there was significant increases in satisfaction with police among residents of beat areas
- there was some reduction in property-related offences and stealing offences
- there was no significant effect on residents' feelings of personal safety
- beat officers experienced increased job satisfaction in their new role.

The pilot project concluded that beat policing was successful and should be continued and expanded across the State.

The second evaluation (1996) was aimed at assessing the effectiveness of neighbourhood-style beats in inner-urban West End. It found that the integration of beat officers into the West End police station facilitated communication between beat officers and general duties police and assisted in the effectiveness of the pilot project. Furthermore, beat officers did engage in the type of work proposed by the pilot proposal, but the size of the beat area was too large for the beat officers to be the main providers of policing services as was desired.

Recently, the CMC conducted its third, and probably the most comprehensive, evaluation of beat policing (Project Vada). The evaluation, undertaken on behalf of Crime Prevention Queensland is aimed at assessing whether:

- police beats are 'effective'
- police beats are 'cost effective'
- community members are satisfied with, and support, beat policing.

In January 2003, the CMC's final evaluation report was completed and forwarded to Crime Prevention Queensland on behalf of the Department of the Premier and Cabinet. Later in 2003, the CMC will release the findings of the evaluation in a public report.

Taken as a whole, the CMC has been instrumental in both the initial and ongoing development of beat policing across the State. CMC expertise in this area has been significant in shaping the direction of police service delivery.

POLICE USE OF FORCE

As shown by the Rodney King incident in Los Angeles, highly publicised incidents of excessive use of force can erode public confidence in the police, inflame community tensions, and generate major public relations crises for policing organisations. To minimise the likelihood of such incidents occurring in Queensland, the CMC conducts research in the areas of:

- ▶ police pursuits
- ▶ police use of Oleoresin Capsicum (OC) spray
- ▶ police use of lethal force

Police pursuits

Police pursuits have increasingly become an issue of concern for both the general public and police researchers. Police high-speed pursuits can place public safety at risk and can sometimes result in deaths or injuries, not only to the occupants of the fleeing vehicle, but also to other road users, as well as the pursuing officers.

Although the QPS has taken a number of positive steps in recent years to address the risks associated with police pursuits (e.g. trial of tyre-deflation devices, improved driver training, driver-review panels etc.), given the continuation of deaths and injuries from pursuits, it is appropriate to consider the issues involved with a view to assessing whether further revisions to the current policy are warranted.

The CMC's review of police pursuits addresses the following key questions:

- How many pursuits does the QPS engage in per year?
- What are the justifications or reasons for pursuits?
- What is the profile of the typical pursued driver?
- What is the range of positive and negative consequences of pursuits?
- Do current practices require the QPS to re-examine policy and training needs related to pursuits?

This report will examine the costs associated with pursuits, in terms of deaths, injuries and property damage, and assess whether the costs outweigh the benefits of apprehending offenders who may be engaging in minor offences. The report will also examine various

options for the QPS to consider in minimising risks associated with police pursuits, including amending pursuit policy to make it more restrictive, and also explore the feasibility of further training in pursuit policy, pursuit driving and officer decision making. The CMC will release a comprehensive public report in about May 2003.

Police use of Oleoresin Capsicum (OC) spray

The recent televised use of OC spray against a man already restrained by police generated considerable public concern about the purpose and deployment of this less-than-lethal use-of-force option. Now that over two years have passed since OC spray was introduced by the QPS, we feel that it is appropriate that an independent review of its use be conducted.

The CMC will examine and review OC spray usage by police and complaints. The project is being conducted in an effort to identify important issues regarding use of OC spray, and to assess whether amendments should be made to OC spray policies and procedures. At the end of the review, the CMC will release a comprehensive public report, which may contain recommendations for changes to QPS policies and procedures in relation to the use of capsicum spray.

Police use of lethal force

The shooting death of an apparently mentally ill person by police officers in July 2002 at Buderim raised questions regarding police use of deadly force, in particular whether appropriate alternatives were available that could have led to a non-violent resolution of the incident.

In 2003, the CMC will undertake research in this area. The study will examine relevant literature, examine use of force policies of the QPS and interstate/overseas agencies, as well as review previous complaint files involving use-of-lethal-force incidents. The study will also consider the effectiveness of alternative strategies or technologies with a view to assessing the suitability of their introduction and use in Queensland. Work on this project is scheduled to commence by mid-year.

ENHANCING INTEGRITY IN THE QPS

The CMC is committed to promoting higher standards of integrity in the QPS as well as enhanced performance in other areas. Projects and activities currently in place to increase integrity through monitoring activities include:

- ▶ monitoring police powers
- ▶ conducting surveys of QPS officers and recruits
- ▶ reviewing and auditing QPS handling of complaints.

Monitoring police powers

One of the CMC's key responsibilities is to monitor the exercise of police powers. In March 1999, in an effort to meet this requirement and as a means of assessing police compliance with the legislative requirements of the newly created *Police Powers and Responsibilities Act 1999* (PPRA), the then CJC conducted an audit of police interview tapes. The audit involved listening to a random sample of 136 interview tapes of persons questioned in relation to an indictable offence. The report recommended that a further audit be conducted at the end of 1999.

Project Gemini is the name given to the CMC second 'tapes audit', which replicates the earlier study. The two main objectives of Project Gemini are:

- 1 to examine the level of compliance with Chapter 7 of the PPRA by police officers when detaining a person for questioning in relation to an indictable offence and report on the findings, and
- 2 to identify whether those areas of concern identified in the 1999 audit have improved.

Overall, the results of the audit indicate a definite improvement in most areas relating to the questioning of suspects of indictable offences. There is, however, little evidence of improvement or a decline in the police compliance rate in relation to:

- cautioning
- right to a friend/relative and lawyer
- special needs groups
- safeguards for Indigenous suspects
- threats inducements and promises.

The report identifies certain areas that require further attention by the QPS, and it is appropriate that audits of taped records of interviews are conducted at regular intervals.

Undertaking research to enhance police integrity

We have had a long history of working in partnership with the QPS to address a particular issue or problem, and are currently involved with the ESC in Project Bourassa. The project, which is ongoing, is designed to:

- identify predictors, or early warning signals, of police behaviour that is likely to attract an excessive number of complaints by the public
- identify predictors of early retirement from the Service
- develop a system to identify and deal with police recruits exhibiting characteristics that may lead to either an excessive complaints record once they become operational or their premature retirement from the Service.

Conducting surveys of QPS officers and recruits

The CMC's Research and Prevention function regularly administers the survey 'Police Views on the Complaints and Disciplinary Process' to QPS recruits, First Year Constables, and other groups of officers training at the Academy in Oxley and Townsville. We conduct this research to monitor shifts in the attitudes or views of QPS officers on issues relating to ethical conduct.

The survey seeks to find out what police think of the disciplinary and complaints procedures within the QPS and to assess their responses to a number of scenarios of unethical conduct by police officers. Respondents are also asked to rate the fairness of QPS and CMC complaint investigations. The information provides an important assessment tool for gauging trends in ethical attitudes in the police service.

Results from recent surveys indicate positive increases among first-year constables in their rankings of seriousness of police misconduct, as well as their willingness to report and take official action. These positive trends undoubtedly reflect the greater emphasis placed on ethics training within police academy training, increased rigor in recruitment and selection processes, as well as a general cultural shift within the QPS toward greater ethical conduct.

Reviewing and auditing QPS handling of complaints

Under the Crime and Misconduct Act, the QPS has primary responsibility for police misconduct, while the CMC retains the overriding responsibility for dealing with complaints of official misconduct against police.

Under the principle of devolution — i.e. that action to prevent and deal with misconduct in an organisation should generally happen within the organisation — the Act requires the CMC to refer official misconduct matters to the QPS to deal with whenever possible.

The CMC has the power to monitor how the QPS deals with complaints of police misconduct and complaints of official misconduct referred to it. We monitor by conducting targeted integrity reviews of individual matters, random integrity views of complaints, and reviews and audits of complaints to determine compliance with standards and legislative obligations.

The Assistant Commissioner, ESC, has been delegated the Police Commissioner's powers, functions and duties under Chapter 2, Part 3 of the Crime and Misconduct Act relating to discipline and can direct members on any matter of discipline or complaint against a member. Accordingly, the Assistant Commissioner, ESC, is the central point of liaison between the CMC and the QPS.

The ESC oversees the management of complaints of official misconduct and police misconduct by the QPS in accordance with the QPS policy and procedures: Section 18 — complaint management — of the Human Resources Management Manual.

The CMC and the ESC have a process to 'jointly' assess complaints against members of the QPS. The CMC also works closely with the ESC to monitor the way in which the QPS deals with misconduct. Protocols have been developed to facilitate this relationship. Weekly liaison meetings are conducted to discuss specific complaints, improvements to processes and any general issues of concern.

Now that the regime under the Act has been in place for over 12 months — and following the implementation of Project Resolve, which was set up to enhance the efficacy and efficiency of the disciplinary system — the CMC is consulting with the QPS about any recommendations for legislative, policy and/or procedural changes.

OTHER POLICING RESEARCH INITIATIVES

The CMC is involved in a range of additional activities, which relate to the continuous improvement of the QPS. These activities include:

- ▶ assessing public perceptions of the QPS
- ▶ conducting research to improve police service delivery.

Assessing public perceptions of the QPS

Beginning in 1991, the CJC regularly surveyed Queensland residents to assess their attitudes towards the QPS. Five surveys have been conducted; July 1991, July 1993, June 1995, June 1999 and July 2002, the last one conducted by the CMC.

The survey is designed to measure changes in public perceptions of police behaviour, as well as the extent to which the public perceive there to be misconduct within the police service. The willingness by the public to use the complaints system and perceptions of its effectiveness are also assessed.

Results from the latest survey in 2002 reveal high levels of public confidence in the police, with approximately 90 per cent of respondents having a favourable perception of the police. The proportion of Queenslanders who believe the police have a bad image dropped from 59 per cent in 1995 to 24 per cent in the latest survey. Additionally, the study revealed that the public is far less tolerant of police corruption and misconduct than it has been in the past.

Further findings from the survey reveal that public dissatisfaction with the police is largely concentrated among younger age groups and unemployed persons, and that reasons for dissatisfaction relate mostly to 'customer service' issues involving relations with citizens (e.g. the officer was rude, unfriendly, or behaved unreasonably), as opposed to actions that could constitute official misconduct. Overall, findings from the survey present important opportunities for the CMC and the QPS to work in cooperation toward the continuous improvement of the Service.

Conducting research to improve police service delivery

Policing domestic violence. Domestic violence has been, and continues to be, a significant social and legal problem in Queensland. For example, the QPS attends approximately 20,000 domestic violence incidents each year, with an average of two hours spent attending to each incident, and a further two to three hours spent processing protection orders. Indeed, responding to incidents related to domestic violence places the second highest demands on police officers' time and consequently uses significant police resources.

As a result, in 2003 and 2004, the CMC will undertake a new project, 'Project Seaview', which will examine the police response to domestic violence in Queensland and assess the impact of the Domestic Violence Legislation Amendment Bill 2001. In effect, the project will provide a thorough analysis of the policing response to domestic violence and provide recommendations on how the QPS can be effective and efficient in their handling of domestic violence incidents.

The first phase of Project Seaview will assess all relevant background information including the completion of a comprehensive literature review. The second phase will examine the attitude of police officers and the challenges that they face dealing with domestic violence. Phase two will also assess the experiences of the victims with the police response to domestic violence. The final phase, Phase 3, may involve a trial of an innovative response to incidents of domestic violence.

Project Kingston. On average, about 6,500 allegations of sexual abuse are reported to the QPS every year, posing considerable demands on the criminal justice system in Queensland. The difficulties surrounding the handling of sexual offence matters by the Queensland criminal justice system became a matter of public concern in 2002, following public criticism about the investigation, prosecution and discontinuance of charges against Mr Scott Volkens. In September 2002, the CMC determined to examine aspects of the investigation of sexual offences and sought a reference from the Premier to conduct an Inquiry into two other topics of concern. The Inquiry into the Handling of Sexual offences by the Criminal Justice System was established with three terms of reference, namely to examine:

- 1 the training, expertise and supervision of police officers investigating sexual offences
- 2 the adequacy of existing guidelines and procedures for the initiation and discontinuance of the prosecution of sexual offenders by police and the ODPP
- 3 the appropriateness of, and the circumstances in which, the publication of identifying information about a person charged with a sexual offence should be suppressed.

A range of methodologies have been employed to collect information for the Inquiry. For example, 147 written and oral submissions have been received, two days of public hearings have been held, 20 consultations were conducted and researchers have reviewed literature and analysed police and court data relevant to the terms of reference.

With regards to the first term of reference, the report of the Inquiry documents a range of issues relevant to police training, expertise and supervision and makes a number of recommendations which, if implemented, could have a significant impact on how police respond to victims of sexual abuse and conduct investigations.

It is expected that the comprehensive report will be published in April 2003.

Police and Indigenous relations. The state of relations with minorities can be regarded as a measure of the professionalism of a particular police service. In an effort to promote the continuous improvement of the police service, the CMC is examining how the QPS, as an organisation, is responding to challenges associated with providing policing services to Indigenous people and their communities in Queensland.

A range of issues will be examined during the research project, including,

- the needs of Aboriginal and Torres Strait Islander communities in relation to policing
- whether the needs of Aboriginal and Torres Strait Islander communities vary between remote communities and urban communities
- the major initiatives undertaken by the QPS in relation to Aboriginal and Torres Strait Islander communities needs and their perceived success
- the programs and services available in other police organisations across Australia and internationally for responding to the needs of Indigenous communities

This project will provide an overview of policing strategies and initiatives aimed at improving police and indigenous relations, as well as providing suggestions for possible future organisational developments. The project is scheduled for completion towards the middle of the year.

Chapter 7

Working with Indigenous communities

The CMC is committed to working effectively with Indigenous communities. This chapter focus on its activities in the areas of:

- ▶ capacity building within Indigenous councils
- ▶ Aboriginal and Torres Strait Islander Liaison and Education Program
- ▶ Indigenous people and the police
- ▶ crime prevention.

CAPACITY BUILDING WITHIN INDIGENOUS COUNCILS

Indigenous councils are units of public administration. The DOGIT (Deed of Government in Trust) councils are established as bodies corporate under the *Community Services (Aborigines) Act 1984* and the *Community Services (Torres Strait) Act 1984*. They collect revenue or raise funds under the authority of that legislation. Indigenous shire councils also fall within the our jurisdiction in the same way as other councils operating under the *Local Government Act 1993*.

Our objective is to promote concepts of good governance within Indigenous councils. Additionally, the CMC is committed to producing materials that will be of practical use to Indigenous councils to ensure that principles of effective governance are enshrined into these vital community institutions. The following activities provide a sample of CMC initiatives:

Raising community awareness

The CMC has produced two community-awareness brochures to educate the community about the role of council and council staff, Councillors and Chairpersons. The brochures are for councils to distribute to community members. They describe the role of the CMC, and explain what inappropriate behaviour is, and what constitutes official misconduct. They also set out some of the essential things that councils must provide to community members.

Training/education

The CMC recognises the importance of councils being able to attract and retain well-qualified, competent council clerks and CEOs. Deficiencies in the training provided to date have been repeatedly noted.

The CMC has also produced an information kit, entitled *On the Right Track*, which is designed to provide Aboriginal and Torres Strait Islander Councillors and staff with practical advice on issues that they are likely to face in their everyday work. The kit suggests ways in which Councils can achieve and improve good governance. Topics covered by the kit are:

- Good Governance
- Being Open and Transparent
- Making Strong Decisions
- Dealing with Conflicts of Interest
- Using Council Property

- Dealing with Inappropriate Behaviour and Official Misconduct
- Dealing with Personal and Confidential Information
- Developing a Code of Conduct
- Developing a Reporting and Disciplinary Process
- Risk management — Look Ahead and Look Out!

The *On the Right Track* materials have been developed in consultation with the Department of Aboriginal and Torres Strait Island Policy (DATSIP), the Aboriginal Coordinating Council (ACC), the Island Coordinating Council (ICC), the Financial Accountability Improvement Committee (FAIC), the Queensland Audit Office (QAO), and the Queensland Ombudsman's Office, as well as some individual Aboriginal Councils.

Workshop and related activities

An *On the Right Track* workshop is currently being developed for 2003. This will include the provision of a 'train the trainer' guide for developing Codes of Conduct and Disciplinary Procedures. This material is currently being finalised and will then be trialled in a number of regional centres before being more widely distributed and publicised.

As part of the *On the Right Track* kit and workshop, we plan to produce a video specifically aimed at Indigenous communities. This project may take a significant amount of time and resources, but once finalised, will directly complement the *On the Right Track* package.

As part of the marketing of these various materials, a specific awards system is being planned to reward and publicly acknowledge the efforts of councils that use the information kit and implement good governance policies. This performance incentive will be aimed at celebrating and sharing outstanding examples of good governance. Other government departments (DATSIP and QAO), as well as the ACC and the ICC, will also play an important part in disseminating information to community leaders and senior council employees about what worked and what did not.

The CMC has an important role in providing resource material to Indigenous councils and advising them on misconduct prevention.

Aboriginal and Torres Strait Islander Liaison and Education Program

The role of the CMC's Aboriginal and Torres Strait Islander Liaison and Education Program is to provide effective service to Aboriginal and Torres Strait Islander peoples by:

- offering advice and creating awareness about the role and functions of the CMC
- providing advice and information about misconduct-prevention strategies to Aboriginal and Torres Strait Islander Community Councils and organisations
- assisting the CMC's complaints process and complainants when complaints are made by Indigenous people
- providing policy and other advice to the CMC on criminal justice issues affecting Aboriginal and Torres Strait Islander peoples
- contributing to the CMC's research and prevention program on criminal justice issues affecting Aboriginal and Torres Strait Islander peoples.

The following activities provide a sample of CMC initiatives in this area:

- Assisting Aboriginal and Torres Strait Islander Community Councils to maintain and/or

improve the integrity of their management and operations. In so doing, raise awareness of good governance and misconduct prevention issues in DOGIT councils.

- Improving both quality of information provided by Aboriginal and Torres Strait Islander complainants to the CMC and their understanding of the complaints process, to increase the rate of satisfactory outcomes.
- Providing assistance in dealing with Indigenous complainants and witnesses.
- Working cooperatively with the CMC's Aboriginal and Torres Strait Islander Consultative Committee to identify issues of concern for the CMC and the community.

INDIGENOUS PEOPLE AND THE POLICE

The objectives of the CMC in this area are to:

- monitor complaints against the police in relation to Indigenous people and communities
- act as an effective link between the police and the community
- conduct research on issues that enhance relations between the police and Indigenous communities
- promote positive relations between Indigenous people and the QPS.

The following activities provide a sample of CMC initiatives in this area:

Dealing with complaints

The CMC has an Indigenous Complaints Officer to receive and assess complaints from Indigenous people.

Internal procedures are now in place that allow extensive internal consultation (with monitoring and support, research and prevention, Indigenous Liaison Officers and the Indigenous Complaints Officer) and external consultation (with community representatives, the QPS, the QAO, and DATSIP) to ensure that the assessment process is fully informed and appropriate determinations are made as to how matters should be dealt with.

The Director, Complaints Services, and officers of both Complaints Services and Research and Prevention have been involved in the resolution of two significant unrelated Indigenous complaints against police. In monitoring the resolution of these matters, valuable information has been gathered for the development of the new Indigenous complaints process. In particular, a mediation model for resolving complaints has been developed, and ways of improving relationships between Indigenous communities and police identified. The QPS has established a working party coordinated by its Cultural Advisory Unit to consider, and implement where appropriate the recommendations that have statewide implications.

In the coming year, the CMC will seek to develop and implement, in consultation with Indigenous people and police, strategies, policies and procedures concerning how the QPS, including at Regional and District levels, will deal with Indigenous complaints against police and to establish an evaluation and audit program for the CMC.

Monitoring complaints against the police

CMC research officers monitor trends in complaints against the police, and, in particular, routinely examine whether there are significant changes in the nature and rate of complaints involving the police and Indigenous people.

Liaison activities

The Aboriginal and Torres Strait Islander Liaison Group has always been involved in liaison activities between the CMC, the police and Indigenous people. Liaison officers regularly visit Indigenous communities with investigation teams and complaints officers to work toward resolving conflict between the police and the community.

Especially important to the success of this liaison program is the collaboration and cooperation with Indigenous people and communities. To facilitate these activities, the CMC hosts a bi-monthly Aboriginal and Torres Strait Islander Consultative Committee meeting made up of representatives from various organisations. The CMC's Aboriginal and Torres Strait Islander Liaison Group shares information with the Committee and invites input into all Indigenous initiatives undertaken.

Liaison officers from the CMC are also in regular communication with officials from the ACC and the ICC to discuss programs and projects. Communication with other government departments and service providers is also vital to the CMC Indigenous liaison role. Liaison officers have a good working relationship with DATSIP and the QAO, and have consulted with them regularly on recent projects. This cooperation will continue.

Making complaints against the police: Information resource

The CMC has recently developed an important information resource for people living in Indigenous communities. The brochure, entitled *Making a Complaint Against a Police Officer*, has been specifically developed for Indigenous communities and is designed to provide step-by-step instructions about how and where to make a complaint about the police. It provides examples of serious and less-serious types of complaints and contact information for the CMC. The brochure is soon to be released.

Research Paper — policing responses to Indigenous people and communities

Research officers are currently producing a paper that examines the unique challenges associated with providing police services to Indigenous communities as well as the organisational developments within the QPS in addressing policing needs within Indigenous communities and groups. The paper will document the nature of specific challenges involved in providing police services within Indigenous communities, the differences in community-level needs between urban and rural jurisdictions, and the organisational developments that have occurred within the QPS to date, as well as information on the organisational programs, initiatives and practices that have been implemented in other jurisdictions.

The aim of the paper is to identify productive avenues forward for effective service delivery. The paper will solicit input from Indigenous stakeholders, in particular, the collective expertise and knowledge of the Aboriginal and Torres Strait Islander Consultative Committee.

The CMC is of the view that its Aboriginal and Torres Strait Islander Liaison and Education Program is having a significant impact in fostering good working relationships between Indigenous communities, law enforcement agencies and other government departments.

CRIME PREVENTION

Crime prevention represents a new focus area for the CMC. At present, there is one major initiative being planned, which specifically targets a crime-prevention challenge for some Indigenous communities in Queensland. The initiative involves developing a collaborative inter-agency response to child-sex abuse in selected Indigenous communities.

Child-sexual abuse continues to be a major social problem in many indigenous communities. It is the intention of the CMC to work in partnership with key government departments and community groups to push toward implementing an effective prevention program in the future.

Planned activities in relation to the Offending against Children in Indigenous Communities initiative include:

Consultations with major stakeholders

A series of consultations about the nature and extent of the problem of child-sexual abuse in Indigenous communities and the likely components of a crime prevention project will be canvassed with key client groups over the coming months, including the CMC's Aboriginal and Torres Strait Islander Consultative Committee.

Key Stakeholder Forum

The CMC will be hosting a forum to bring together senior representations from a range of government departments and Indigenous organisations to solicit their commitment toward the development of a focused crime-prevention program aimed at reducing child-sexual abuse at selected Indigenous communities. This forum will possibly mark the first stage of a cross-government initiative.

Background paper on 'What Works' in community and school-based prevention programs

Research officers from the CMC will undertake a comprehensive review of the available evaluation research literature on the prevention of child-sexual abuse. The review will identify principles associated with effective prevention programs and provide a guide toward the development and implementation of an effective program in the future.

Identifying paedophiles and children at risk

The CMC's Strategic Intelligence Unit is engaged in a project to assess methods that may usefully be employed by the CMC, either acting alone or in collaboration with other agencies and departments, to ensure that both the victims of paedophilia and the perpetrators of such crimes are identified in a timely manner. Where appropriate, we will undertake tactical operational work or assist the QPS in relation to child-sex offender investigations in Indigenous communities.

The CMC is of the view that it has positioned itself to effectively assist in combating crime within Indigenous communities.

Chapter 8

Working with local government councils

The CMC is committed to working effectively with local government in Queensland — ‘local governments’ being defined as units of public administration established under the *Local Government Act 1993*, which are governed by elected members (Councillors) and managed by a Chief Executive Officer and staff.

The CMC:

- ▶ investigates misconduct
- ▶ conducts misconduct-prevention system reviews
- ▶ develops capacity-building resources
- ▶ maintains liaison and communication
- ▶ researches misconduct issues affecting local government.

INVESTIGATING MISCONDUCT

The local government sector currently accounts for approximately 12 per cent of the complaints received by the CMC, notwithstanding that it employs over 37,000 people and 1,250 elected members, and is an area with significant misconduct risks.

Many complaints relating to local government received by the CMC relate to alleged conflicts of interest, favouritism and the leaking of information. These allegations often are difficult to prove because of the lack of independent witnesses or other evidence. An example of a recent successful investigation into a local council is given below:

CASE STUDY

Council employees were said to be diverting large quantities of road materials belonging to their council and using other council resources, such as labour, equipment and machinery, for their own private purposes. A government employee was also said to be implicated.

We obtained incriminating information about one council officer, but found that the staff who had assisted him had done so in good faith. At the same time, we obtained similar incriminating information about a senior officer from a government department, who, in addition to working in league with the council officer, had been systematically submitting false overtime claims.

In accordance with the advice of the DPP, both the former council officer and the departmental senior officer were charged with stealing as a servant and fraud. The court hearings are still pending.

We also met with representatives from the department and the council to help them develop a misconduct prevention strategy for their respective agencies. A CMC prevention officer has become a member of the department’s steering committee overseeing its reinstituted Management Improvement Program. A main aim of the steering committee is to increase management awareness of good corporate governance requirements and ethical conduct, and to extend this message to all levels of departmental staff.

SYSTEM REVIEWS AND ADVISORY REPORTS

The CMC provides reviews and advisory reports to local government organisations in response to:

- complaints from the public
- research
- assessment of complaints trends
- investigative activities of alleged misconduct.

Systems reviews

These identify areas within organisations that are susceptible to misconduct risks. The CMC's misconduct-prevention staff have expertise in identifying how systems may diverge from best practice standards, and how current systems can be improved to minimise the recurrence of misconduct. Systems reviews, in short, act as a major catalyst for organisational change and improvement. Indeed, there is ample evidence that system reviews conducted by the CMC and the former CJC have brought about major organisational changes that have enhanced the organisational integrity of several local councils across the State. Examples are given below.

CASE STUDIES

Far North local council. We received a complaint regarding possible conflicts of interest in a local council in the far northern region of Queensland. A misconduct presentation review was undertaken. At the same time, a separate investigation identified similar concerns relating to Council regulatory functions and the control of secondary employment. As a consequence, the initial project was expanded to address these additional concerns. The prevention response consisted of an advisory report containing 21 multi-point recommendations outlining proposals for a strategic prevention program across key areas of risk. We also offered provided to the Council in developing an integrated prevention strategy, and subsequently received advice from the CEO confirming the Council's commitment to our recommendations and implementation strategy. Notwithstanding that the specific allegations were unable to be substantiated, the CMC response initiated an effective review of existing processes and procedures that will have a significant long-term beneficial effect and create more transparent and accountable Council processes.

Southern local council. A further example in the Southern part of the State involved an investigation and misconduct prevention advisory report on alleged fraud and misuse of resources in a local council. The prevention advisory report identified risk areas including conflict of interest, supervisory control, delegations and authorities, lack of distinction between work and private activities and post-employment policies.

Advisory reports

The CMC provides advice to local councils on strategies for dealing with and preventing misconduct. Recent advice has covered such topics as:

- purchasing and procurement policies and procedures
- the development of misconduct prevention strategies
- conflict of interest situations
- fraud prevention
- development and/or revision of Codes of Conduct.

DEVELOPING CAPACITY-BUILDING RESOURCES

The CMC routinely develops resource materials for the public sector, including local governments, designed to build the capacity of agencies to deal with misconduct developed. They encompass publications, training materials and Internet resources.

One of the best illustrations of the CMC's work in this area involved a specific initiative entitled Project Tufton, which involved the development of an ethical decision-making training kit. The kit contains the following resources:

- choice of two video scenarios, *The Tender Trap* and *Turf It Out*
- a detailed Facilitators Guide
- resource worksheets, including eight additional written scenarios
- prevention advisory information sheets (Prevention Pointers)
- a PowerPoint presentation.

All Queensland councils now have a copy of the kit. Forty-one councils participated in an initial train-the-trainer program.

Informal feedback has confirmed that at least ten councils have employed external providers or internal staff to train all staff and councillors. Industry groups have endorsed and promoted the kit. The Local Government Association, Queensland, proposes to offer training to all councils using the *Grassroots* and *Turf It Out* training resources. There has been interest in the kit from interstate local government and anti-corruption agencies, such as the Independent Commission Against Corruption and the NSW Corruption Prevention Network. The quality of the kit has been acknowledged by international practitioners and agencies.

MAINTAINING LIAISON AND COMMUNICATION

Liaison activities allow general misconduct-prevention advice to be disseminated to local government officials, both formally and informally, including:

- responses to ad hoc enquiries from local government officials
- the delivery of presentations, training or similar activities based on a strategic assessment of need and value
- range of activities involving provision of information to the general public and public interest groups.

Liaison contacts are maintained with a number of professional associations where the members perform prevention-related activities or where there is a mutually beneficial relationship between the professional association and the CMC. Current liaison associations that involve local government concerns include:

- sponsoring a quarterly liaison meeting between the CMC, Ombudsman, QAO and DLGP local government officials
- attending meetings of the Local Government Managers Australia, the Local Government Association Queensland, and the Local Government Internal Auditors Network.

In 2002, the CMC implemented a Regional Initiative Program to advance our services to rural and regional areas of the State. The Capacity Development Coordination Unit organised the first regional initiative in Cairns in October 2002, which involved liaison with major units of public administration, the launch of new sector-specific CMC publications, seminars,

presentations, formal networking and liaison with, and provision of advice to, local government officers. Similar regional visits are planned for the future.

RESEARCHING MISCONDUCT ISSUES AFFECTING LOCAL GOVERNMENT

The CMC conducts research into misconduct trends in the local government sector. CMC fact sheets will continue to be prepared using the CMC complaints data to identify trends and key areas of risk for the local government sector. Additionally, initiatives include:

Capacity Measurement Project

The Capacity Measurement Project represents a comprehensive survey of units of public administration, including the local government sector, to document their capacity to prevent and to deal with different types and levels of misconduct within their organisations. All local authorities and Aboriginal and Torres Strait Islander Community Councils are included in this survey, which will provide valuable data for future service-delivery planning for local authorities. A publication examining local government issues, based on the survey results, will be produced this year.

Public Attitudes Survey

The CMC has recently surveyed public attitudes toward the police as well as the level of public awareness within local, regional, and rural areas of the jurisdiction of the CMC and the perceived effectiveness of the CMC within the local government sector. Results from the survey will be compared to earlier survey results to assess if public awareness about the role of the CMC in relation to the local government sector has changed over time.

Local Government elections 2004

One of the major initiatives for the immediate future concerns the upcoming local government elections. The CMC will adopt a strategy in the lead-up to the March 2004 elections to reduce the likelihood of false, frivolous or vexatious complaints that waste Commission resources and damage people's reputations.

This successful strategy was first delivered in the lead-up to the March 2000 local government election, after extensive consultation with local government stakeholders. It involves:

- conducting a media campaign prior to the election to warn candidates not to use the Commission for politically motivated complaints.
- raising public awareness that false, frivolous or vexatious complaints can lead to a penalty
- communicating that prosecutions for false, vexatious or frivolous complaints will be pursued.

After the March 2004 local government election, the CMC will be providing Councillor Information Kits containing misconduct-prevention advisory brochures on key local government issues. These kits will be distributed to all 1,250 local government councillors in Queensland.

The CMC will continue to assist local governments to enhance their capacity to develop and implement prevention responses to misconduct, provide a resource base of useful misconduct prevention materials and resources, explore ways in which local governmental organisations can be made more conducive to the reporting of official misconduct, develop strategies for assessing the comprehensiveness and effectiveness of integrity controls across local government, liaise with key personnel in the local government sector and enhance the CMC's impact in regional areas, including in Indigenous communities.

Chapter 9

Witness Protection

This chapter focuses on the third CMC output: Witness Protection. It explains how this function operates within the CMC, flags some important legislative issues for the Committee's attention, and draws attention to the progress that has been made recently in the area of specialist training for witness protection officers.

OVERVIEW

With the commencement of the *Crime and Misconduct Act 2001* on 1 January 2002, Witness Protection became a function of the CMC under section 56 of the Act. The functional area is now referred to as the Witness Protection Unit (WPU).

The CJC's Witness Protection Division, established under the provisions of the *Criminal Justice Act 1989*, was accountable to the Chairperson through the director of the division (an Assistant Commissioner of the QPS attached to the CJC).

The *Witness Protection Act 2000* and Witness Protection Regulation 2001 commenced on 9 March 2001. The WPD continued to discharge its responsibilities under the Criminal Justice Act and reported details of its yearly work output in the CJC's annual report. Having a WPU housed within an anti-corruption/major crime-focused agency, separate from the parent police organisation, places the unit in a unique position to protect witnesses.

Witness protection is an essential component of the Queensland criminal justice system because it provides an environment that allows persons in danger to come forward and assist law enforcement. Eligible persons who wish to assist law enforcement agencies, or the CMC, are entitled to be offered protection from the threats against them. Since its inception, the Unit has maintained a 100 per cent success rate in protecting witnesses.

Over the past two years, the WPU conducted what is generally regarded as the most complex and the largest court security witness protection operation in Australia. The operation involved providing concurrent protection to 11 witnesses who gave evidence against numerous members and associates of an Outlaw Motorcycle Gang (OMCG) in committal proceedings over a two-week period and subsequent concurrent protection of 14 witnesses who were summoned to give evidence at three separate trials in the Cairns Supreme Court. The relevant criminal investigation resulted in 27 offenders being ultimately convicted on 131 charges relating to drug trafficking, other drug offences, aggravated extortion, torture, deprivation of liberty and property offences.

In November 2002, the Unit and staff received a QPS award for Excellence in Operational Policing.

WITNESS PROTECTION ADVISORY COMMITTEE

A Witness Protection Advisory Committee has been established to assist the CMC Chairperson and the Director, Witness Protection and Operations Support. The Committee:

- assesses, evaluates and makes recommendations in respect of all applications for witness protection

- assesses, evaluates and makes recommendations in respect of any fresh matters that may have a bearing on the protection assigned to a protectee
- assesses, evaluates and makes recommendations in respect of the termination of protection
- makes recommendations to the Chairperson concerning persons who are in need of witness protection.

Members of the Advisory Committee include: the Director, Witness Protection and Operations Support, the Executive Director, the Commission's Official Solicitor, Detective Superintendent (Operations Coordinator) and the Officer in Charge of the WPU.

LEGISLATIVE ISSUES

Complementary legislation

The *Witness Protection Act 2000* and Witness Protection Regulation 2001 provide enhanced capabilities and cooperation between Queensland, the Commonwealth and the other States and Territories, and clarify the intent of witness protection legislation. A number of powers and offence provisions, specific to maintaining the safety of witnesses and the integrity of the witness protection program, have been included.

It is important to acknowledge that it is not only CMC witnesses who have access to the CMC's witness protection program. The vast majority of protected witnesses are referred to the Unit by other law enforcement agencies, principally the QPS.

A major issue in the last two PCJC Three-yearly Reviews (as they applied to Witness Protection) related to the need for specific Queensland witness protection legislation complementary to federal and other state witness protection legislation. The position now with respect to the various federal and state jurisdictions regarding complementary legislation is as follows:

ACT	<i>Witness Protection Act 1996</i> (ACT)	Declaration as complementary necessary. No declaration of Qld Act to date.
NSW	<i>Witness Protection Act 1995</i> (NSW)	Qld Act declared as complementary.
NT	<i>Witness Protection (Northern Territory) Act 2002</i> (NT)	New legislation. Declaration as complementary necessary.
SA	<i>Witness Protection Act 1996</i> (SA)	Qld Act declared as complementary.
TAS	<i>Witness Protection Act 2000</i> (Tas.)	Qld Act declared as complementary.
VIC	<i>Witness Protection Act 1991</i> (Vic.)	Qld Act declared as complementary.
WA	<i>Witness Protection (Western Australia) Act 1996</i> (WA)	Qld Act declared as complementary.
Cwlth	<i>Witness Protection Act 1994</i> (Cwlth)	Qld Act declared as complementary.

The position with respect to the various federal and state jurisdictions with regard to approved authorities is as follows:

ACT	<i>Witness Protection Act 1996 (ACT)</i>	Declaration as approved authority necessary. No declaration of CMC as approved authority to date.
NSW	<i>Witness Protection Act 1995 (NSW)</i>	CMC declared to be an approved authority.
NT	<i>Witness Protection (Northern Territory) Act 2002</i>	New legislation. Declaration as authority necessary.
SA	<i>Witness Protection Act 1996 (SA)</i>	CMC declared to be an approved authority.
TAS	<i>Witness Protection Act 2000 (Tas.)</i>	CMC declared to be an approved authority.
VIC	<i>Witness Protection Act 1991 (Vic.)</i>	No declaration as yet.
WA	<i>Witness Protection (Western Australia) Act 1996 (WA)</i>	No declaration as yet.
Cwlth	<i>Witness Protection Act 1994 (Cwlth)</i>	CMC declared to be an approved authority.

The CMC will continue to liaise with relevant state agencies where complementary legislation and approved authorities are not in existence to ensure ongoing cooperation in witness protection matters and the development of reciprocal arrangements.

Amendments to enhance legislation

Since the *Witness Protection Act 2000* was enacted, it has been operationally assessed and evaluated. The Act has been found to be effective and particularly beneficial in preventing disclosure of witness protection operations, formalising procedures and enhancing the integrity of the witness protection program.

However, as outlined below, some amendments to the Crime and Misconduct Act and the Witness Protection Act are necessary to assist the WPU to effectively provide a more professional program.

Court security

The witness protection program includes relocation and possible re-identification of persons admitted to it. The Unit has identified the need to offer short-term witness protection for matters such as 'Court Security Only' situations. This innovation is useful for those witnesses who do not want to be relocated and cut off from their previous lives, yet are willing to help only if they can be protected at court where they feel the most vulnerable. In 2001–02, the Unit successfully provided security at various courts for 51 witnesses who were required to provide evidence for the prosecution or for their own matters.

More often than not, applications for short-term protection are received with very little notice of the impending court appearance. Presently for a 'Court Security Only' matter, a full-protection agreement is required to be completed and signed by the Chairperson (as the authority to offer protection is not able to be delegated). The use of an interim protection agreement (where the authority to offer such protection can be delegated) has been determined not to be an appropriate use of the provisions of section 9 of the Witness Protection Act in such cases. Accordingly, by having little notice of the requirement for

protection, some significant administrative difficulty and unnecessary pressures have been experienced in preparing the necessary documentation and agreements for signature by the Chairperson and the witness. The capacity to offer a short-term protection agreement (where the authority to offer such protection can be delegated) will assist in providing a more efficient witness protection service.

The CMC seeks the Committee's support for amendments to sections 6 and 7 of the Witness Protection Act to make provision for a short-term protection agreement and streamline the agreement-signing process for these types of applications.

Suspension criteria

Circumstances have arisen whereby a witness on protection has allegedly committed offences and is required to show cause to the Chairperson as to why their protection should not be ended. The current position in section 12 of the Witness Protection Act outlines the Chairperson's authority for the suspension of a protection agreement. Section 12(1) states:

This section applies if the chairperson is satisfied a protected witness cannot be protected under the program because of something the protected witness has done or intends to do that stops the person from being appropriately protected.

There is no provision for the Chairperson to suspend a witness from the program due to the witness's conduct threatening the integrity of the program. If available, such a provision could be used in conjunction with assessing whether protection should be ended under section 14 of the Witness Protection Act.

Under section 14(1) of the Witness Protection Act, the Chairperson has the authority to end protection, and, in particular, under section 14 (1) (b) where:

the chairperson considers it is no longer appropriate for the protected witness be included in the program, including, for example, because the protected witness's conduct is a threat to the integrity of the program.

In addition, under section 14 a witness is advised of the intention to end protection and is afforded reasonable opportunity to state why the protection should not end in a show cause situation.

The CMC seeks the Committee's support for an amendment to the Witness Protection Act giving the Chairperson of the CMC the discretion (in appropriate circumstances) to suspend a person while a determination is being made on ending a protection agreement of a protected witness.

Assumed identity for witness protection officers

An assumed identity is a false identity that may be assumed by a witness protection officer for a period of time for the purpose of witness protection duties.

The CMC presently relies on section 15 of the Witness Protection Act to obtain false identity documents for witness protection officers. That section specifies that the Chairperson may require a person responsible for issuing an identity document to do so to allow a protected witness to establish a new identity, to otherwise protect a protected witness, or to restore a

former protected witness's former identity. Where the obtaining of false identity documents for witness protection officers is necessary 'to otherwise protect a protected witness', section 15 has been used for that purpose.

However, there is concern that the absence of provisions in the Witness Protection Act expressly authorising the acquisition and use of assumed identities by witness protection officers may lead to later challenges to the legality of their actions.

The Joint Working Group on National Investigative Powers is considering draft model legislation relating to cross-border investigative powers for law enforcement. The draft model legislation includes legislation for assumed identities. The current draft provides that the main purpose of the assumed identity legislation is to facilitate, for law enforcement purposes, investigations in relation to criminal activity, including investigations extending beyond jurisdictions. It is considered unlikely that the acquisition and use of assumed identities for witness protection purposes would be included within the definition in the model legislation. The use would be for 'law enforcement purposes', but may not necessarily involve the facilitation of a criminal investigation (e.g. witness protection may not be necessary until an investigation is finished). The CMC will be submitting that the model legislation should be broadened to allow the use of assumed identities for any law enforcement purpose, but there is no guarantee that this submission will be accepted.

The CMC seeks the Committee's support for a new section to be included in the Witness Protection Act which clarifies that the acquisition and use of assumed identities by witness protection officers may be authorised by the Chairperson. It is obviously vital to the security of witness protection operations that officers as well as witnesses are able to conceal their true identities when necessary.

Offence disclosures about protected witnesses

It is submitted that an oversight has apparently occurred in the drafting of the offence provision (section 36) in the Witness Protection Act which requires an amendment.

The relevant section as it stands, provides excellent deterrent and penalty provisions for disclosure about a 'relevant person' (a person who is, or has been, included in the witness protection program) which compromises their security. However, a similar deterrent and penalty does not exist for disclosures about the 'witness protection program' itself.

Section 36 (1) states:

This section applies to the disclosure of information about a person who is, or has been, included in the witness protection program ('relevant person')

Section 36 (2) states:

A person must not knowingly, directly or indirectly, disclose or record information about a relevant person if the information comprises the security of a relevant person or the integrity of the program.

It is difficult, if not impossible, to conceive a situation where the 'integrity of the program' would be compromised by disclosing or recording information about a 'relevant person' without compromising the security of that particular person.

Disclosures can be envisaged that would compromise the program, but would not be about a 'relevant person'. Such disclosures about the program would be likely to compromise the security of a 'relevant person', but because they are not about a 'relevant person', under the current provisions, the disclosures would not constitute an offence under this Act.

To redress this situation, it is suggested that the relevant sections be amended and reference should be made to the witness protection program specifically.

Section 36 (1) should state:

This section applies to the disclosure of information about the witness protection program or a person who is, or has been, included in the witness protection program ('relevant person')

Section 36 (2) should state:

A person must not knowingly, directly or indirectly, disclose or record information about the witness protection program or a relevant person if the information comprises the security of a relevant person or the integrity of the program.

The CMC seeks the Committee's support regarding the above amendment so that disclosures, regarding the witness protection program itself, are an offence.

Section 74 Notice to Produce and section 75 Notice to Discover Information, Crime and Misconduct Act 2001

Notice powers under the Crime and Misconduct Act, which require persons to provide documents, things and evidence, are not available to support the CMC's witness protection functions. Under the Crime and Misconduct Act, such notices can be issued only for crime or misconduct investigations (sections 74 and 75) or compensation. However, the information obtained under these notices, particularly information from financial institutions, could assist in carrying out the CMC's witness protection functions. The information could be used to locate witnesses or identify persons who may be compromising protection arrangements.

The CMC seeks the Committee's support in amending the Crime and Misconduct Act to allow the CMC's notice power to be used for its witness protection functions.

TRAINING

Witness protection officers, who are usually police officers, receive specialist on the job training in the many diverse aspects of witness protection. Until recently there has been no specific accredited witness protection course.

In 2002, the WPU developed and conducted a witness protection course from 10 June to 5 July 2002. This was the first such course to be conducted in Australia based on the national competencies for witness protection officers. The course involved representatives from the CMC, QPS, New South Wales Police, New Zealand Police and the United States Marshals Service.

This witness protection qualification, an advanced diploma, is the first specialist qualification to be delivered under the Public Safety Training Package. There are nine specialist qualifications under this package, all of which are to have their level of qualification determined. The Witness Protection Course is being considered by the Australasian Police Professional Standards Council as the course to provide the benchmark in witness protection training.

The WPU has recognised current competencies for existing members of the Unit, in line with those identified in the nationally accredited witness protection course so as to ensure that staff are appropriately qualified to perform the duties of witness protection in accordance with section 35 of the Witness Protection Act.

The CMC is of the view that the Witness Protection Unit has an important role to play in the criminal justice system within Queensland and that it is appropriate for the unit to remain within the CMC.

Chapter 10

Corporate governance

Corporate governance is about how we manage and govern ourselves in order to achieve our goals and objectives. It includes:

- ▶ internal accountability structures — the way in which we plan, organise, manage and monitor our operations, performance and internal controls and strive to achieve best practice
- ▶ financial management and performance management systems and structures
- ▶ legislative compliance structures
- ▶ resource-management practices and structures

INTERNAL ACCOUNTABILITY STRUCTURES

The Commission

The Crime and Misconduct Commission consists of five Commissioners, one of whom is the Chairperson and Chief Executive Officer. See page 89 for personal profiles of current Commissioners.

The Commission meets formally each fortnight to consider issues affecting all areas of the organisation including financial, staffing and managerial issues, specific crime and misconduct operations, research and intelligence projects and misconduct prevention activities. When considering issues, the Commission receives submissions from the relevant operational area detailing the circumstances of the matter and recommending a particular course of action. The Commission may approve, disapprove or vary the recommendation.

When urgent matters arise, special meetings are convened at short notice either in person or by telephone. From 1 January 2002 to 31 March 2003, the Commission met 30 times, of which 12 were special meetings, and met with the PCMC six times (see table 1).

The Strategic Management Group

CMC corporate policy and strategic directions, set by the Commission, are implemented by the Strategic Management Group (SMG), led by the Chairperson as CEO. The Group comprises the Chairperson, Assistant Commissioners and Directors.

The role and responsibilities of the Strategic Management Group are detailed in its charter. Minutes of the Group's meetings record decisions and action items to ensure conformity with the charter and balanced performance reporting. The SMG meets each fortnight. The Assistant Commissioners and Directors also meet with the Commission on a monthly basis.

Crime Reference Committee

The Crime Reference Committee refers major-crime matters to the CMC for investigation. The Committee is chaired by the Assistant Commissioner, Crime, and consists of the CMC Chairperson, the Commissioner of Police, the Chair of the ACC, the Commissioner for Children and Young People, and two community representatives.

Table 1. Attendance of Commissioners at meetings, 1 January 2002 to 31 March 2003

	With PCMC no. = 6	Ordinary meetings no. = 30	Special meetings no. = 12
B Butler SC	6	29	9
Hon. B Pincus QC	5	28	11
S Goold OAM	3	26	11
R Rinaudo	3	28	12
M Steinberg	5	28	9
J Callanan	6	26	6
S Lambrides	5	29	8

Notes:

- 1 Since 1 January 2002, under the *Crime and Misconduct Act 2001*, the Assistant Commissioner, Crime (J Callanan), and the Assistant Commissioner, Misconduct (S Lambrides), may attend Commission meetings but have no voting rights.
- 2 Figures include instances where an Acting Assistant Commissioner attended a meeting when the Assistant Commissioners was absent on leave.

Committees

In addition to the SMG, the Commission has a comprehensive committee structure to comply with corporate governance principles of effective management. To ensure these committees maintain a strategic focus, terms of reference, in the form of a charter, have been developed that define the roles and responsibilities of the committees and their members. Copies of the charters, which are endorsed by the Commission, are available to all staff through the CMC intranet.

Listed below are the internal committees presently in operation, together with a brief description of their purpose.

Audit Committee. Provides an independent assessment of the adequacy and effectiveness of our internal control systems.

Commission Consultative Committee. Provides a forum for elected employee representatives and senior management to exchange ideas, concerns and points of view.

Equal Employment Opportunity Consultative Committee. Ensures that administrative policies and practices adhere to the principles of EEO.

Finance Committee. Oversees the budget process and financial management.

Information Steering Committee. Ensures effective use of information infrastructure and resources.

Legislation Committee. Ensures compliance with relevant legislation and reviews the applicability of the legislation governing the CMC.

Risk Management Committee. Ensures the CMC maintains robust and effective risk management strategies and related practices.

Workplace Health and Safety Committee. Monitors and implements policies and strategies to safeguard health and safety.

Table 2 outlines the membership of Commissioners, Assistant Commissioners and Directors on these various committees.

Table 2. Membership of Commissioners and Directors on Management Committees

	Audit	CCC	EEO	Finance	Information Steering	Legislation	Risk Management	WH&S
Chairperson	**✓	✓		*✓	*✓	*✓		
Commissioner Goold				*✓				
Commissioner Pincus						✓	✓	
Commissioner Rinaudo				✓		✓		
Commissioner Steinberg	*✓							
A/Commissioner, Crime		✓		✓	✓	✓		
A/Commissioner, Misconduct				✓	✓	✓	✓	
Executive Director	**✓			✓	✓			*✓
Director, Witness Protection and Operations Support				✓		✓		
Director, Research and Prevention						✓		
Director, Information & Intelligence					✓		*✓	

* Denotes Committee Chair
** Ex-officio member

CCC	Commission Consultative Committee
EEO	Equal Employment Opportunity Consultative Committee
WH&S	Workplace Health and Safety Committee

Other management committees

There are three committees that deal specifically with operational matters: the Misconduct Operations Review Committee, the Misconduct Assessment Committee and the Crime Operational Review Committee.

Internal audit

Internal audit is an independent function responsible for the systematic review and appraisal of the efficiency, economy and effectiveness of CMC operations. It is instrumental in promoting and improving internal controls, accountability and operational efficiency.

The CMC's Strategic Audit Plan and annual audit plans are developed according to identified risks likely to confront the organisation. Following the merger, the Audit Committee requested the Commission to arrange for a risk profile to be undertaken from which it developed its Strategic Audit Plan.

Over recent years the Commission has outsourced its internal audit activities through a list of preferred suppliers. During 2002–03, however, we are trialling the employment of a part-time internal auditor, as well as continuing to outsource some specialist aspects. This approach acknowledges that, while it is important that internal audits are undertaken in-house, there are some audits, such as those involving information technology, that may require expertise that is only available from outside contractors.

The function is administratively responsible to the Executive Director and reports directly to the Chairperson, as CEO, through the Audit Committee.

STRATEGIC DIRECTION

The CMC's 2002–2006 Strategic Plan was produced in June 2002. The plan indicates the ways in which we intend to achieve our goals and outputs, while unit business plans detail performance measures that allow the Commission, as the accountable body, to assess the organisation's performance and delivery. Work is presently under way to revise this plan pursuant to the provisions of the Financial Management Standard, and produce our 2003–2007 Strategic Plan.

In addition to internal reporting to the Commission, the CMC, as an organisation, reports externally on its performance through a range of formal and informal means, including:

- reports to the Parliamentary Crime and Misconduct Committee
- reports to the Minister and Queensland Treasury
- public reports on the outcomes of investigations and other CMC projects
- annual reports
- the CMC website.

The three main ways the CMC reports on its performance are through narrative reports, statistical information and performance measures.

We provide narrative reports on the success and cost-effectiveness of our investigations and projects through our annual report, publications and website.

We provide statistical information about our activities in our annual report. In our investigative role, we work to reduce the impact of serious and organised crime and

corruption. We take every opportunity to identify and apprehend corrupt individuals in the public sector and to dismantle or disrupt organised crime groups. The nature and complexity of some investigations mean that it is not always possible to equate success simply to the number of arrests or the size of seizures. Nevertheless, we record, and publish in our annual report, the number of arrests, charges, seizures and exercises of powers.

We use quantitative performance measures to report against performance targets for the annual Ministerial Portfolio Statement (published as part of the Budget Papers each year) and quarterly non-financial reports to Queensland Treasury. These measures are arranged under the categories of quantity, quality, timeliness and cost.

FINANCIAL MANAGEMENT AND PERFORMANCE MANAGEMENT SYSTEMS AND STRUCTURES

Financial management is the responsibility of all CMC managers. The CMC operates in an accrual output-based financial management framework where all senior managers are responsible and accountable for the achievement of corporate goals and objectives within approved budget allocations. The CMC's Finance Committee assists the Commission in its role of managing the budget process and ensuring that appropriate and effective financial management practices are in operation.

The CMC reports on our its management through a range of internal and external mechanisms, including to the Minister and Queensland Treasury in relation to budget projections published annually in the Ministerial Portfolio Statement (part of the State Budget Papers) and our financial statements which are included in our annual report.

LEGISLATIVE COMPLIANCE STRUCTURES

Legal Counsel

The Office of General Counsel, which comprises General Counsel, the Official Solicitor, the FOI Coordinator and a legal officer, provides independent legal advice, encompassing such areas as contract, administrative and criminal law, to the Commission and the various operational areas of the CMC. The Office:

- represents the CMC before courts, tribunals and other bodies or engages external advice and representation
- responds to subpoenas and other compulsory processes served on the CMC seeking production of documents
- prepares and coordinates the CMC's submissions to other external bodies on diverse legal issues, such as the content of proposed legislation
- undertakes some internal FOI reviews.

Freedom of Information legislation

The CMC is subject to the *Freedom of Information Act 1992*, which means members of the public are entitled to make application for access to our documents under that Act.

Certain documents may be exempt from access on grounds such as legal professional privilege, parliamentary privilege or matters relating to the personal affairs of others. If applicants are aggrieved by a decision to refuse or limit access, they may request an external review, which means the matter will go to the Information Commissioner.

Applications under the FOI Act must be in writing. No charge applies to applications that seek access to documents relating to the personal affairs of the applicant. Charges apply to non-personal requests.

Most applications received by the CMC are requests by complainants for access to documents concerning their complaint.

Privacy legislation

A new privacy regime for the Queensland public sector was introduced on 10 September 2001 when Cabinet approved Information Standard 42. The scheme, which is administratively based, gives effect to eleven Information Privacy Principles (IPPs) adapted from the *Privacy Act 1988* (Cwlth).

Information Standard 42 requires agencies to review the way they currently handle personal information to ensure that they comply with the requirements of the IPPs. The CMC is exempt from IPPs 2, 3, 9, 10 and 11 for all functions except administrative functions. As a result, much of the CMC's core activities are excluded from the privacy scheme.

In accordance with the requirements of Information Standard 42, the CMC has nominated a privacy contact officer, developed a privacy plan to give effect to the IPPs, and published the plan on its website.

Steps are being taken to implement the privacy plan according to the schedule set out in the plan.

Client Service Charter

In July 2002, the CMC released a Client Services Charter. The Charter sets out the standards we undertake to meet when dealing with complaints about misconduct in the public sector. It sets out the service that a complainant can expect from us and what recourse is available should that service not be delivered. The Charter details opportunities for review of decisions as well as how to resolve grievances about the quality of service received. The charter is available on our website.

CURRENT COMMISSIONERS OF THE CMC

The current Commissioners of the CMC are: Mr Brendan Butler SC (Chairperson), the Honourable Bill Pincus QC, Mrs Sally Goold OAM, Mr Ray Rinaudo, and Dr Margaret Steinberg.

Brendan Butler SC

Before being appointed Chairperson of the CMC in January 2001, Mr Butler was the Chairperson of the Criminal Justice Commission (since 1998) and a member of the Management Committee of the Queensland Crime Commission.

Mr Butler's legal career has spanned periods both as a Crown Prosecutor and as a barrister in private practice. From 1989 to 1996 he held the position of Deputy Director of Public Prosecutions. From June 1987 to September 1989, he was Counsel Assisting the Fitzgerald Commission of Inquiry, the forerunner of the CJC. In 1990, he was the principal Counsel Assisting the Ward 10B Commission of Inquiry in Townsville. Mr Butler holds the degrees of Bachelor of Arts, Bachelor of Laws and Master of Laws from the University of Queensland. He is a co-author of the 10th and 11th editions of *Carter's Criminal Law of Queensland*. He was accorded the status of Senior Counsel in 1994.

Hon. Bill Pincus QC

The Honourable Bill Pincus QC (appointed December 2001) practised at the private Bar from 1959 to 1985, becoming a Queen's Counsel in 1974. He was appointed to the Federal Court in 1985 and resigned to become a member of the Queensland Court of Appeal in 1991. He retired from the Bench in March 2001. During his term in practice, Mr Pincus was active in the profession, becoming President of the Queensland Bar Association, Chairman of the Queensland Barristers' Board and President of the Law Council of Australia. He is currently an Adjunct Professor in the Law Faculty of the University of Queensland.

Sally Goold OAM

Mrs Goold (appointed July 1999) is a registered nurse with a Master of Nursing Studies. She lectured in undergraduate and postgraduate programs at the School of Nursing, Queensland University of Technology and, in 1986, was awarded the Medal of the Order of Australia for service to nursing education and Aboriginal health. In 2000, she was awarded the Royal College of Nursing (Queensland Chapter) Distinguished Nursing Award and in 2002 received an honorary doctorate of nursing from the Royal Melbourne Institute of Technology. Mrs Goold was instrumental in forming the Congress of Aboriginal and Torres Strait Islander Nurses (CATSIN), of which she is Chairperson.

Ray Rinaudo

Mr Rinaudo (appointed September 1999) has a Master of Laws and has practised as a solicitor for over 20 years. He has held many professional and statutory appointments and has had extensive involvement with Alternative Dispute Resolution, holding mediator appointments under both the District and Supreme Courts. He is currently Chairperson of the Professional Standards Tribunal for the Real Estate Institute of Queensland and a part-time member of the Administrative Appeals Tribunal.

Margaret Steinberg

Dr Margaret Steinberg (appointed October 2000) has a PhD (Child Health and Education) from the University of Queensland. Her awards include a Churchill Fellowship (disability), a NHMRC Public Health Travelling Fellowship (telecommunications/telemedicine) and a WHO-supported study in HIV/AIDS. Dr Steinberg has published more than 40 major reports to government and industry, and is currently an adjunct professor in the Centre of Philanthropy and Nonprofit Studies, Queensland University of Technology, a member of the Board of Governors of the Queensland Community Foundation and Vice President of the Queensland Council of Social Services.

Chapter 11

Accountability

The CMC is an independent statutory body, separate from the government of the day, but fully accountable to the people of Queensland. The CMC recognises that an organisation with the substantial powers and responsibilities that it possesses must be accountable.

This report fulfils an important part of the CMC's accountability requirements in that it is a report to our chief oversight body, the Parliamentary Crime and Misconduct Committee, detailing our processes and achievements over the last three years.

THE PCMC

The PCMC is a seven-member, bipartisan committee established to:

- review our guidelines and make suggestions for improvement of our practices
- review our reports, including our annual report and research reports
- request reports from us on matters that have come to its attention through the media or by other means
- receive and consider complaints against us and deal with issues concerning us as they arise.

The Commission formally meets with the PCMC on a regular basis (usually every two months) to discuss current activities and performance. A comprehensive report, which details the CMC's activities during the reporting period, is prepared for the Committee in advance of these meetings.

The PCMC may also direct the Parliamentary Crime and Misconduct Commissioner to audit and review our activities and to investigate complaints about us.

PARLIAMENTARY CRIME AND MISCONDUCT COMMISSIONER

The Parliamentary Crime and Misconduct Commissioner is an officer of the Parliament and helps the PCMC to carry out its oversight role. The Parliamentary Commissioner may, as required by the PCMC:

- audit CMC records and files, including current sensitive operations
- investigate complaints about the CMC or its officers
- review reports given to the PCMC by the CMC to verify their accuracy and completeness.

The Parliamentary Commissioner may require us to produce records, files and other documents, and may, in some circumstances, require CMC officers to appear to give evidence at a hearing. The CMC is not entitled to claim privilege in respect of any material relevant to an investigation by the Parliamentary Commissioner.

OTHER EXTERNAL ACCOUNTABILITY MECHANISMS

In addition to the PCMC, we are also accountable for the exercise of some of our powers to the Supreme Court, the Public Interest Monitor and the Controlled Operations Committee.

Supreme Court

Many of the CMC's coercive powers may be exercised only with the approval of a Supreme Court judge. These include:

- a search warrant (where structural damage may occur)
- a covert search warrant
- a surveillance warrant
- a notice requiring immediate attendance at a hearing
- monitoring and suspensions orders on financial institutions
- an arrest warrant for non-attendance
- an additional powers warrant.

The CMC is also subject to review in the Supreme Court in the following cases:

- a person who believes that they are being investigated unfairly by the CMC may apply to the Supreme Court for relief
- the Supreme Court may decide issues of privilege raised by a person under investigation either at first instance or by reviewing a decision made by a presiding officer at a CMC hearing.

Public Interest Monitor

The Public Interest Monitor (PIM) has a right of appearance before a Court that is hearing an application by the CMC for a surveillance warrant or a covert search warrant and is entitled to test the appropriateness and validity of the application before the Court.

The CMC must advise the PIM of any such application it intends to make and provide a full copy of the material to be presented. The PIM's functions include:

- monitoring compliance by the CMC with the Act in relation to surveillance warrants and covert search warrants
- appearing at any hearing for such warrants, examining or cross-examining any witness and making submissions on the appropriateness of granting the application
- providing an annual report on the use of surveillance warrants and covert search warrants.

Controlled Operations Committee

The Controlled Operations Committee was established under the *Police Powers and Responsibilities Act 2000* to consider and make recommendations about applications for 'controlled operations' to be undertaken by the QPS or the CMC. Controlled operations are investigations of serious indictable offences, misconduct or organised crime that involve police officers and others engaging in activities that may be unlawful.

The Committee, chaired by a retired District Court judge (the independent member), comprises the Commissioner of Police and the Chairperson of the CMC.

In the case of any controlled operation by the CMC that involves the investigation of a police officer, the Chairperson may approve the application without referring it to the Committee,

but he must first contact the independent member and obtain the member's agreement to the proposed operation.

The Minister

The Honourable Peter Beattie MP, Premier and Minister for Trade, is the Minister currently responsible for the CMC. The Minister approves staff remuneration conditions and approves our budget. Also, the legislation requires the Minister to ensure that the Commission operates in accordance with best practice standards. To assist the Minister in this regard, we must report on the efficiency, effectiveness, economy and timeliness of our operational processes, as and when required by the Minister. The Premier's Department has agreed with the CMC that reports under section 260 of the Act will be provided on a six-monthly basis.

STAFF ACCOUNTABILITY

The Criminal Justice Act did not provide a statutory framework for dealing with complaints of misconduct against CJC officers. Therefore, following extensive consultation in July 1999 with the PCJC and the Parliamentary Criminal Justice Commissioner, the Commission promulgated to its staff a protocol for dealing with complaints against Commission officers.

The protocol seeks to strike a balance between the need for allegations of misconduct to be investigated expeditiously (in particular where there is a need to preserve evidence), and the need for independent oversight of investigations that involve allegations against the CMC or its officers. To date, the protocols appear to be working satisfactorily.

The new Act now requires the Chairperson to report to the PCMC all conduct of a Commission officer that the Chairperson suspects involves or may involve improper conduct (s. 329). This is a new test to the one previously applied under the protocol. The Act also provides for a wider definition of Commission officers by including former officers and specifically allows the PCMC to request reports in respect of these matters. Due to these changes, the protocols are currently being reviewed to ensure that they accurately reflect the legislation.

Notwithstanding this review, the CMC continues to report in accordance with the processes outlined in the existing protocols, taking into account the definition in section 329 of the Crime and Misconduct Act.

Chapter 12

Conclusion

The CMC would like to draw to the Committee's attention the following points made throughout this report.

The CMC:	page
▶ supports the current legislative framework for crime investigations.	5
▶ considers that the current Act provides the appropriate powers to enable it to investigate major matters, and to monitor the way that agencies deal with complaints of misconduct.	6
▶ considers that its current powers to hold public and private hearings are appropriate and effective.	9
▶ is of the view that the investigative powers presently given to it under the Act in respect of its crime, misconduct and civil confiscation jurisdictions should be maintained.	11
▶ seeks the Committee's support in maintaining the present powers during any legislative amendment process that may result from the National Investigative Powers initiative.	12
▶ is of the view that entities that carry out public functions should be subject to scrutiny by the CMC, especially where public funding is involved. Consideration should be given to adopting a definition similar to that employed by ICAC. While concern has previously been raised that such a definition may then include the CMC, that particular consequence could easily be avoided by use of an exclusory provision in the definition, as in the present Act.	13
▶ seeks the Committee's support in respect of the above legislative amendments to assist the Commission to combat terrorism, which falls within the major-crime jurisdiction.	15
▶ seeks the Committee's support for an amendment to allow presiding officers at CMC hearings to order the production of documents or things, in terms similar to the power under the Independent Commission Against Corruption Act.	16
▶ seeks the Committee's continued support in recommending that telecommunications interception legislation be introduced in Queensland, and if such legislation is passed, that funding be made available for the CMC to establish its own secure and effective interception facility.	19
▶ supports the present legislative framework regarding the referral of matters for investigation by Crime.	20
▶ supports the present legislative framework regarding the referral of matters for investigation by Crime.	25

‣ is of the view that its involvement in solving serious crime value adds to police investigations and supports the legislative framework regarding referral of serious crime.	<i>page</i> 28
‣ supports the present legislative framework for civil confiscation.	30
‣ is of the view that the Strategic Intelligence Unit has a vital role to play in combating and preventing major crime within Queensland and believes that it is appropriate for the CMC to maintain its own intelligence database with the present ability to share relevant information with other law enforcement agencies.	31
‣ is of the view that it should continue to be active in this area and encourage the attainment of best practice standards not only among its own officers but also in other law enforcement agencies around the world.	32
‣ supports the new focus for dealing with misconduct promoted by the Crime and Misconduct Act.	34
‣ supports the current statutory framework regarding our role in the handling and investigation of complaints.	36
‣ is of the view that its assessment process is both effective and reflects the principles of the Act.	37
‣ is of the view that it is assessing complaints in a timely manner.	38
‣ is of the view that it is monitoring complaints in a timely manner.	45
‣ is of the view that it has successfully shifted its focus from merely conducting investigations to helping public sector agencies deal with misconduct. We have positioned ourselves to effectively monitor action by agencies and build their capacity in relation to misconduct prevention.	46
‣ has an important role to play in providing resource materials and advising public sector agencies on how to prevent misconduct.	49
‣ is of the view that it has improved processes for conducting investigations since the last review and that it will continue to give timeliness a significant focus. It should be added, however, that an emphasis on early completion should not be permitted to compromise quality and thoroughness. Public confidence cannot be maintained if unwarranted short cuts are taken to ensure that an investigation is completed within a pre-determined time limit or estimate.	58
‣ is of the view that the QPS has made substantial progress implementing POP in recent years. However, the approach is still seen by most police as something they could do if, and when, they had more time. The challenge for the QPS and the CMC is to continue with their efforts to promote and 'institutionalise' POP.	60
‣ has an important role in providing resource material to Indigenous councils and advising them on misconduct prevention.	68
‣ is of the view that its Aboriginal and Torres Strait Islander Liaison and	

Education Program is having a significant impact in fostering good working relationships between Indigenous communities, law enforcement agencies and other government departments.	page 70
▶ is of the view that it has positioned itself to effectively assist in combating crime within Indigenous communities.	71
▶ will continue to assist local governments to enhance their capacity to develop and implement prevention responses to misconduct, provide a resource base of useful misconduct prevention materials and resources, explore ways in which local governmental organisations can be made more conducive to the reporting of official misconduct, develop strategies for assessing the comprehensiveness and effectiveness of integrity controls across local government, liaise with key personnel in the local government sector and enhance the CMC's impact in regional areas, including in Indigenous communities.	76
▶ seeks the Committee's support for amendments to sections 6 and 7 of the Witness Protection Act to make provision for a short-term protection agreement and streamline the agreement-signing process for these types of applications.	80
▶ the CMC seeks the Committee's support for an amendment to the Witness Protection Act giving the Chairperson of the CMC the discretion (in appropriate circumstances) to suspend a person while a determination is being made on ending a protection agreement of a protected witness.	80
▶ seeks the Committee's support for a new section to be included in the Witness Protection Act which clarifies that the acquisition and use of assumed identities by witness protection officers may be authorised by the Chairperson. It is obviously vital to the security of witness protection operations that officers as well as witnesses are able to conceal their true identities when necessary.	81
▶ seeks the Committee's support regarding the above amendment so that disclosures, regarding the witness protection program itself, are an offence.	82
▶ seeks the Committee's support in amending the Crime and Misconduct Act to allow the CMC's notice power to be used for its Witness Protection function.	82
▶ is of the view that the Witness Protection Unit has an important role to play in the criminal justice system within Queensland and that it is appropriate for the unit to remain within the CMC.	83

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CRIME AND MISCONDUCT COMMISSION



Our Reference: 103-03-04-005 / ELO
Contact Officer: Emma Oettinger

18 August 2003

Mr G Wilson MP
Chairman
Parliamentary Crime and Misconduct Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Wilson

**RE: RESPONSE TO MATTERS ARISING OUT OF THE THREE-YEAR
REVIEW HEARINGS AND SUBMISSIONS**

The Committee has previously provided the Commission with an opportunity to comment on submissions made by various parties to the PCMC's 3 year review.

In hearings which the Committee held as part of its review on 19 and 20 June 2003, a number of the issues raised in submissions were further canvassed and the CMC responded to many of those issues during the hearings. In relation to a number of other issues, the CMC considers that its previous written response to the Committee adequately sets out its position. However there are a number of issues that the Commission would like to make further comment on and they are as follows.

Submission Responses

Definition of Official Misconduct

The written submissions from both the Queensland Teacher's Union and the Department of Main Roads expressed dissatisfaction with the broadness of the definition of official misconduct. However, the CMC is of the view that the present definition of official misconduct is appropriate.

Turning firstly to the case of teachers, while the definition may have a wide application to them, given that their daily conduct impacts upon the children of Queensland, I am of the view that this is not inappropriate or disproportionate.

The CMC has already reported to the Committee in detail regarding the matter specifically mentioned in the QTU's submission. I am sure the Committee would agree that allegations of sexual misconduct in relation to children must always be taken seriously by investigating authorities until there is evidence to the contrary. Further, Education Queensland are able to provide preliminary advice to the CMC when they refer a matter, including any evidence as to why an allegation may be frivolous or vexatious.

The CMC is mindful of the need to minimise the stress on subject officers of a referral to the CMC or a CMC investigation. To that end we are in the process of developing guidelines under section 40 of the *Crime and Misconduct Act 2001* (the Act), which will

enable the Department to take action in certain minor matters immediately and report the complaints and action taken to date to the CMC on a monthly basis.

Turning to the example provided by the Department of Main Roads, as the Committee would appreciate, internet misuse could amount to fraud, which is a criminal offence. In this instance it appears that the Department does not clearly understand how the CMC interprets official misconduct and action will be taken to ensure that this is clarified with them. I am of the view that it is generally better if borderline matters are referred to the Commission for assessment, rather than risking clear instances of official misconduct not being referred. The development of section 40 guidelines will further clarify which complaints can be actioned prior to referral and which ones must be referred prior to action being taken.

Reports to the DPP and other prosecuting authorities

Despite contrary views expressed during the hearings, the CMC maintains its view that the obligations of section 49 of the Act should continue to apply in the manner in which they are presently applied.

Section 49 of the Act provides that:

This section applies if the Commission investigates .. or assumes responsibility for the investigation of, a complaint about, or information or matter involving, misconduct and decides that prosecution or proceedings or disciplinary action should be considered.

The Commission may report on the investigation to any of the following as appropriate –

- a) the director of public prosecutions or other appropriate prosecuting authority, for the purposes of any prosecution proceedings the director or other authority considers warranted...*

It should be noted that section 49 of the Act does not apply to Crime investigations, so there is no obligation to refer these matters to the DPP

Section 50 of the Act goes on to give the Commission the power to charge a prescribed person with official misconduct by way of a disciplinary charge.

These sections are similar to the original provisions in the *Criminal Justice Act 1989*, in respect of which the CMC received advice from Mr Cedric Hampson QC in 1993.

Effectively the provisions make it clear that the CMC has no power to institute or conduct criminal proceedings of its own initiative. Mr Hampson QC advised that the CJC was not a prosecuting authority, and there is nothing in the present Act to indicate a change from that position. The relevant provisions authorise the Commission, once it decides that prosecution should be considered, to report to the DPP or other prosecuting authority. Excluding those rare emergent situations where police officers may rely on their extant powers to effect arrests, the only part the Commission may play in determining whether charges will be laid, are set out in section 49.

It seems that legislative change may be required to enable the CMC of its own right to institute proceedings of a criminal nature in the courts. The CMC does not support such a legislative change for the following reasons.

The CMC undertakes its investigations into holders of appointments in units of public administration, including members of parliament, without fear or favour. It is important to maintain the separation of the investigative function from the prosecutorial function as it is part of the accountability fabric which covers the CMC. It is very important that it remains, especially in a climate where sometimes there are allegations of bias by the CMC. It is very comforting to know that there is some independent person who has assessed the CMC's material and progressed the matter after deciding that it was an appropriate matter in which to charge.

While the number of matters referred to the DPP from the Commission is small, with only 10 to 18 briefs per year at most, the majority would involve sensitive, complex or serious issues, which the Parliamentary Commissioner agreed at page 58 of the Transcript of 19 June 2003, should be referred to the DPP. It should be noted that the Independent Commission Against Corruption (ICAC) in New South Wales typically refer its reports to the DPP for the decision on whether to prosecute.

It was suggested by the Parliamentary Commissioner at page 59 of the Transcript of 19 June 2003, that an extra check and balance already exists within the criminal justice system as after charges have been laid, the DPP can then exercise her discretion not to proceed with charges either during the committal or trial stage. I do not see the use of this option as promoting public confidence in the CMC for the following reasons:

The laying of charges by the CMC has a significant adverse impact upon the subject officer, particularly as these matters are often reported in the media. If the CMC were to lay charges in good faith and later the DPP elected to discontinue proceedings on the basis that a conviction is not likely to be secured or on public interest grounds, criticism of the CMC and allegations of political bias would only be increased. It is far better, from a public confidence perspective, for the matter to be considered by the DPP prior to the laying of charges so that any issue her office has with the case can be resolved expeditiously, in many cases prior to the matter entering the public arena. In fact at page 58 of the Transcript of 19 June 2003, the Parliamentary Commissioner conceded that *"It would not make much sense to have the Commission commencing a charge which it though might eventually be dropped by the DPP. That could reflect in fact quite unfavourably on the Commission."*

It should be noted that the CMC remains committed to engaging in dialogue with the DPP and the QPS regarding the appropriate prosecutorial body for matters to be referred to and ensuring that briefs of evidence are of a high quality to reduce the amount of work required by officers of those prosecutorial bodies in deciding whether to advance those matters. The CMC has approached the DPP with suggestions to assist in alleviating the extra work on her office as a result of the CMC's obligation to report to a prosecuting authority under section 49 of the Act. Consideration is being given to referring certain categories of matters to the Queensland Police Service as an alternative prosecuting authority. Further, the possibility of obtaining advice from the DPP, based on a summary of the evidence rather than a full analysis of the entire brief of evidence is being canvassed.

Providing briefs of evidence to subject officers

The Bar Association, in its written submission of 1 April 2003, indicated its concern with the practice of referring briefs of evidence to the DPP for advice on whether to charge a person, but not providing the person with a copy of the brief of evidence.

It is not usual practice for investigating agencies, including the Queensland Police Service, to provide a copy of the brief of evidence to the person under investigation until after they are charged. In fact, in many instances, the brief of evidence is not compiled until some time after the charges have been laid. The CMC should not be placed under a more onerous obligation, than other investigating agencies, to show its entire hand to the subject officer before a decision in respect of charges or disciplinary action has been made. The DPP may decline to support charges against a person unless further investigation is conducted. Premature disclosure to the defence may prejudice such investigation. Further, there may be instances where criminal charges are not be proceeded with and the premature release of the brief of evidence may prejudice the ability to institute disciplinary charges.

The Bar Association's submission further stated:

If provided with the brief of evidence, the person under investigation may well demonstrate [to the DPP] that a prima facie case does not exist, or, at the very least, that on the evidence, there is no reasonable prospect of securing a conviction. The person under investigation may be able to provide documentary and/or independent evidence which unequivocally destroys an essential part of the prosecution case.

Firstly, all subject officers are provided with the opportunity to be interviewed prior to charges being laid. At the interview natural justice is provided, as the case against them is explained and there is ample opportunity for them to present to the CMC their side of the story, including exculpatory evidence. Secondly, it is open to the DPP to invite submissions from the defence on any issue.

Therefore, I am of the view that the CMC should not be required to provide briefs of evidence to subject officers, other than in the normal course of preparation for trial, namely after charges have been laid.

Powers

Telephone Interception and the Role of the Parliamentary Commissioner

The issue of telephone interception powers featured prominently during the two days of public hearings, as such, there are a few overarching comments I would like to make summarising the Commission's position in respect of these powers.

Firstly, Australia is recognised as a leading country in the use of technology. Australia is among the highest users of personal computers and mobile phones per capita in the world. One of the main elements of organised criminal activity is the communication and planning which takes place between the individuals concerned in respect of their criminal activity. Criminals are quick to exploit the advantages of modern technology to facilitate their communication practices. The use of emails, mobile phones, multiple SIM cards and text messages are all now a common feature of the communication that occurs between persons involved in criminal activity just as much as they are a common feature of communication between many ordinary members of society.

Secondly, telephone interception is considered to be a crucial tool in modern day investigation and Queensland is the only state within Australia that is denied this tool. While the Queensland Police Service and the CMC are able to obtain telephone billing records which may indicate the frequency of communication between targeted criminals, the agencies are denied the opportunity of ever knowing the content of the communications. As such, they are left with the extremely difficult task of analysing voluminous call charge records without knowledge of their true relevance or content. The development of surveillance and other investigative strategies is often based on such analysis. If telephone interception powers were available, surveillance and other investigative strategies would be more specifically directed and far more effective.

Thirdly, law enforcement agencies have a duty of care to their field officers, particularly officers that may be operating in covert circumstances. To minimise the risk to such officers, and operational monies being diverted to pay compensation to them, it is important to have as much information as possible about the activities and intentions of the criminal elements being targeted. With access to telephone interception powers, the Queensland Police Service and the CMC would be far better placed to cater to the duty of care that they have in respect of the safety and security of their field officers, as the monitoring of phones in respect of targets would add an additional and vital source of information and reveal any intentions towards the safety of the covert officers.

Fourthly, while it is sometimes said that the CMC does not need its own telephone interception powers as it can access such powers through Federal law enforcement agencies, this is not entirely accurate. The CMC can only access these powers were they are involved in joint investigations with either the AFP, ACC or other agency with similar powers. Therefore, the investigations must involve either Commonwealth crimes or serious criminal activity spanning more than one state. In the case of the ACC, the investigation must be in respect of a matter which falls within the investigative priorities of the organisation and has been approved by the Board of Management. There are many instances of serious criminal activity which is contained solely within Queensland and not subject to telephone interception. Paedophilia is one area which does not fall within the investigative interests of either Commonwealth agency, but makes great use of the telecommunications network through the internet to commit offences and groom children for the purpose of committing offences. Without telephone interception powers, the CMC is hindered in its investigation of such activity. Further, corruption within the Queensland public sector would not of itself fall within the jurisdictions or investigative priorities of either of the Commonwealth agencies, therefore there is limited opportunity for the CMC to access telephone interception powers in respect of its Misconduct function.

Penultimately, while telephone interception powers are clearly invasive, they are arguably less invasive than many other investigative powers that are already available to the Queensland Police Service or the CMC. Compared to normal surveillance, individuals are quickly identified as targets or excluded from suspicion, thus reducing surveillance on individuals who are not of interest. Further those other investigative strategies, while useful, are resource intensive, expensive and often leave elements of doubt as to what is being seen or heard.

Finally, the use of telephone interception powers is closely regulated at the Commonwealth and State level where it is available. The Commonwealth legislation has been the subject of a significant number of reviews which have indicated that the legislation is not only appropriate but contains sufficient safeguards for the monitoring and reporting of the use of the powers and the avoidance of any misuse. For further information regarding the use of telephone interception powers in other jurisdictions, the Committee may wish to consult the report by the Federal Attorney General entitled: *Telecommunications (Intercept Act 1979, Report for the year ending 30 June 2002)*. The report is available on the Attorney-General's website: law.gov.au/www/agdHome.NSF. If telephone interception powers were extended to the CMC the model that applies to the Inspector of the Police Integrity Commission could be applied to the Parliamentary Commissioner. In those circumstances, Queensland would already have further safeguards in respect of the power, without the need for the Public Interest Monitor to be included in the application process.

Surveillance Warrants for Places

During the public hearings, issues were raised about the state of the law in other Australian jurisdictions in relation to surveillance warrants in respect of places where it is not possible to nominate a suspect person or persons.

The Commonwealth *Australian Federal Police Act 1979* regulates listening devices. Section 12G provides different warrant application requirements for applications to use listening devices in relation to a particular person, premises or item.

The Commonwealth *Australian Security and Intelligence Organisation Act 1979* provides for listening device warrants, tracking device warrants (including an object specific warrant if the identity of a person is not known), and data surveillance warrants (not person specific).

S17 of the Victorian *Surveillance Devices Act 1999*, states that the warrant must specify the alleged offence and if practicable the name of any person whose private activities may be recorded.

S13(5) of the Western Australian *Surveillance Devices Act 1998* specifically provides for the issue of surveillance warrants where a person's identity is unknown. Warrants must specify the names of people who will be affected by the monitoring only "where practicable" s13(8).

New South Wales has no legislation regulating visual surveillance. S16 of the *Listening Devices Act 1984* (NSW) states that warrants for listening devices must specify "where practicable, the name of any person whose private conversation may be recorded or listened to". The new *Terrorism (Police Powers) Act 2002* (NSW) does not mention surveillance powers.

South Australia also has only a *Listening Devices Act 1972*. S6 of that act does not require a particular person to be named, although if a name is known it should be in the material so that a judge can consider impacts on privacy.

Tasmania has only a *Listening Devices Act 1991*. S17 of that act requires that a warrant shall specify "where practicable" the name of any person whose private conversation will be recorded.

As can be seen from the above analysis, the power sought by the CMC is in line with the developments in other jurisdictions across Australia and as outlined in our earlier submission, will be a useful tool in the fight against terrorism.

The Queensland Police Service

The CMC notes the comments of the Commissioner of Police, in both his written and oral submissions, regarding a concern that the CMC attempts to micro manage the QPS, through its recommendations arising out of research reports. A suggestion was made that a Reference Group involving senior executives from both agencies should be formed to develop viable recommendations.

Firstly, the CMC has a statutory mandate in the form of section 52(2) of the Act, to investigate:

- a) police service methods of operations;
- b) police powers and the use of police powers;
- c) law enforcement by police; and

- d) the continuous improvement of the police.

Section 57 of the Act provides that the Commission must, at all times, act independently, impartially and fairly having regard to the purposes of the Act and the importance of protecting the public interest. While the CMC is happy to consult with relevant stakeholders and, as outline below, does consult in relation to recommendations arising out of research reports, it does not support any recommendation with could have the effect of reducing its independence and ability to make recommendations as it sees are appropriate, particularly in the important area of the Police Service.

As stated above, the CMC makes a point of consulting with relevant stakeholders during research projects, and is always mindful of competing interests and demands on resources. Following consultation, the CMC regularly fine-tunes recommendations to take into account comments by stakeholders, particularly the responsible agency. However, this does not mean that the CMC will shy away from making a recommendation involving an allocation of funds, if, after careful assessment the CMC forms the view that such a recommendation is justified in the public interest. Such a recommendation may often propose implementation over time, or suggest that a trial may be needed to fully test the feasibility of the recommendation. The issue of hand-held tape recorders is one such recommendation. A trial of this recommendation has been undertaken in respect of one police district and the results of that trial are to be reported on shortly by the Queensland Police Service.

Witness Protection

Opportunity for public comment on the Program

At page 81 and 82 of the CMC's submission, the CMC requested support for an amendment to section 36(2) of the *Witness Protection Act 2000*, which would prohibit a deliberate disclosure or recording of information about the Witness Protection program or a relevant person where the information compromises the security of a relevant person or the integrity of the program.

At page 79 of the Transcript of 20 June 2003, Mr O'Gorman commented, *"I think it is important when such a program exists – I accept that it must exist largely in conditions of secrecy – that it is able to be open to public scrutiny when the opportunity presents itself"*.

The proposed amendments sought in relation to section 36 of the *Witness Protection Act 2000* are not to stifle or prevent public scrutiny or discussion itself but to ensure that any comments made do not compromise the program or any protected person on the program. It should be noted that both section 36 and 37 of the *Witness Protection Act 2000* permit a disclosure if authorised by the Chairperson, thus permitting disclosure in appropriate circumstances. It is the endangerment of protectees and the integrity of the program that the amendment is focused on.

Removing persons from the Program

At page 80 of the CMC's written submission, the CMC requested support for an amendment which gives the Chairperson, in appropriate circumstances, the discretion to suspend a person while a determination is being made on ending a protection agreement of a protected witness.

At page 79 of the Transcript of 20 June 2003, Mr O'Gorman suggested that some form of judicial review should apply to the discretion to terminate a protected witness from the witness protection program.

The *Judicial Review Act 1991* specifically excludes recourse to judicial review. The importance of maintaining the integrity of the Witness Protection program no doubt explains the decision of the legislature in this regard. The availability of an avenue of complaint to the PCMC mitigates against the likelihood of abuse of this power.

Other Issues

Police Service Reviews

The Queensland Police Services Union, in its written and oral submissions, indicated a concern with the use of present and former Commissioners as Police Service Review Commissioners. It was suggested that there could be a perception of bias in relation to appeals against disciplinary matters, where CMC officers had investigated the matter and recommended the disciplinary action under review.

Police Service Review Commissioners are appointed under the *Police Service Administration Act 1990* and are not answerable to the CMC in the performance of that function. It should be noted that the only disciplinary matters heard by the Review Commissioners are breaches of discipline. A breach of discipline does not fall within the CMC's jurisdiction, so it is rare that a Commissioner would be aware of a disciplinary matter prior to dealing with it as a Review Commissioner. Disciplinary matters are heard by a Review Commissioner with legal qualifications. At present there is one legally qualified Review Commissioner who is a current member of the Commission. I consider that there would be an advantage in having a legally qualified member who is neither a current or former CMC Commissioner. I propose to support prompt consideration being given to such an appointment.

In any event, the decisions of the Police Service Review Commissioners are recommendatory only and subject to judicial review, therefore the issue of perceived or actual bias could be canvassed at that time. Therefore I am of the view that this situation is not such as would warrant the removal of this jurisdiction from the CMC.

The CMC's relationship with young persons

The CMC is well aware that young people occupy an especially vulnerable status in society. Research has consistently documented that young people, as a group, experience a disproportionately high degree of contact with the police. The nature of the interaction between young people and the police is highly variable, but is clearly related to the fact that young people have higher levels of involvement in crime and deviance, higher levels of victimisation, and differential levels of access to private space than other age groups. Collectively, therefore, owing to their unique social position, young people have many more opportunities for interaction with the police.

In light of the aforementioned issues, it is not surprising therefore that systematic surveys conducted by Crime and Misconduct Commission (and the Criminal Justice Commission before it) reveal that young people, as a group, express more negative views of the police, and of their treatment by police, and have significantly less confidence in the complaints handling process in Queensland. The views put forth by Ms. Robin Munro from the Youth Advocacy Centre during the recent three year review of the CMC by the PCMC strongly illustrates some of the concerns and challenges that young people face in this area. Their feelings of powerlessness and fear of reprisals as well as their concerns about the lack of timeliness in resolving complaints works to further reinforce the negative perceptions that young people have toward the police.

The CMC has an important role and is uniquely placed for working toward improving relations between the police and young people. Additionally, this issue presents the CMC with an important opportunity to improve its service delivery for young people. In working toward developing a more youth-centred approach to handling complaints, the CMC could increase confidence in the process as well as reassure young people that their concerns are being heard and dealt with in an effective way.

While current resource allocations have not been directed in this area, it is the case that within the next several months, opportunities for further work in this area will be available. In the interim period, the CMC can undertake important liaison work with concerned stakeholder groups to further assess the nature and extent of the problem and ascertain possible strategies and ideas for reform.

Accountability Mechanisms

The CMC is of the view that the current roles of the Parliamentary Crime and Misconduct Commissioner and the Public Interest Monitor are both effective and appropriate.


Correction

At page 29 of the Transcript for 19 June 2003, in response to a question from the Chair, Mr Lambrides recollection was that the CMC intended to finalise 55% of misconduct investigations within six months. The target is actually 50% within six months.

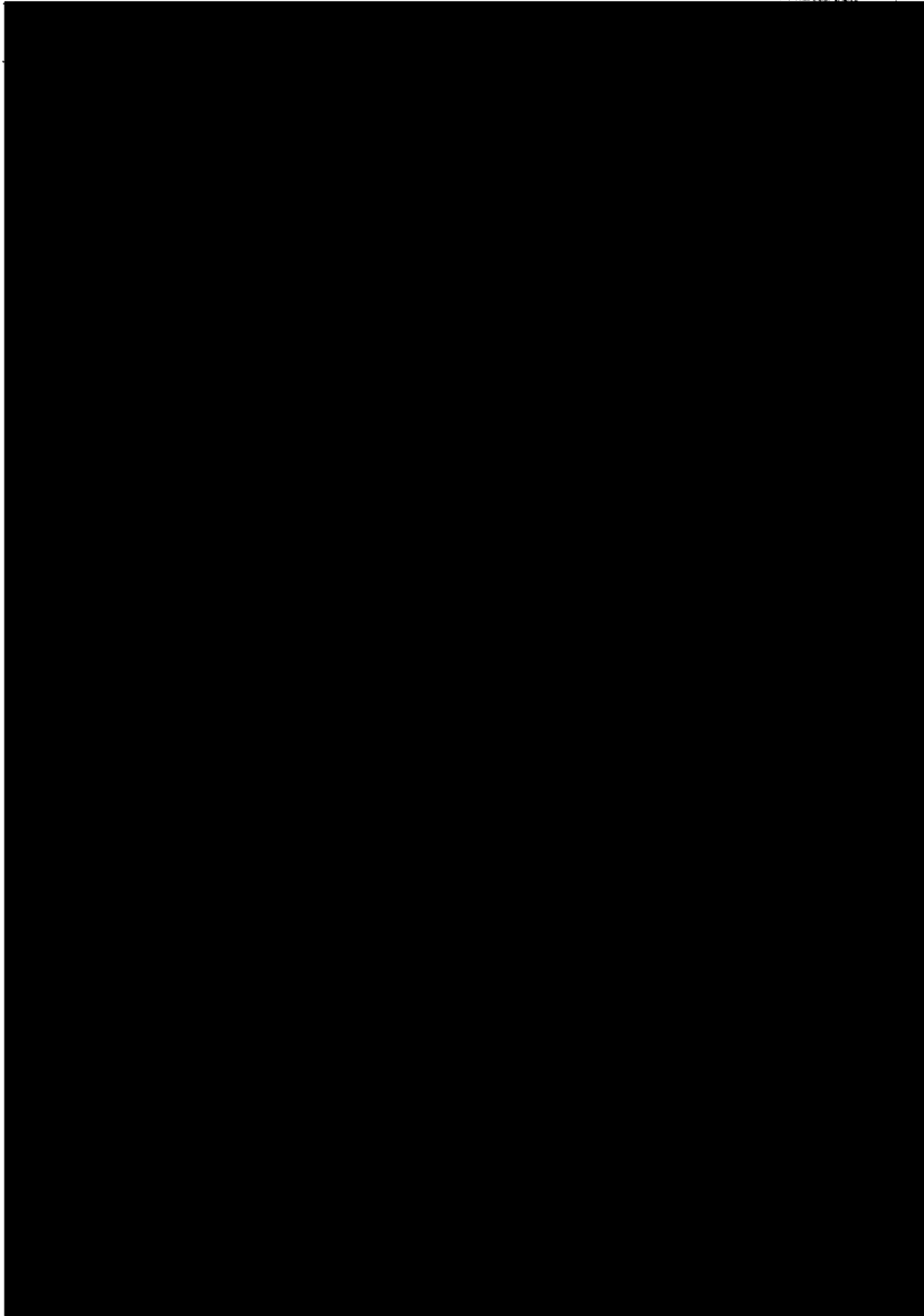
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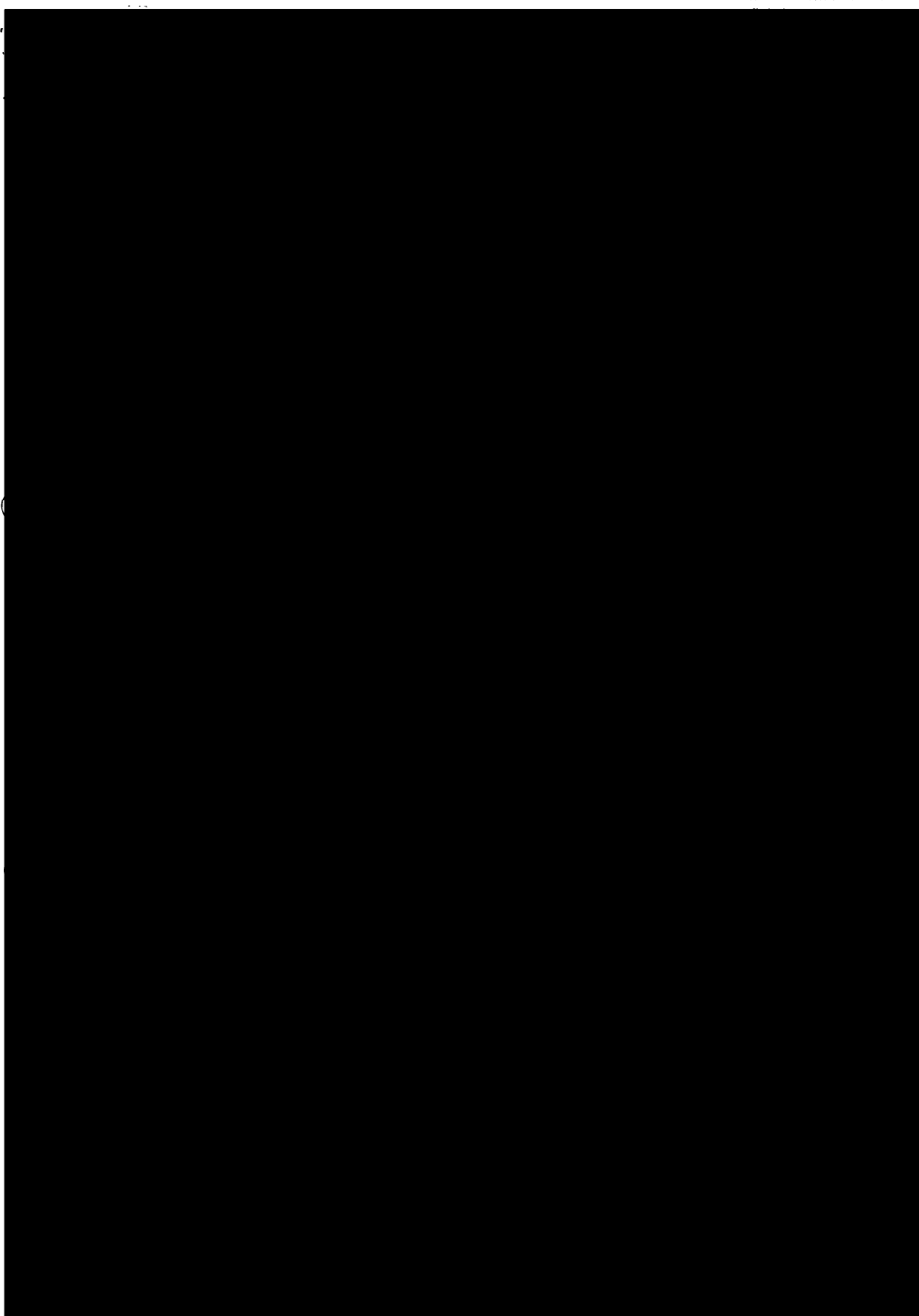
Thank you for providing this opportunity to provide further submissions to the Committee. I trust that this assists in your consideration of the Commission's operation over the past three years. Please do not hesitate to contact me should you have any further queries in this regard or need clarification in respect of the above matters.

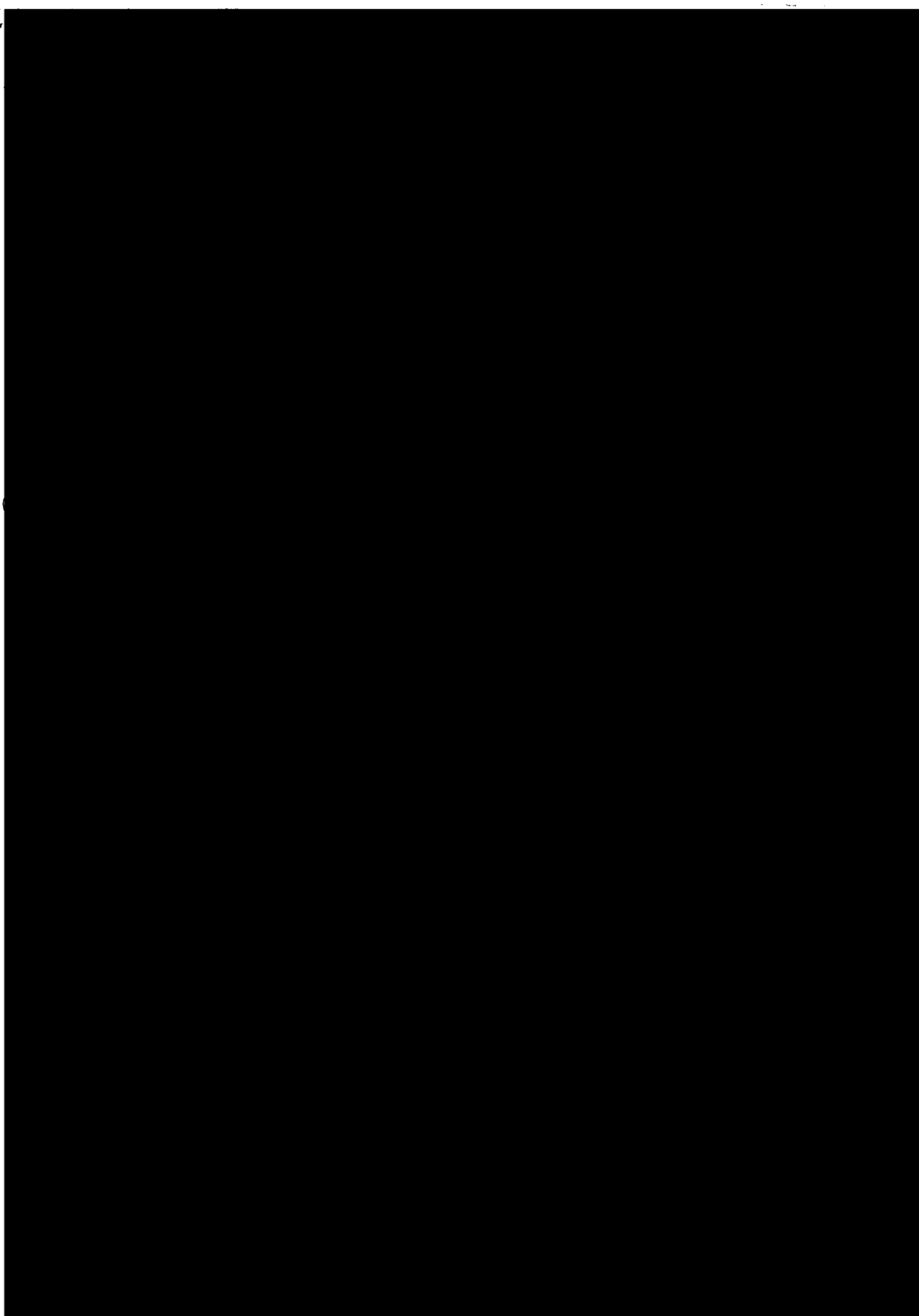
Yours sincerely

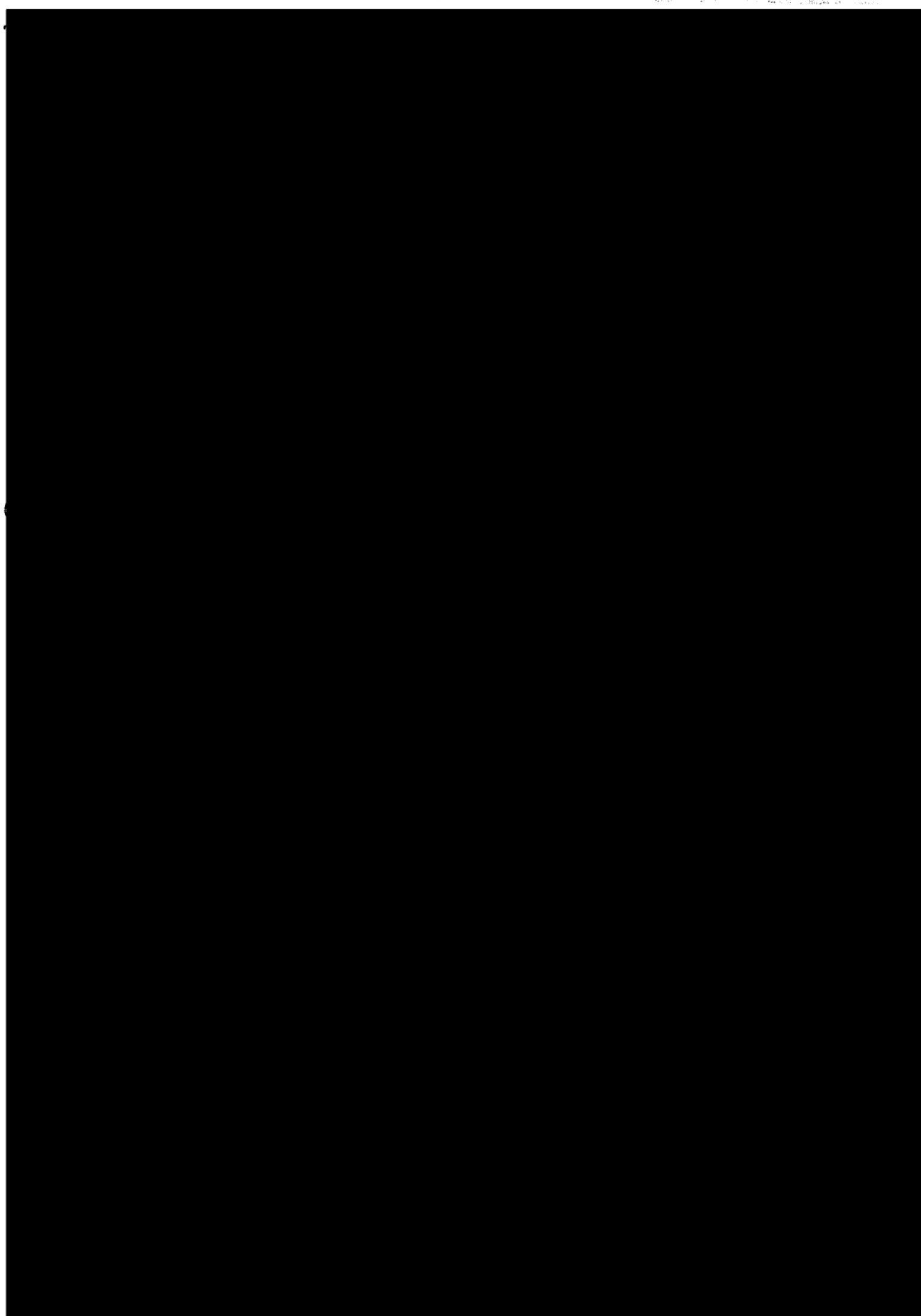


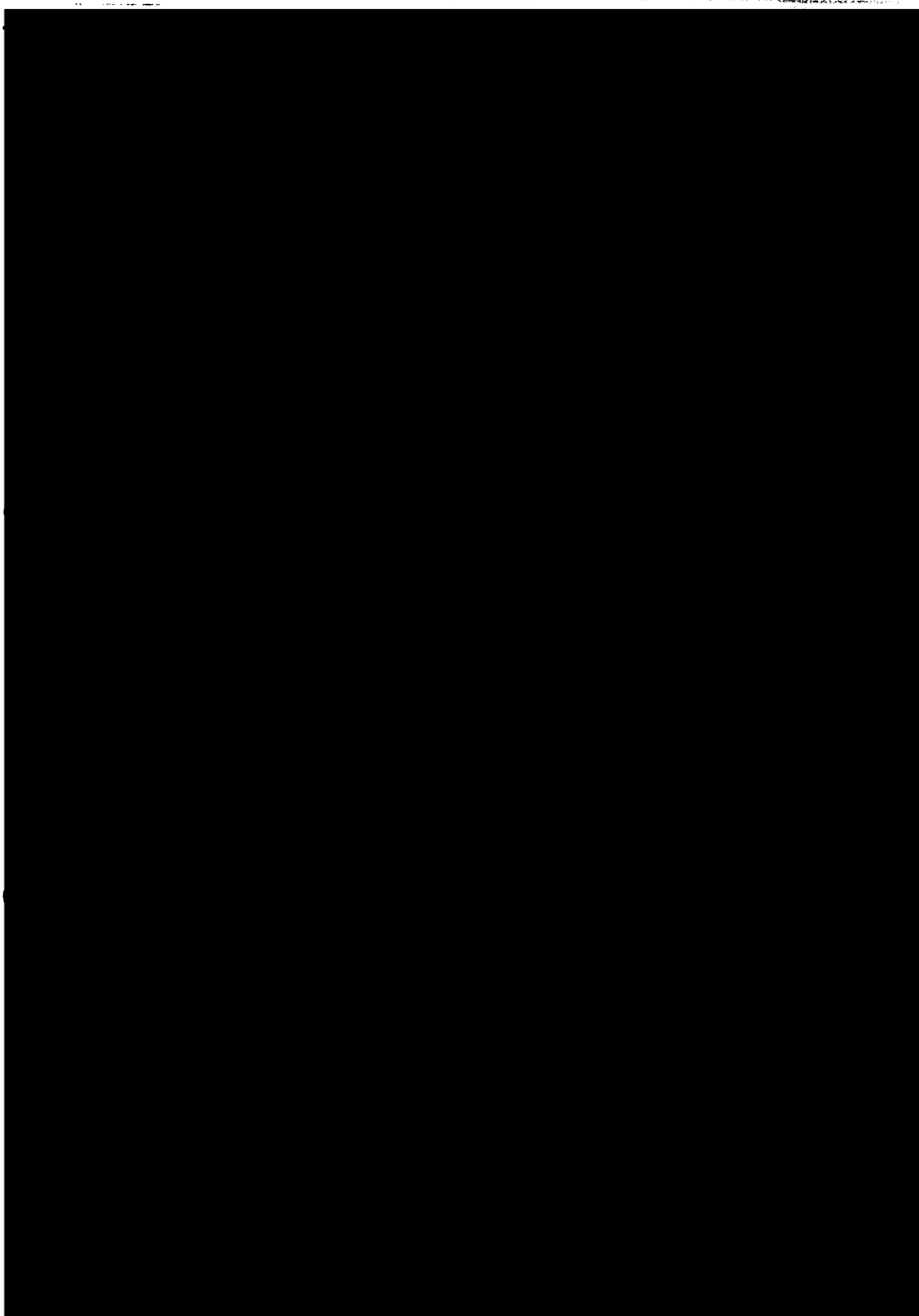
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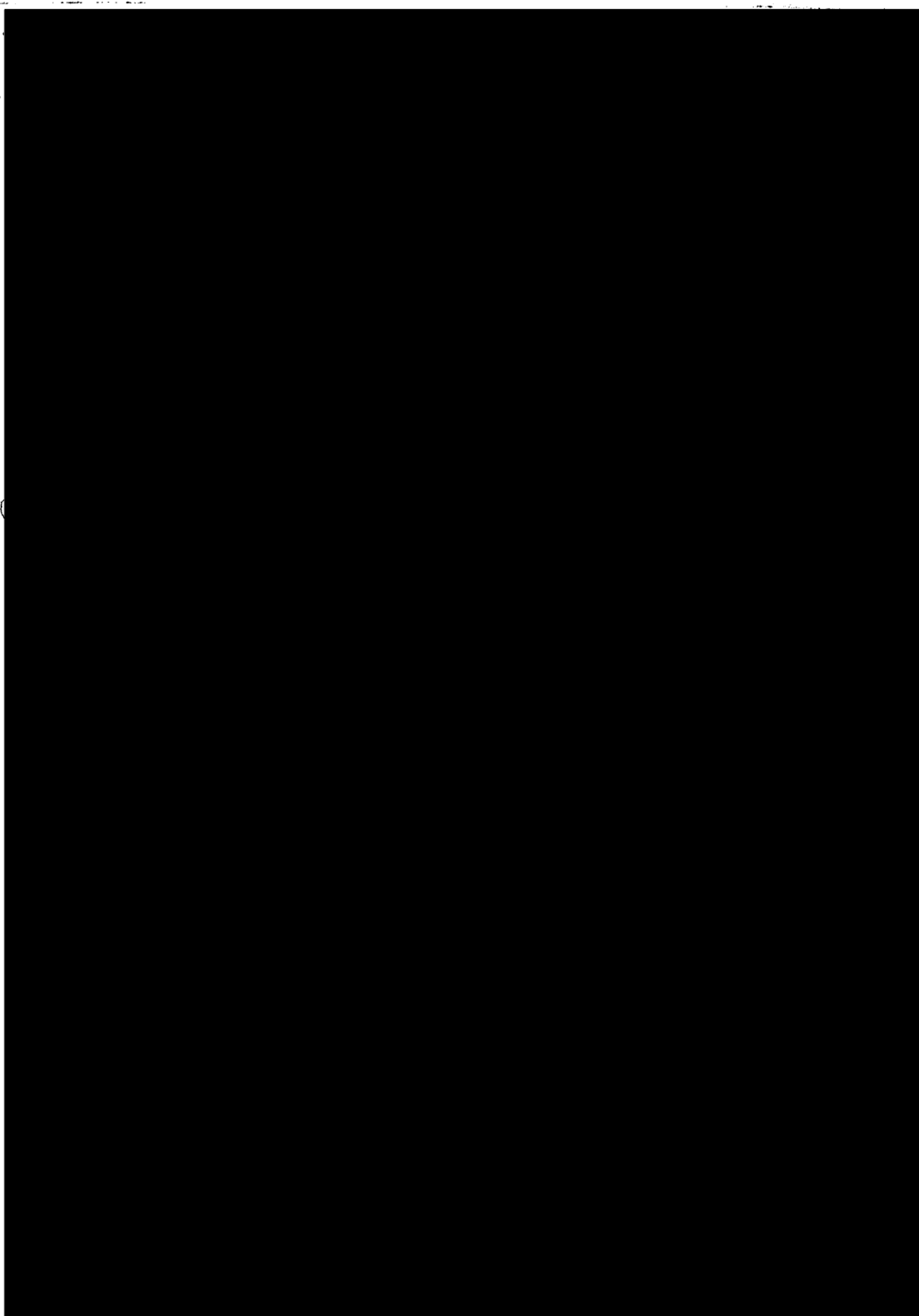


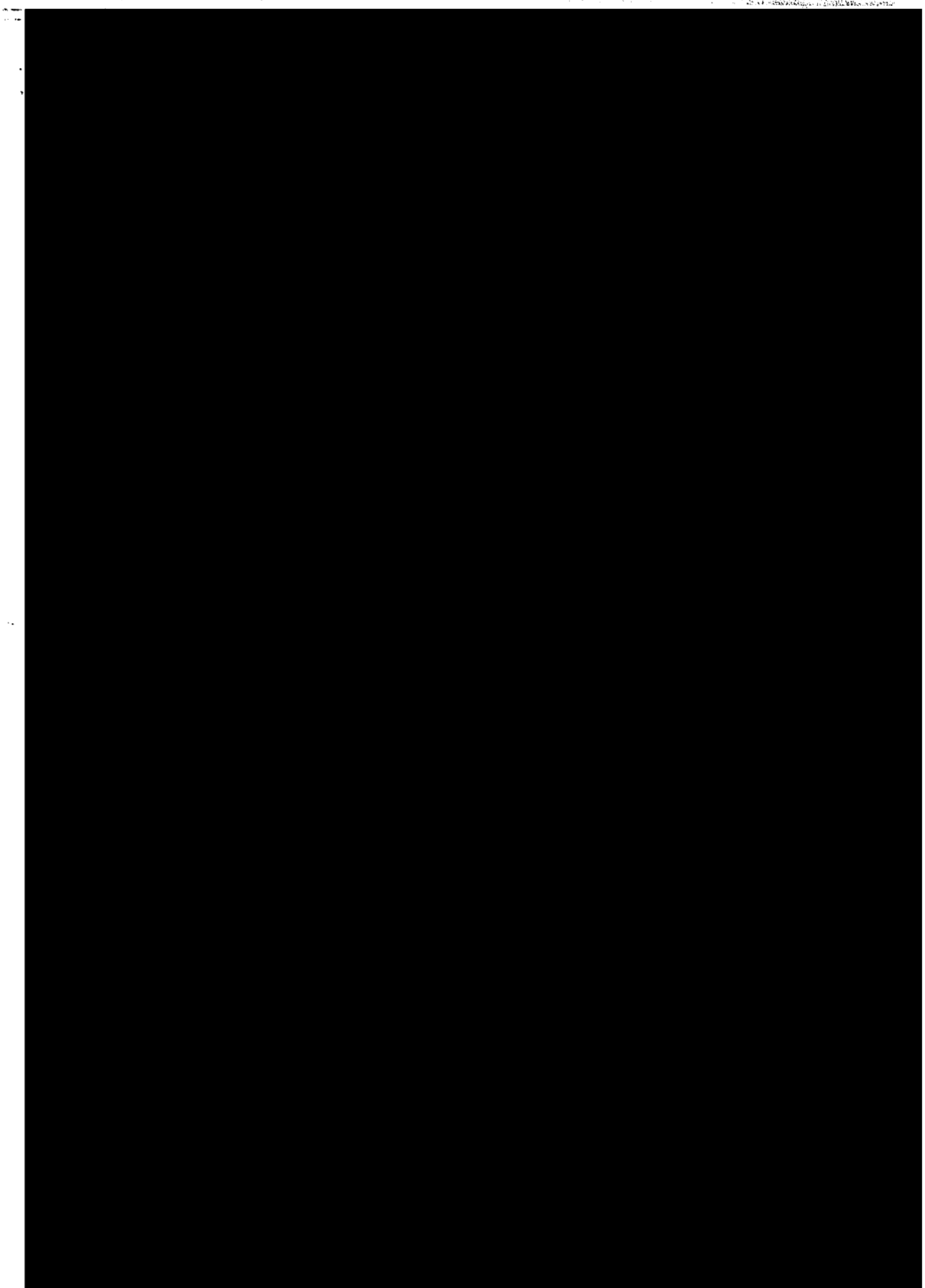


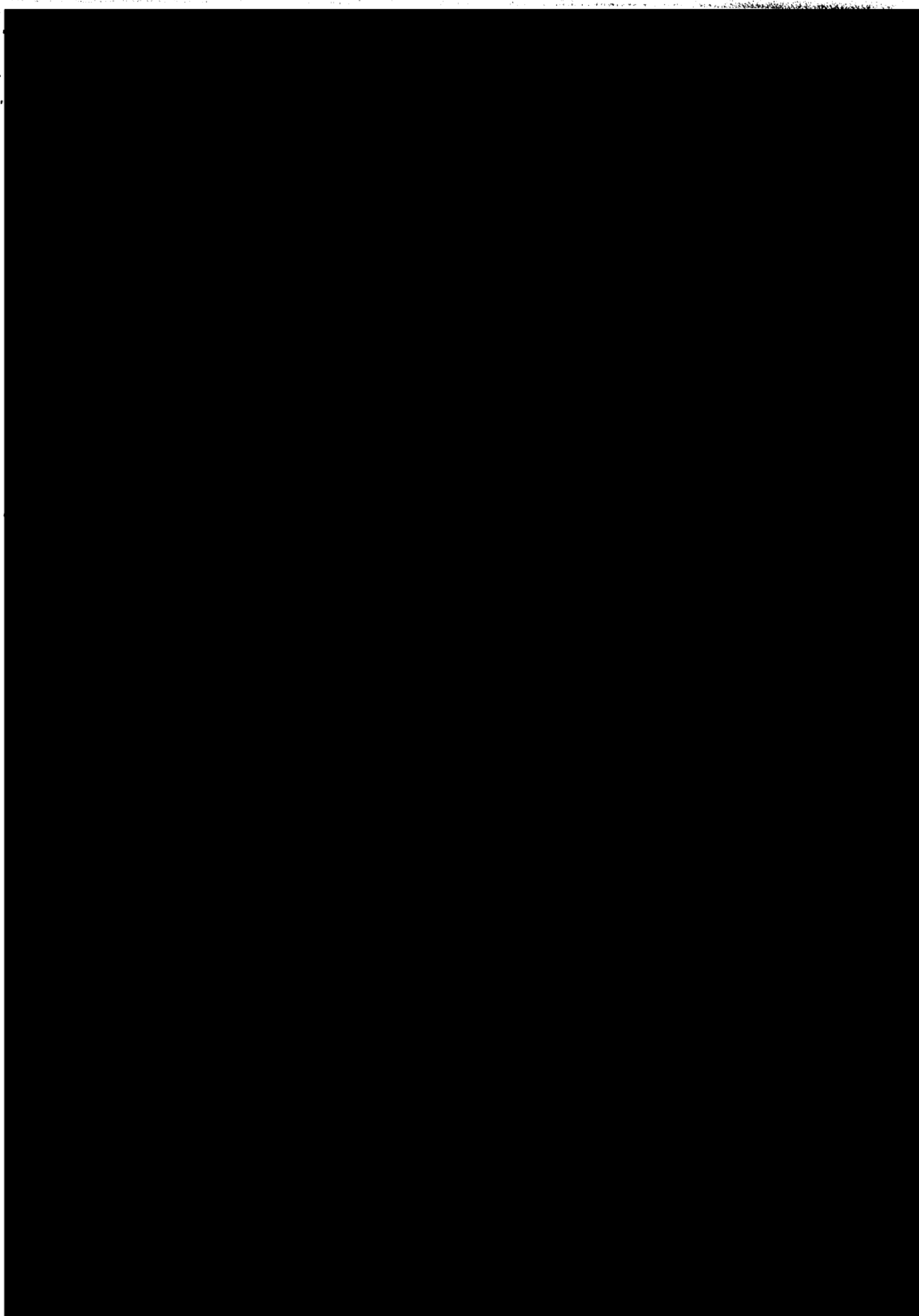


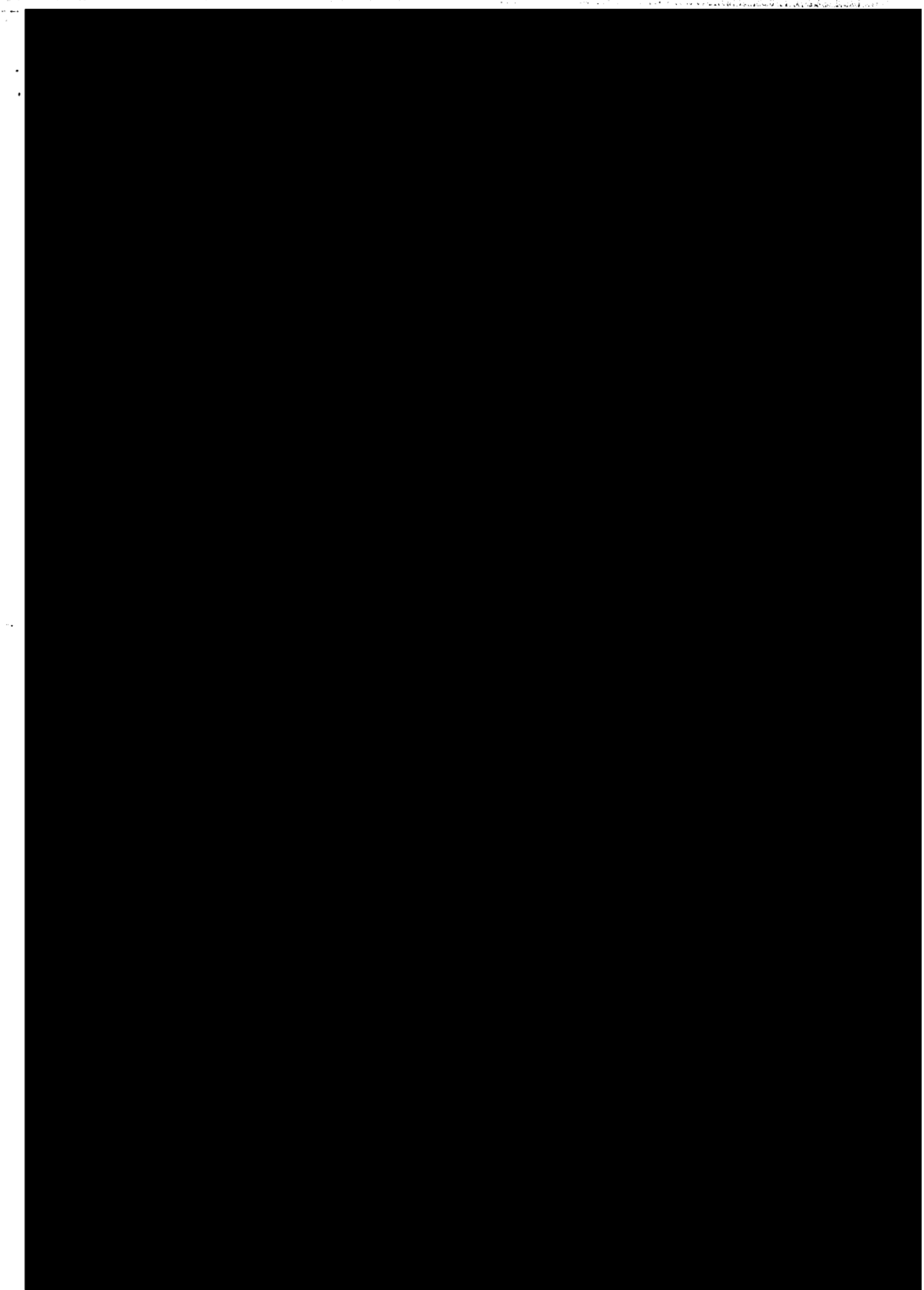


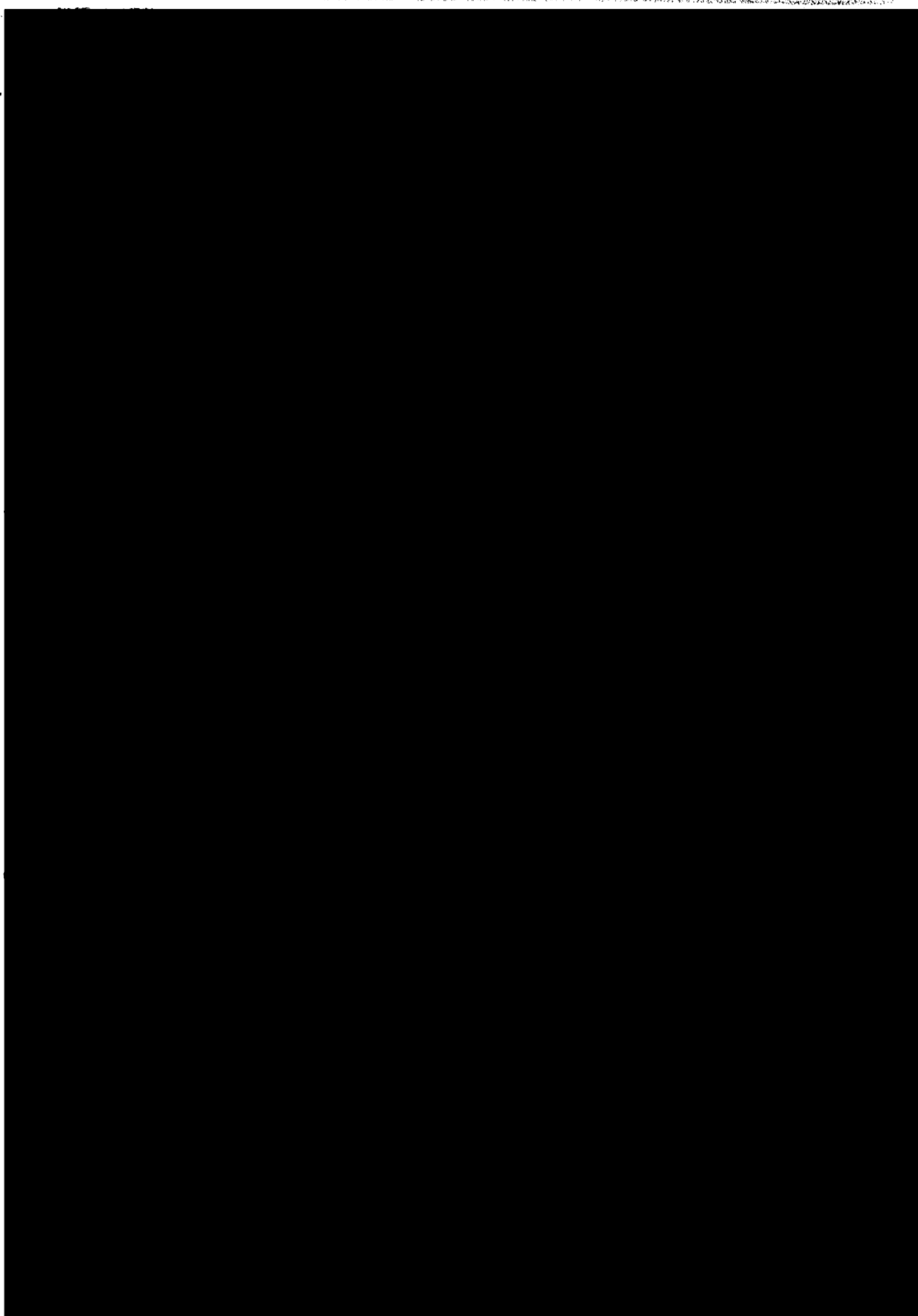


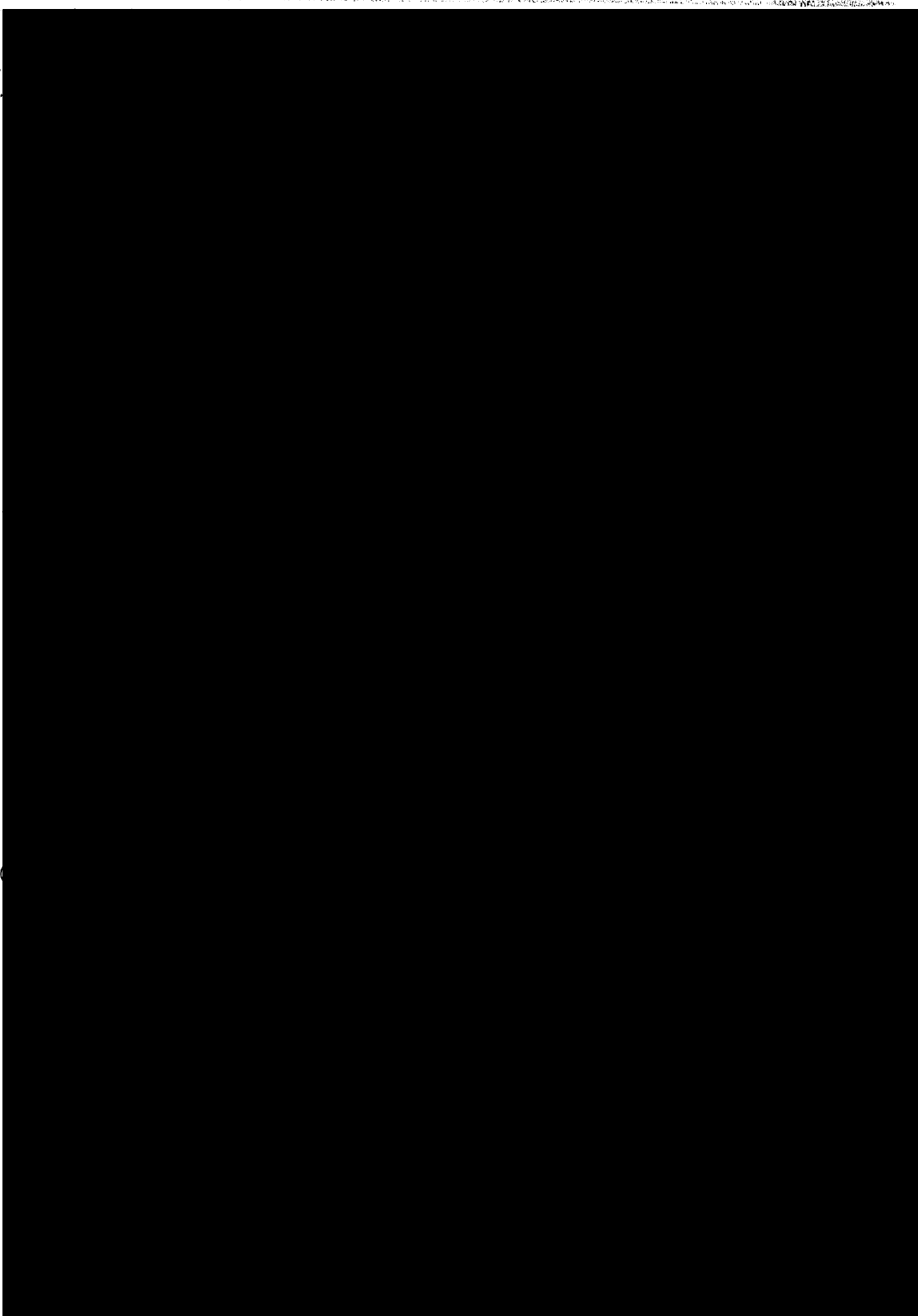


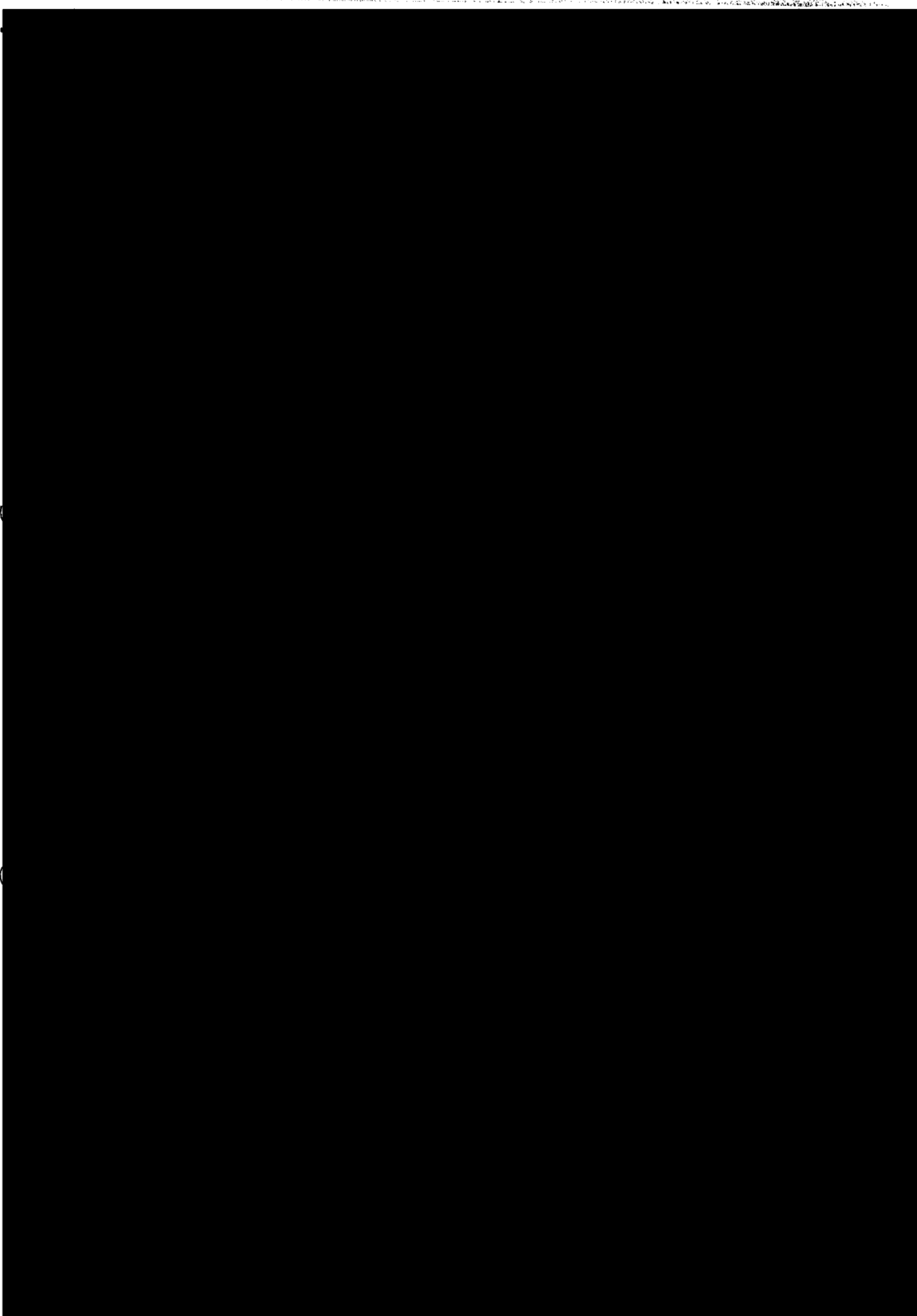


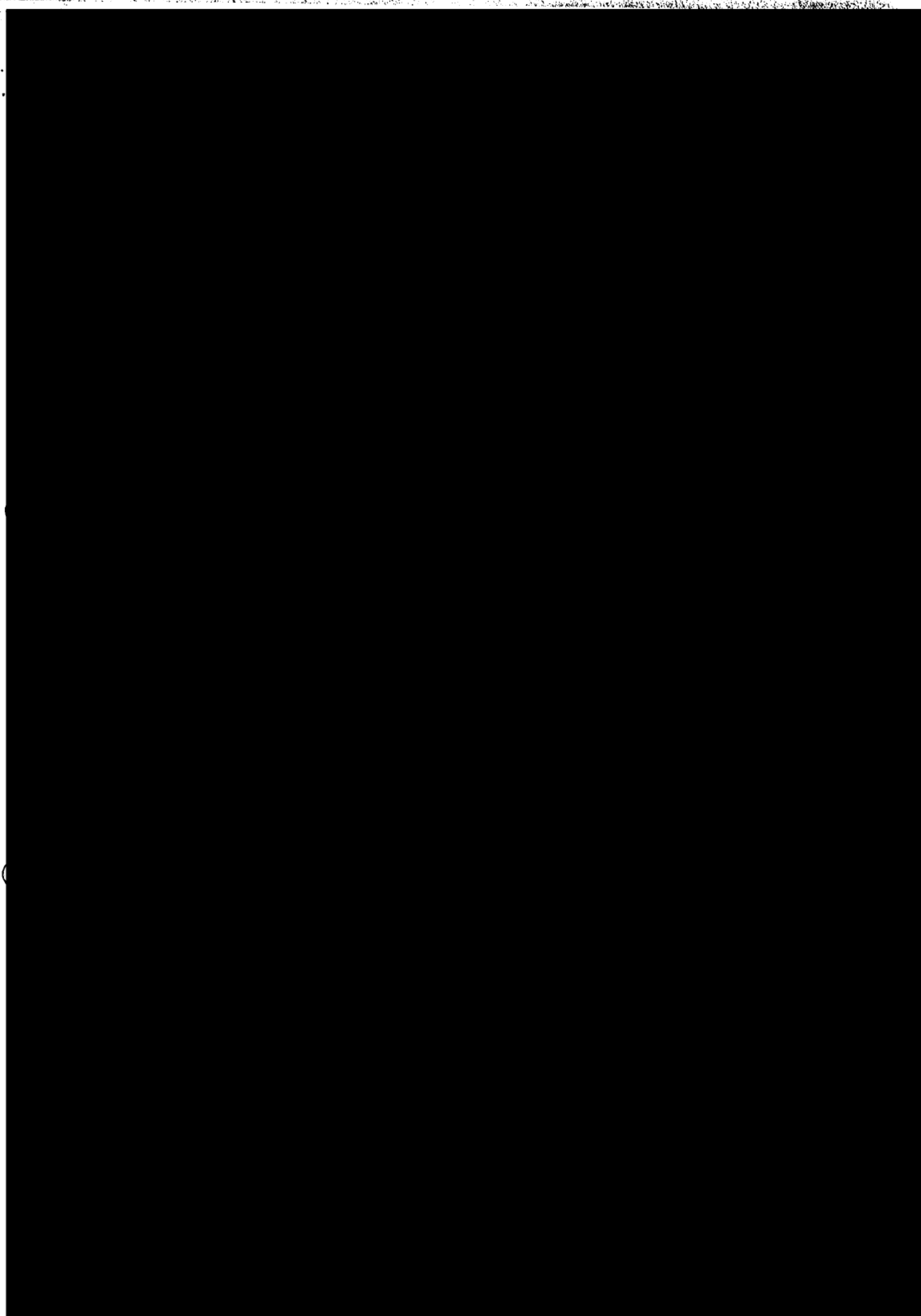




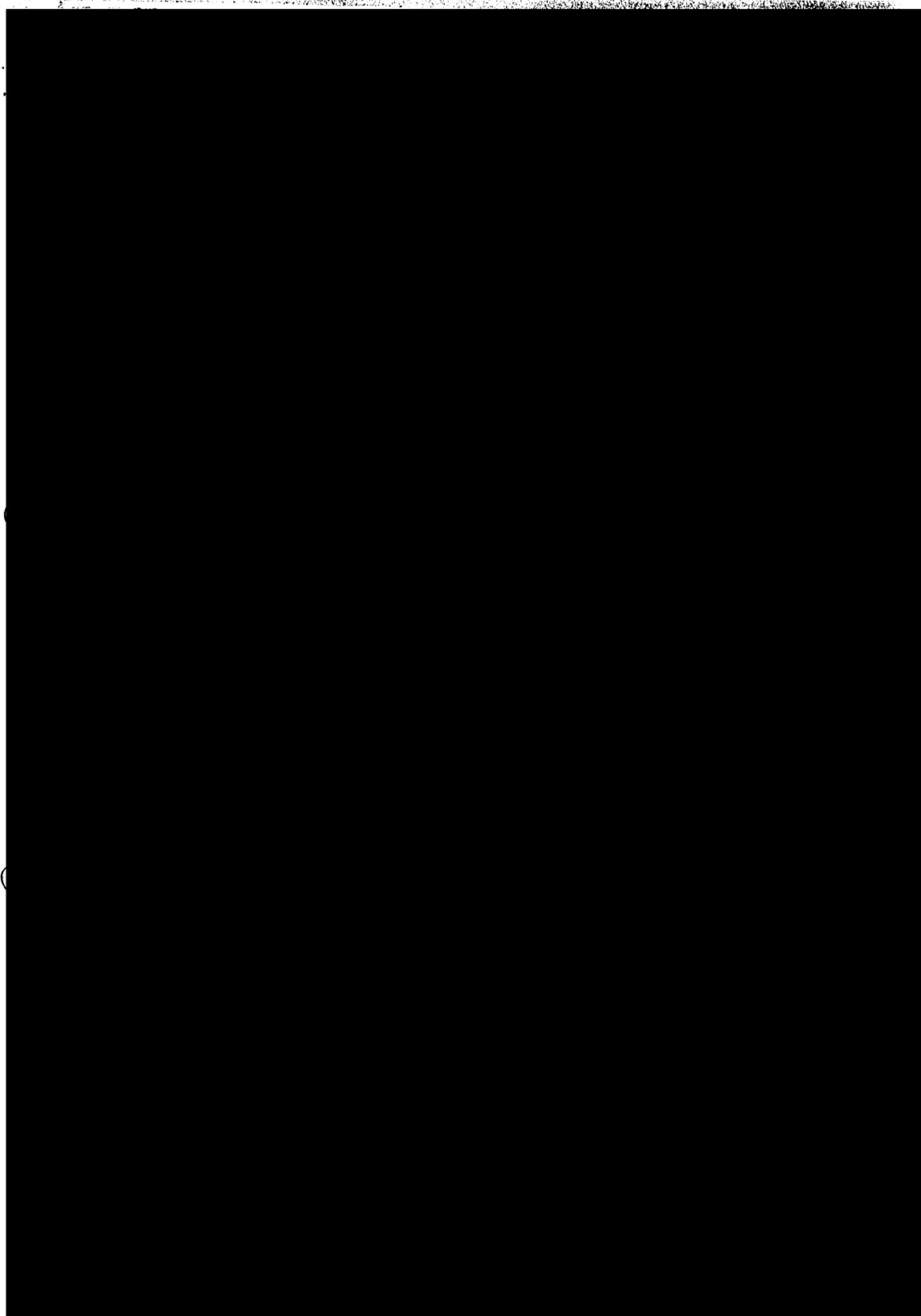


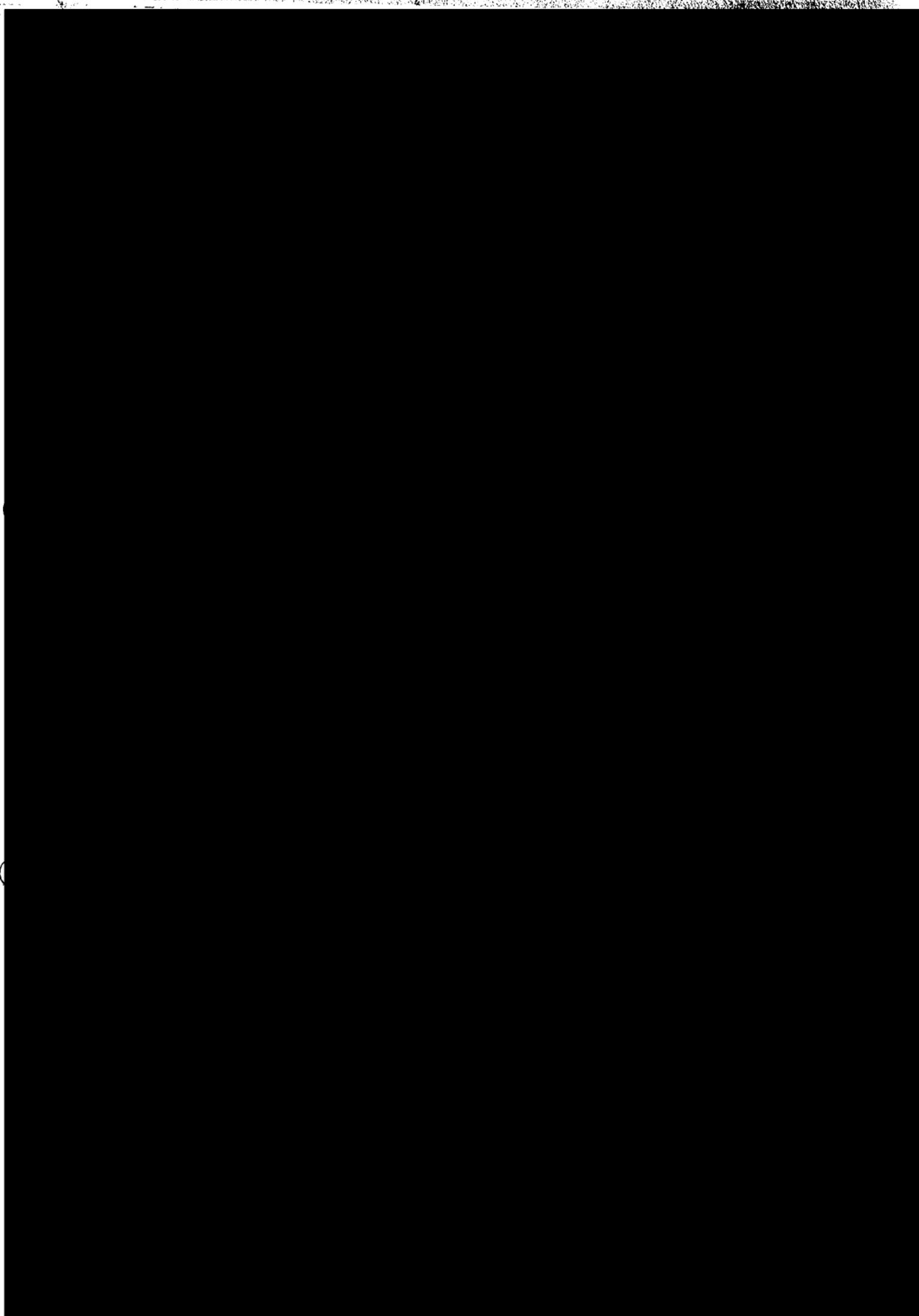


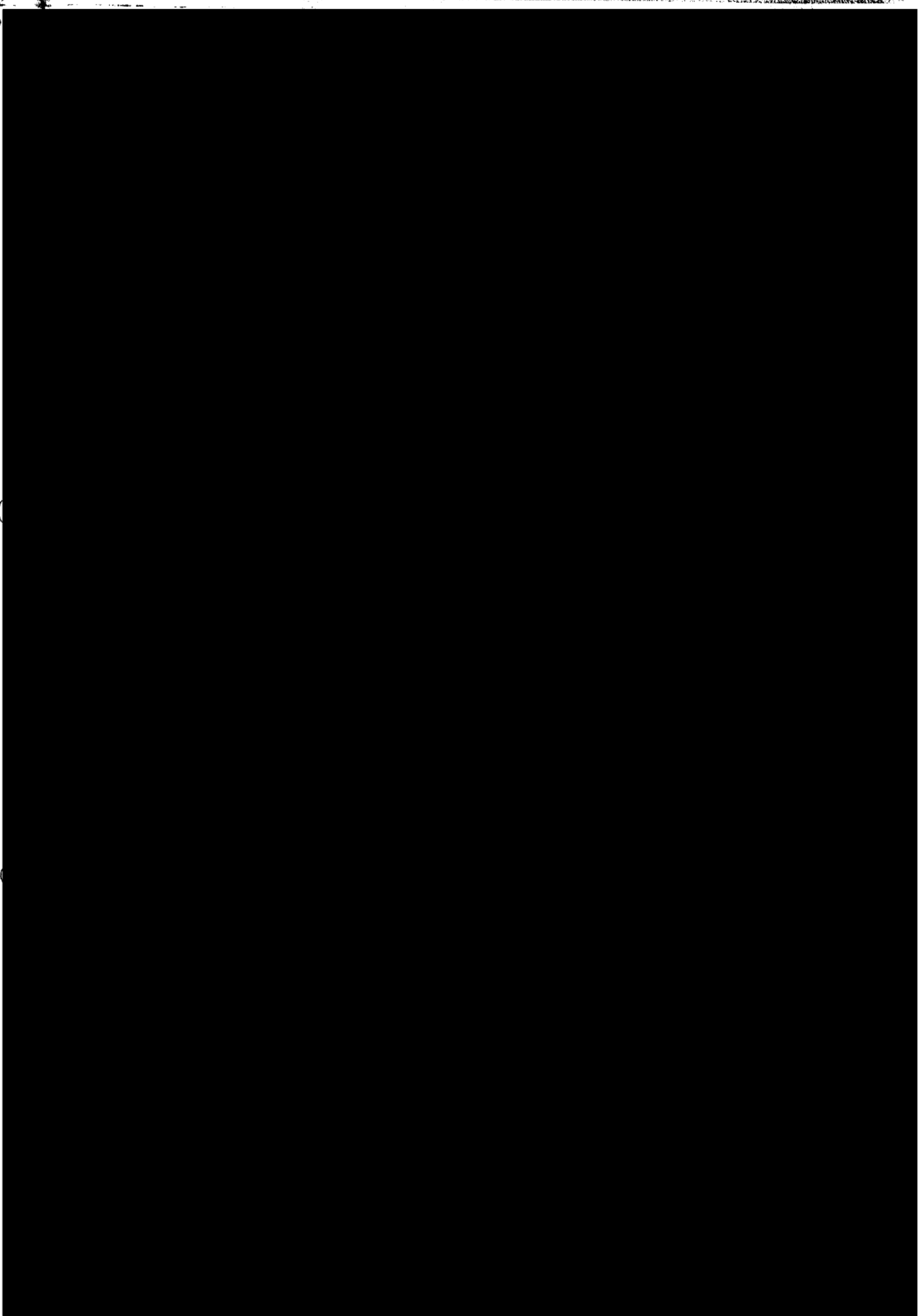


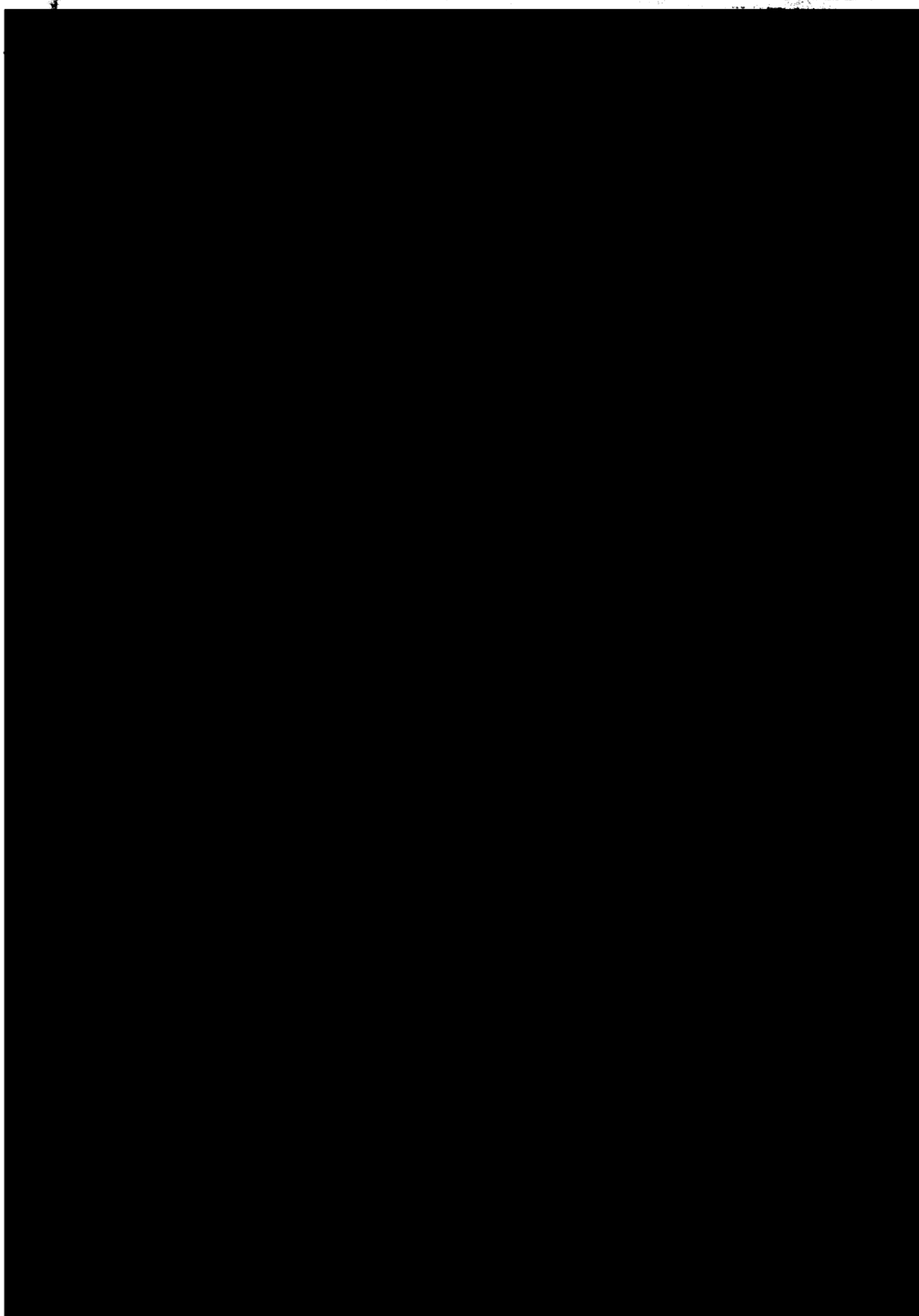


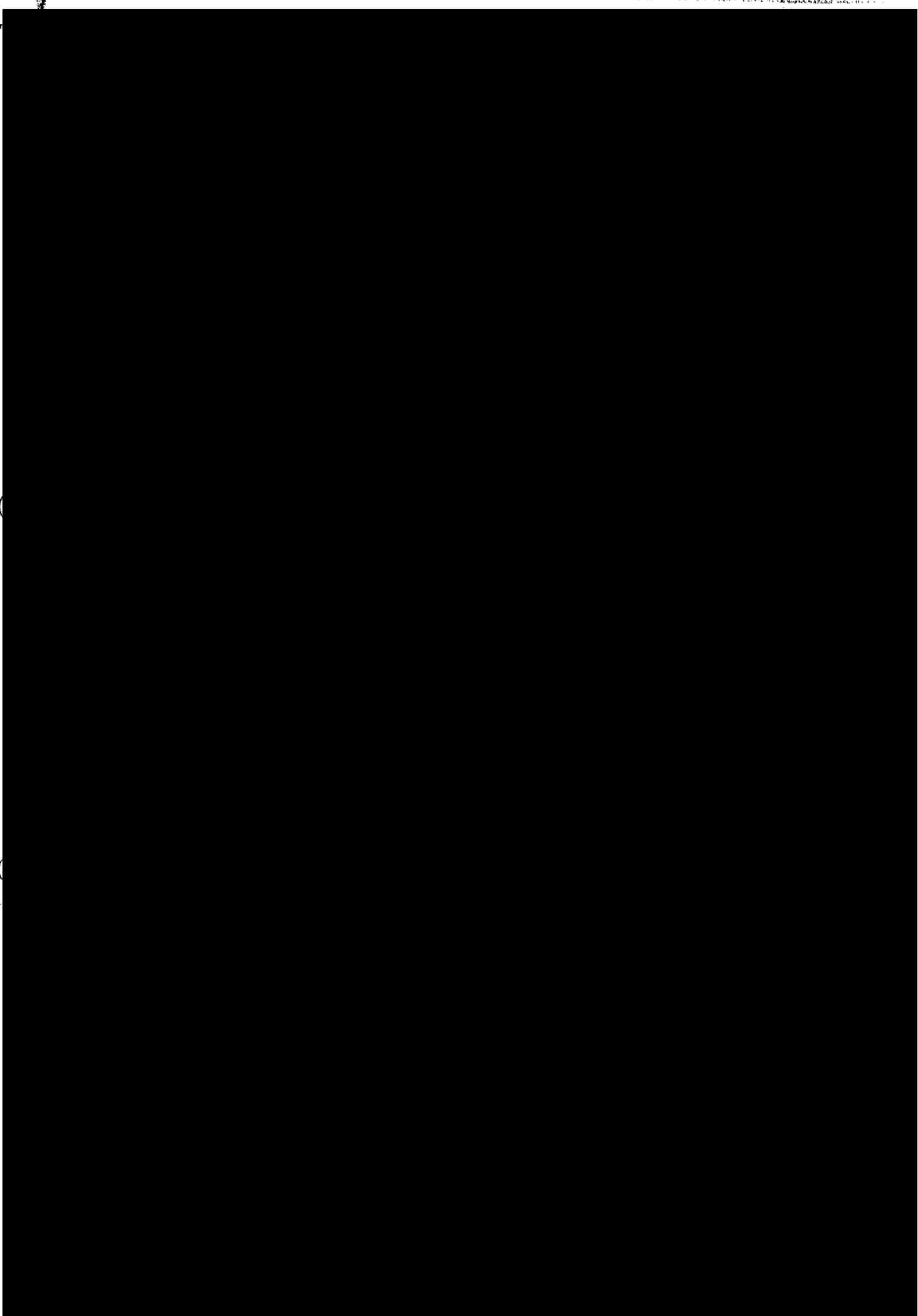


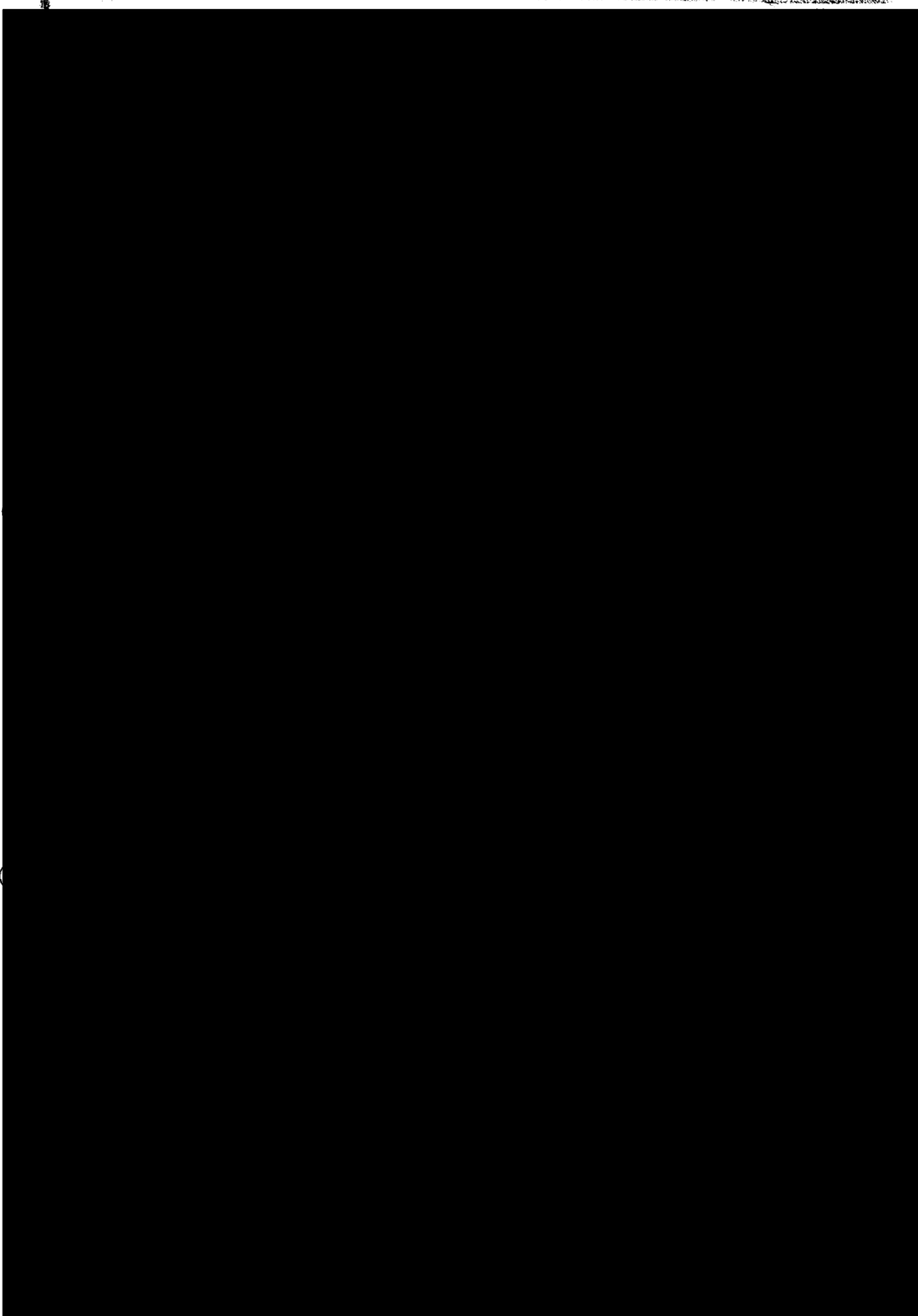


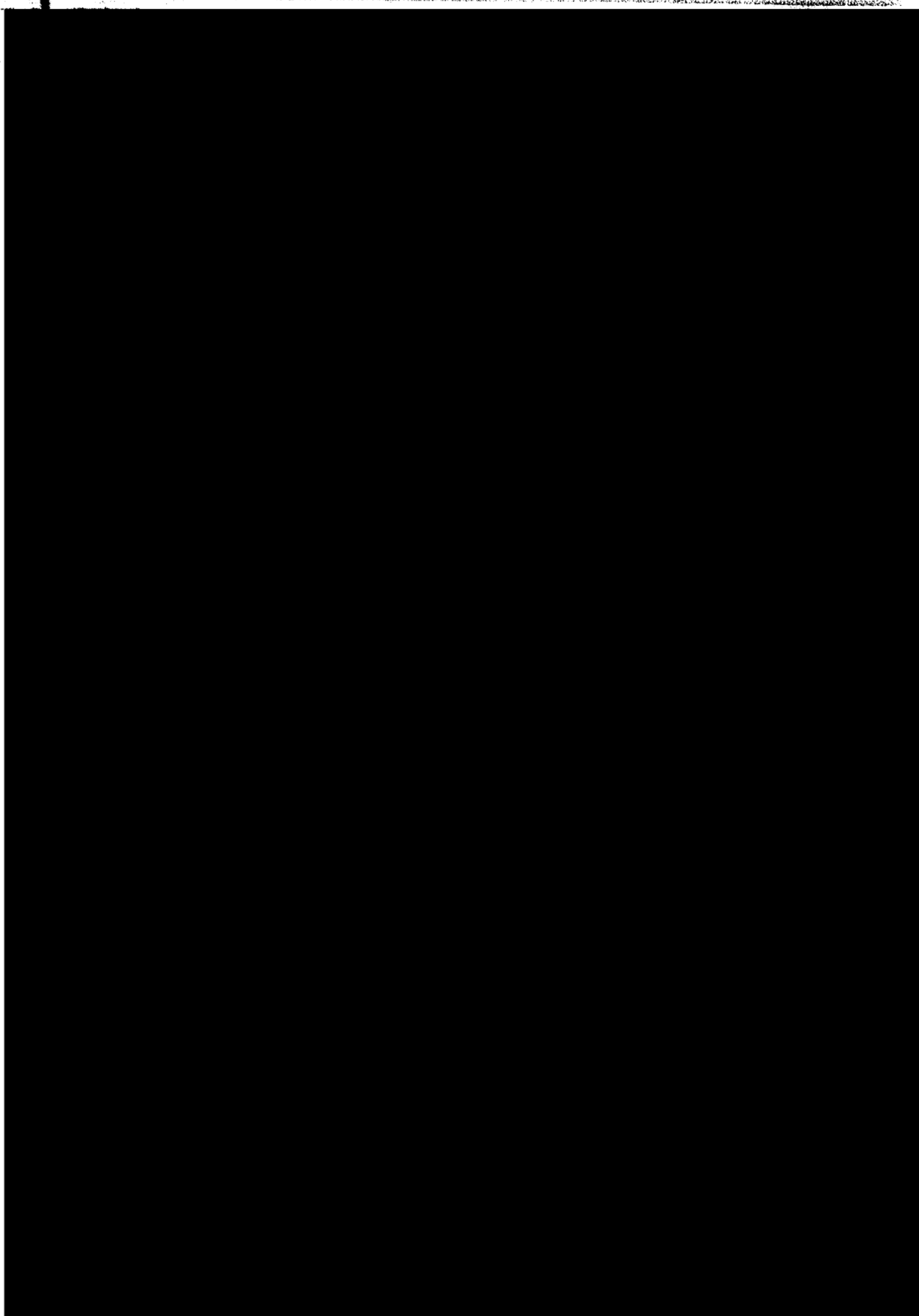


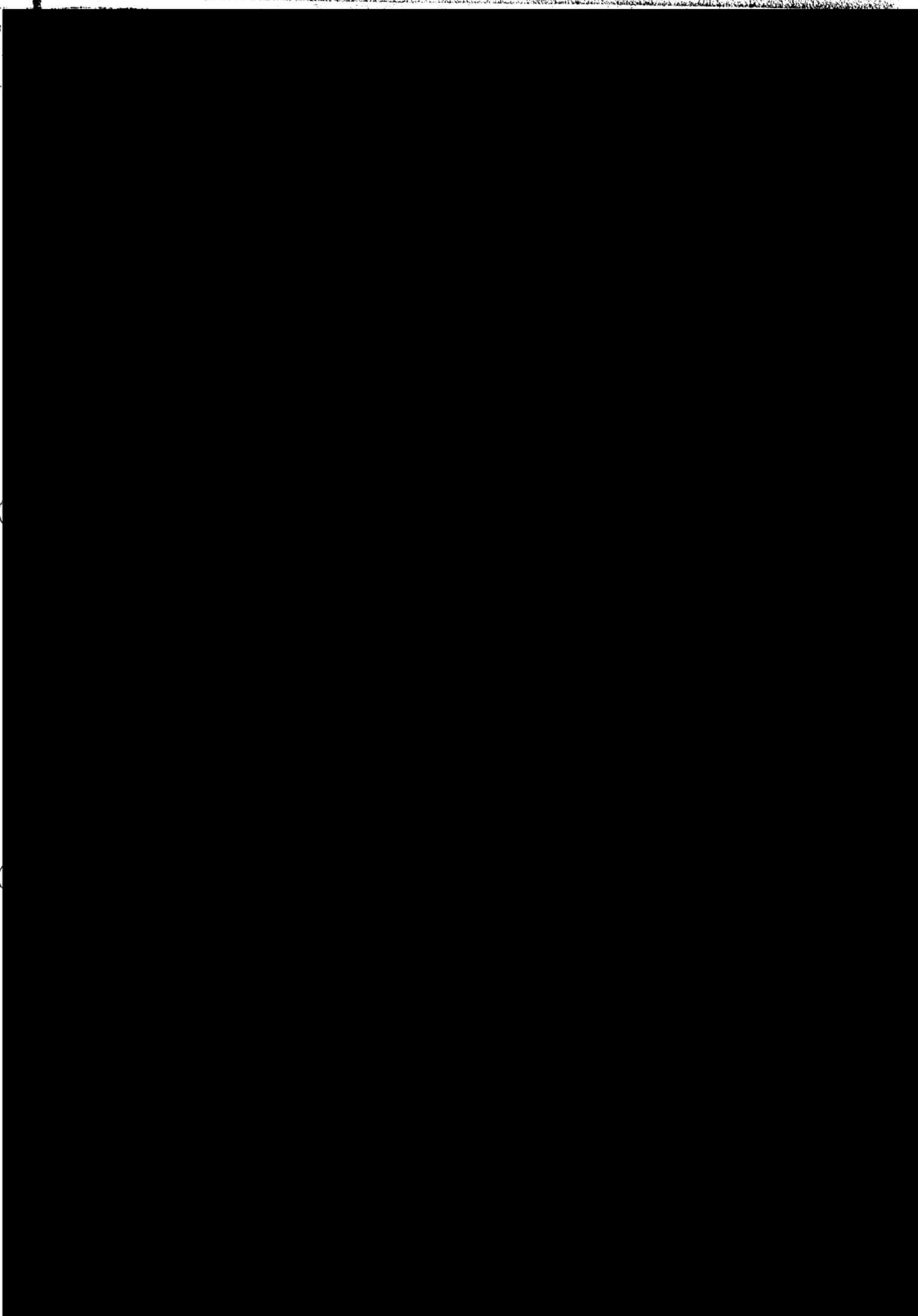


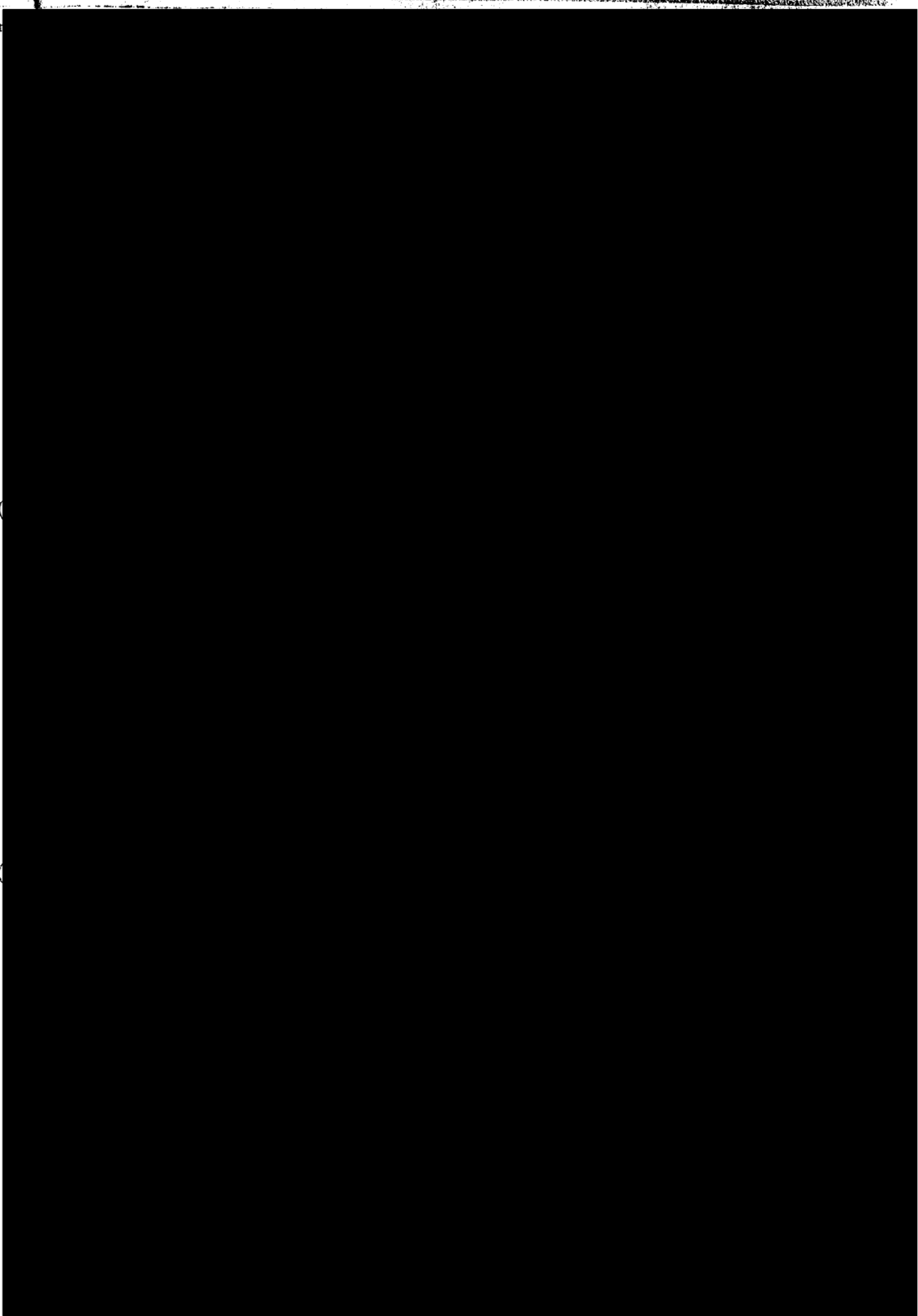












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www.ccc.qld.gov.au

ABN 32 164 714 360



Our Reference: 22/072774
Contact Officer: Jen O'Farrell

SENSITIVE

10 May 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinquiry.qld.gov.au

Dear Commissioners,

**RE: Request for additional information from the Commission of Inquiry into
specific matters relating to the Crime and Corruption Commission
(Commission of Inquiry)**

I refer to the request of Counsel assisting communicated by email by the Executive Director of the Commission of Inquiry on 6 May 2022. The information was requested to be provided today.

**Information about the nature of the qualifications, expertise and functions of the
“specialist administrators” described in para 9 of the CCC submission dated 19
April 2022.**

1. The “specialist administrators” described in paragraph 9 of the CCC submission dated 19 April 2022 support the multi-disciplinary corruption investigation teams.
2. As outlined in Attachment A to that submission, there are five dedicated administration positions that support the multi-disciplinary corruption investigation teams.
3. These positions are classified in the Administration Stream (as opposed to the Professional Stream) and, consequently, they do not require qualifications. Administration officers are required to possess a range of skills appropriate to the stream.

4. The position descriptions of these roles are included in Attachment A. In summary, the nature of administrative support provided by these roles covers the following duties:
 - a. The administration of compliance associated with material obtained via surveillance devices or telecommunications interception
 - b. Assisting with the preparation of briefs of evidence
 - c. Managing Listening Post Monitors and staff engaged in electronic surveillance
 - d. Entering data in the COMPASS database and Charges Register regarding the progress and outcome of investigations and producing various reports for corruption operation teams
 - e. Undertaking high-volume transcription of digitally recorded multi-voice interviews
 - f. Undertaking the role of Hearing Room Orderly
 - g. Developing and reviewing administration processes to support the effective performance of corruption operations
 - h. Undertaking administrative duties to assist the day-to-day management of corruption operation teams
 - i. Undertaking general administration (electronic records management and file management, photocopying, taking minutes, arranging travel, ordering stationery).
5. The commission officers currently employed in these positions have between 6 and 22 years of administration experience at the CCC.

Copies of the position descriptions for the SEO Crime and SEO Corruption roles.

6. The position descriptions are included in Attachment B.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Bruce Barbour
Acting Chairperson

Encl.



Role Description

ATTACHMENT A

Role title:	Investigations Assistant	Closing date:	
Job Ad Reference:		Basis of employment:	Permanent
Division:	Corruption	Classification:	AO3
Unit:		Salary:	
Location:	Fortitude Valley	Contact details:	

Important Information

Certain classifications have mandatory qualifications, please refer to “About you” for further information if applicable.

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About the CCC

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Leadership competencies for the role

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Your contribution

The Investigations Assistant is responsible for:

- Providing operational support to intelligence analysts and investigators involved in corruption investigations and intelligence probes.
- Assisting in the collection and analysis of data.
- Maintaining, modifying and interrogating databases to enable the identification, collection and evaluation of relevant data.
- Preparing basic analytical reports.
- Liaising with CCC staff and operational team members, as required.
- Providing proficient administrative support to team members by way of preparing documentation including letters, notes to file, memoranda and schedules, and maintaining security of this material.
- If required, creating and maintaining a database of all documents obtained and created during the course of an investigation including:
 - Documents obtained from third parties;
 - Statements from witnesses;
 - Transcripts and exhibits from CCC hearings;
 - Documents created by CCC officers; and
 - Documents which may be the subject of claims of privilege.
- Providing administrative and clerical support by entering data and maintaining the quality of information in all CCC databases, registers and electronic document management systems.
- Typing and compiling briefs of evidence, including complex briefs of evidence for:
 - Counsel assisting and Presiding Officer in closed and public hearings;
 - Interviews;
 - Reports to the Director of Public Prosecutions and other disciplinary bodies; and
 - Prosecution Briefs of Evidence.
- Undertaking limited legal research as required by the Executive Director.
- Undertaking other duties, functions and responsibilities from time to time as required.

About you

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For this role, we will consider how well you show:

- A high level of keyboard skills and knowledge of computer software packages, particularly word processing and database systems.



- Good oral and interpersonal communication skills necessary to liaise effectively with other CCC staff.
- Good written communication skills.
- Experience in the preparation of material for courts and CCC hearings – briefs of evidence, statements, exhibit materials, attendance notices, etc.
- A reasonable knowledge of legal processes, coupled with the capacity to analyse and research legal issues, under supervision.
- Contribute positively within a team environment.
- A capacity to deliver quality work within limited timeframes.

How to Apply

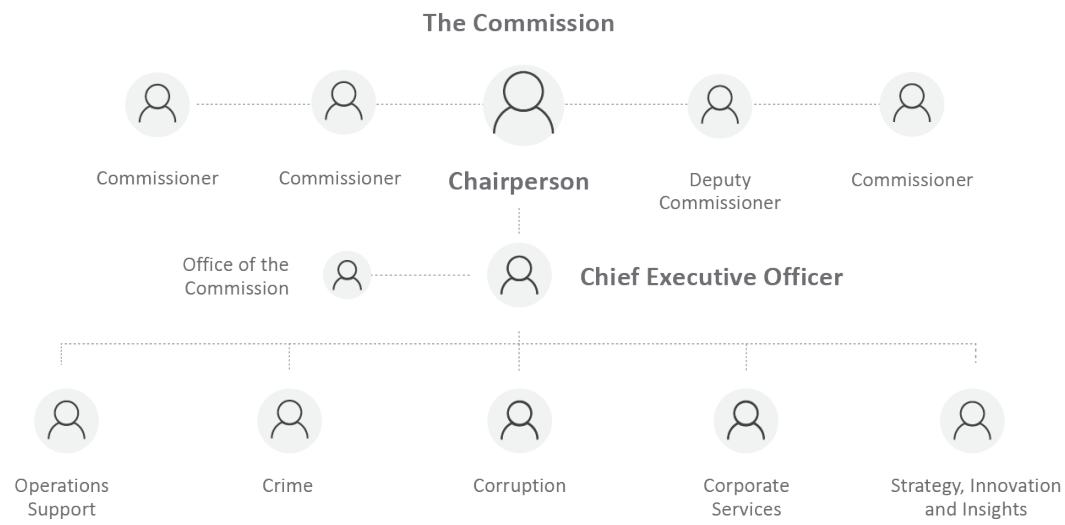
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- Applicants considered for appointment are required to provide evidence of their right to work in Australia. This includes Australian citizenship, or evidence the applicant resides in Australia and has permission, under a Commonwealth law, to work in Australia.
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Organisational chart





Role Description

Role title:	Operations Support Officer	Closing date:	
Job Ad Reference:		Basis of employment:	Permanent
Division:	Corruption	Classification:	AO4
Unit:		Salary:	
Location:	Fortitude Valley	Contact details:	

Important Information

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Leadership competencies for the role

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Your contribution

The Operations Support Officer is responsible for:

- Monitoring staff engaged in electronic surveillance, the preparation of evidence and the compilation of the briefs of evidence.
- Ensuring material obtained and/or produced as a result of electronic surveillance devices or via telecommunications interception is processed and recorded in accordance with relevant legislation, CCC policies and issued warrants.
- Developing and maintaining a pool of suitable Listening Post Monitors.
- Designing and maintaining systems to ensure documentation relevant to implementing warrants and authorisations are accurate and appropriately maintained for auditing purposes.
- Reviewing and maintaining procedures and guidelines concerning the operations of Corruption Operations
- Monitoring and maintaining governance processes in the daily business of Corruption Operations, including innovation and continuous improvement strategies.
- Undertaking a range of administrative duties to assist with the day-to-day management of the Corruption Operations investigation teams.

About you

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For this role, we will consider how well you show:

- Knowledge and understanding of relevant legislation relating to telecommunications interception and surveillance warrants.
- Proven ability in maintaining confidentiality and exercising tact, discretion, initiative and sound judgement when dealing with highly confidential and sensitive information.
- Excellent keyboard skills and experience with word processing and spreadsheet packages, as well as audio equipment for recording listening post data.
- Well-developed organisational skills and the capacity to deliver quality work within limited timeframes.
- Good interpersonal and written communication skills particularly within a team environment, which may include providing informal training to new or inexperienced staff.
- Demonstrated ability to use initiative to identify opportunities for improvement and resolve problems.
- Experience contributing positively within a team environment.

How to Apply

Please provide the following information to the panel to assess your suitability:

- A supporting statement of **no more than two pages** which outlines your suitability for this position, referencing the "About you" section of this role description
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Additional information

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Organisational chart





Role Description

Role title:	Senior Support Officer	Closing date:	
Job Ad Reference:		Basis of employment:	Permanent
Division:	Corruption	Classification:	AO3
Unit:		Salary:	
Location:	Fortitude Valley	Contact details:	

Important Information

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Leadership competencies for the role

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Your contribution

The Senior Support Officer is responsible for:

- Providing effective and efficient keyboard services for an investigative team by:
 - Typing letters, memoranda, file notes and other documents.
 - Undertaking high volume transcription of digitally recorded multi-voice interviews.
 - Assisting with the preparation of documentation for briefs of evidence.
- Providing administrative and clerical support to an investigative team by:
 - Entering data and maintaining the quality of information in the COMPASS database and Charges Register regarding the progress and outcome of investigations and producing various reports for the team.
 - Maintaining the electronic records management system of file documentation and file location for team members and extracting information from the records management database.
 - Preparing material for team meetings.
 - Arranging: a) requisitions for all purchases including stationery; b) booking travel, accommodation and vehicles.
 - Undertaking various photocopying, faxing and mailing tasks.
 - Undertaking the role of Hearing Room Orderly.
 - Taking minutes of meetings.
 - Receiving incoming calls to team members.
- Coordinating work flows and, as required, providing guidance and supervision to support officers when they join the team.
- Assisting with the development and implementation of systems and procedures to ensure the efficient and effective delivery of services in the team.

About you

Appointments in the CCC are merit-based and will be assessed by looking at what you have done previously—the knowledge, skills and experience you have built, your potential for development, and your personal qualities which align with the leadership competencies and the CCC's values.

For this role, we will consider how well you:

- Demonstrate a high standard of keyboard skills including advanced level word processing, preferably Microsoft Word, and the ability to rapidly acquire a working knowledge of a range of other software packages including Microsoft Excel, records management systems and database programs.
- Proven capacity in a similar role requiring a high level of administrative, organisation and clerical skills, including the ability to co-ordinate work flows, set priorities, work under pressure and meet deadlines whilst exercising sound judgement, tact, discretion and confidentiality.
- Sound oral communication and interpersonal skills, including the ability to establish good working relationships in a team environment and the ability to provide guidance and supervision to support officers, as required.
- Sound written communication skills, including the ability to professionally transcribe letters, memoranda, notes, multi-voice interviews and other documents and the ability to draft basic correspondence, correct and edit reports and take minutes of meetings.



How to Apply

Please provide the following information to the panel to assess your suitability:

- A supporting statement of **no more than two pages** which outlines your suitability for this position, referencing the “About you” section of this role description
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- Applications for this role may be used to appoint to similar vacancies for up to 12 months after the closing date of the initial vacancy.

Organisational chart





Role Description

Role title:	Support Officer	Closing date:	
Job Ad Reference:		Basis of employment:	Permanent
Division:	Corruption	Classification:	AO2
Unit:		Salary:	
Location:	Fortitude Valley	Contact details:	

Important Information

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Leadership competencies for the role

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Your contribution

The primary purpose of this role is to provide keyboard/clerical support to a business unit within Corruption.

The Support Officer is responsible for:

- Providing effective and efficient keyboard services, including transcriptions of letters, reports, memoranda, notes and digitally recorded multi-voice interviews.
- Maintaining and extracting information from the complaints management database (COMPASS).
- Maintaining and extracting information from the electronic records management system for file documentation and file location.
- Assisting to maintain accurate records and information in other registers and databases.
- Undertaking other administrative tasks such as photocopying, collating documents, taking minutes of meetings, and arranging travel.
- Assisting in the development and implementation of systems and procedures.

About you

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For this role, we will consider how well you show:

- Experience in the Microsoft suite of packages and ability to acquire a working knowledge of database programs.
- Experience in a similar role requiring administrative, organisation and clerical skills, including the ability to work under pressure and meet deadlines.
- Sound oral communication and interpersonal skills, including the ability to establish good working relationships in a team environment.
- Sound written communication skills, including the ability to professionally transcribe letters, memoranda, notes, multi-voice interviews and other documents and to take minutes of meetings.

How to Apply

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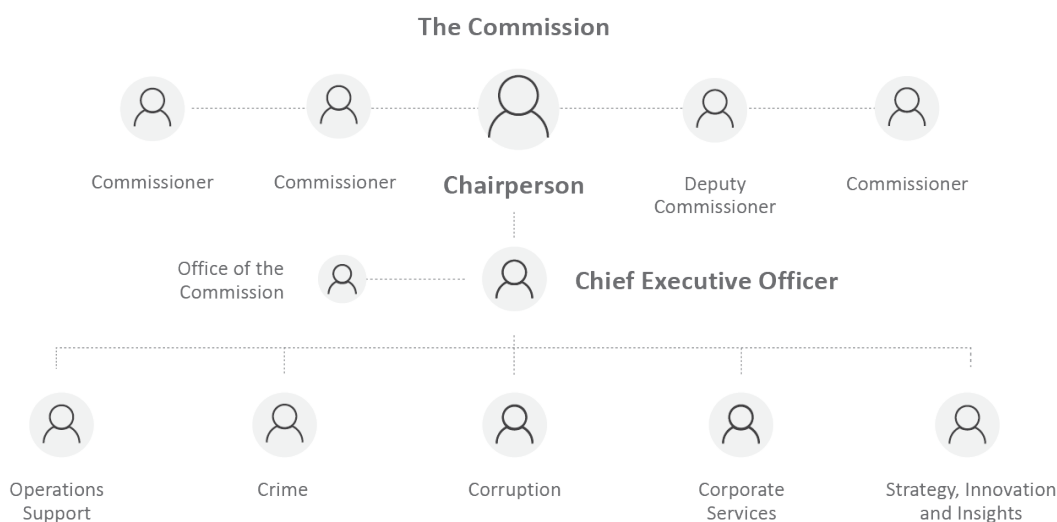
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Organisational chart





Role Description

ATTACHMENT B

Role title:	Senior Executive Officer, Crime	Closing date:	
Job Ad Reference:		Basis of employment:	Contract
Division:	Crime	Classification:	SES 4 (low)
Unit:		Salary:	
Location:	Fortitude Valley	Contact details:	

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Your contribution

Appointments in the CCC are merit-based and will be assessed by looking at what you have done previously—the knowledge, skills and experience you have built, your potential for development, and your personal qualities which align with the leadership competencies and the CCC's values.

Operating as part of the Executive Leadership Team, you will: provide effective, strategic leadership across a range of disciplines to achieve objectives set by the Commission for the performance of its Major Crime functions including undertaking the statutory functions, powers and responsibilities of the senior executive officer (crime) as set out in the Crime and Corruption Act 2001.

This position may be required to rotate and perform the role of Senior Executive Officer, Corruption.

Your key accountabilities:

Financial perspective

- Ensure effective management and monitoring of the division's budget in accordance with statutory responsibilities, Commission priorities, policies and procedures.

Stakeholder and outcome perspective

- Provide high level advice to the Chairperson, Commission and CEO relating to the performance of the Crime functions of the CCC and report on performance results according to the timetable required by the Commission.
- Build effective working relationships and co-operative arrangements with state and national law enforcement agencies, units of public administration and other organisations including by representing the Commission in inter-agency and/or public forums.
- Represent the CCC Chairperson, Commission and CEO as required in a range of high level regional, state, national and international forums to gather information and to promote the activities and achievements of the CCC.

Internal business perspective

- Actively participate in the development of the CCC's strategic vision, direction and culture and translate these into operational processes that support major crime priorities and outcomes.
- Function effectively as part of the CCC executive leadership team to build strong internal partnerships by working strategically, collaboratively and respectfully with all teams across the CCC. This is a critically important aspect of the role.
- Apply well-developed advocacy skills and have a robust understanding of the criminal law of Queensland and the law and practice relating to the conduct of coercive hearings.
- Ensure the development and promotion of an integrated and flexible organisation characterised by a culture of achievement, continuous improvement and innovation.
- Actively contribute to developing and maintaining a culture where commission officers are vigilant to risks to themselves, their co-workers, contractors, clients or visitors (including health and safety, business and operational risks).



Learning and growth

- Support the achievement of the CCC strategic plan by fostering a culture of collaboration within a high performing, ethical and flexible environment.
- Create a workplace that enables success and empowers commission officers and teams to perform to their full potential with a focus on outcomes for the community.
- Actively participate in the CCC executive performance planning and appraisal and individual development planning processes.

About you

As one of the senior leaders in the CCC you will be expected to display outstanding judgement, exemplary integrity, flexibility and agility to adapt to and lead in a constantly changing environment. This requires collaboration, team work and exceptional communication and negotiation skills.

You will need to have served as, or be qualified for appointment as, a judge of the Supreme Court of Queensland, the Supreme Court of another State, the High Court of Australia or the Federal Court of Australia and ideally you will also possess tertiary qualifications in Business or Management and have significant experience at the senior executive level.

You must be able to demonstrate your capability to:

Vision

- Lead strategically in a way that is future-oriented, founded on high level analysis, thought and action, and which drives the successful implementation of strategies that align with organisational vision and purpose.
- Navigate complex and ambiguous environments, make decisions in the absence of complete information while working with other executives and stakeholders to understand different viewpoints and plot a course of action
- Lead change with agility by anticipating changes in the strategic and operational environment, adjusting accordingly, and quickly understanding the implications of new information and developments and how these may play out in the future.
- Operate across boundaries by adopting a system-wide view of issues, drawing on a range of information, ideas and perspectives to better understand problems and develop appropriate responses.
- Engage with ideas, innovation and risk by being open to new ideas and ways of thinking, empowering others to explore new approaches to long-standing or emerging problems, identifying opportunities for improvement, and addressing barriers in order to facilitate outcomes.

Results

- Manage internal and external relationships by building and maintaining productive relationships with internal and external stakeholders, understanding different and competing views, communicating in a way which is open, actively and attentively listening to others, and then synthesizing this information to inform approach.
- Manage organisational performance by directing and prioritizing resources, including human capital and other assets, towards matters that are important to the organization.
- Actively build a learning culture that values continuous improvement and promotes flexibility and access to learning opportunities including through succession planning, talent identification and management, mentoring and developing direct reports and others.
- Build a cohesive and high performing management team characterised by team work, open discussion, strong morale, and a focus on results.
- Inspire individual and team commitment in the pursuit of results by building a cohesive and high performing management team characterised by team work, open discussion, strong morale, and a focus on results.

Accountability

- Model professional and ethical behavior and is viewed as trustworthy, honourable and truthful, respectful of the views of others, and consistent in word and actions.



- Display courage in providing advice, addressing issues and in decision-making. Use analysis, experience and judgement to make informed decisions and be prepared to make unpopular decisions and have 'difficult' conversations in a fair, considered and constructive manner.
- Apply sound corporate governance by exercising sound business acumen in corporate governance areas including financial and contract management, project management, benefits realisation, cost-effective commissioning of goods and services, best practice procurement processes and appropriate supplier relationships.
- Commit to personal development by actively seeking feedback and applying self-awareness to adapt and strengthen your leadership approach.

Your working life

The CCC values our people, accountability, integrity, courage and excellence. You will be expected to develop strong, productive working relationships with every member of the Commission and the Executive Leadership Team as well as across the CCC. You will be supported by access to an employee assistance program, and a range of learning and development opportunities.

The CCC supports employee professional development and is committed to maintaining a healthy work-life balance. Where it does not conflict with operational requirements, flexible work hours and work arrangements will be considered.

Interested?

Please provide the following information for the panel to assess your suitability for this position:

- A statement of no more than four pages addressing the points listed above in the 'Are you the right person of the job?' section.
- A current resume of no more than three pages
- Two referees from the last two years, who have a thorough knowledge of your work performance and conduct. Please ensure that one of the referees is your current or immediate past supervisor.

How to Apply

Please provide the following information to the panel to assess your suitability:

- A supporting statement of **no more than two pages** which outlines your suitability for this position, referencing the "About you" section of this role description
- A detailed resume, including your work experience and at least two referees (one ideally being your supervisor from the past two years) who has a thorough knowledge of your work performance and conduct
- View more information on [applying for jobs with the CCC](#)
- Please apply via smartjobs.qld.gov.au



Additional information

- Certified copies of all qualifications and professional memberships must be produced at time of interview.
- This role description does not necessarily detail the full range of duties required of the position.
- The CCC seeks to employ people from a broad range of backgrounds recognising the benefits that arise from engaging a diverse and culturally aware workforce.
- The CCC has a zero tolerance for fraud and corruption activities, whether initiated within the agency or externally, and promotes a culture that will not tolerate any act of fraud, corruption or dishonest behaviour.
- The employment of an appointee who is not currently a permanent officer of the CCC to a permanent or contract position will usually be subject to a probationary period of not less than six (6) months, after which time confirmation of appointment will be dependent upon satisfactory performance review.
- An applicant recommended for appointment who is a current or previous public sector employee is required to disclose previous serious disciplinary action taken against them.
- Applicants considered for appointment are required to provide evidence of their right to work in Australia. This includes Australian citizenship, or evidence the applicant resides in Australia and has permission, under a Commonwealth law, to work in Australia.
- Applications for this role may be used to appoint to similar vacancies for up to 12 months after the closing date of the initial vacancy.

Organisational structure





Role Description

Role title:	Senior Executive Officer (Corruption)	Closing date:	
Job Ad Reference:		Basis of employment:	Contract
Division:	Corruption	Classification:	SES 4 (low)
Unit:		Salary:	
Location:	Fortitude Valley	Contact details:	

Important Information

Certain classifications have mandatory qualifications, please refer to “About you” for further information if applicable.

Applicants may be required to provide detailed information about their personal and financial circumstances as part of our comprehensive background checking process. More information can be found on our [Careers page](#).

About the CCC

The Crime and Corruption Commission (CCC) is an independent statutory body set up to combat and reduce the incidence of major crime and corruption in the public sector in Queensland. We investigate crime and corruption, and have oversight of the public sector including police. The CCC also has responsibility for restraining and recovering suspected proceeds of crime and administers Queensland’s witness protection program. Read more about our [functions and history here](#).

Working for the CCC

Working for the CCC is more than just a job – it’s about serving the people of Queensland and making a difference by combating major crime and reducing corruption. By working with us you can contribute your passion, unique skills, and talent to keep our community safe and deliver our vision – *Safe communities supported by fair and ethical public institutions*.

There are lots of reasons why you should work with the CCC. In addition to a great salary and up to 12.75% employer superannuation, the CCC offers a range of non-financial benefits. These include supported professional development, opportunities for career growth, job security, flexible working arrangements, including working from home, a great location, interesting and meaningful work and great leadership. Read more about our diverse professional roles, including lawyers, specialist investigators and intelligence analysts [working at the CCC here](#).

At the CCC our values – **People**; **Accountability**; **Integrity**; **Courage** and **Excellence** underpin everything we do. We live these values in our everyday work and recognise our people for demonstrating these values.



People



Accountability



Integrity



Courage



Excellence

The CCC acknowledges the Traditional Owners of the lands where we live and work and pay our respects to their Elders – past, present and emerging. We recognise and celebrate the vibrant and unique cultures of all Aboriginal and Torres Strait Islander peoples. At the CCC we demonstrate our commitment to reconciliation through our Reconciliation Action Plan (RAP). Read more about our [RAP here](#).



Leadership competencies for the role

The CCC has adopted the Queensland Public Service Leadership competencies for Queensland for all our positions. This role is mapped to the **Executive** profile which outlines the competency expectations and behaviours through the lens of vision, results, and accountability. The Leadership competencies for Queensland are [available here](#).

Your contribution

The Corruption Division is one of five (5) divisions at the CCC. It currently has an establishment of around 100 staff. It is responsible for, amongst other things, assessing complaints about corruption; monitoring the way public sector entities deal with and investigate complaints about corruption; investigating allegations of serious and systemic corruption; providing, through intelligence analysis and research, insights into emerging threats and factors which influence and enable corrupt activity in Queensland; and helping Queensland public sector agencies prevent corruption through capability development and the delivery of an audit program, prevention products and other information. The Division has a heavy focus on strategic corruption prevention and stakeholder engagement.

The **Senior Executive Officer (Corruption)** is responsible for:

- Providing leadership and strategic direction to the Corruption Division to raise the standards of integrity and conduct in the Queensland public sector, and ensuring the corruption prevention work of the CCC is collaborative and insights-driven.
- Working co-operatively with agencies and senior leaders across the public sector, including other oversight and law enforcement agencies, to ensure the performance to a high standard of the CCC's statutory corruption functions.
- Driving capability development initiatives to support corruption prevention within Queensland public sector agencies.
- Overseeing the corruption complaints assessment and corrupt conduct and police misconduct monitoring functions of the CCC.
- Overseeing the investigation of serious and systemic corruption.
- Driving continuous improvement and encouraging the development of effective and innovative initiatives within the Corruption Division, particularly those aimed at improving the experience of stakeholders when dealing with the CCC.
- Working strategically with the CCC Leadership team and other CCC stakeholders to maximise outcomes from the CCC's service-led structure and develop the CCC's strategic vision, direction and culture.
- Ensuring effective management and monitoring of budget and human resources in accordance with statutory responsibilities, CCC priorities, policies and procedures.
- Creating a workplace that enables success and empowers commission officers and teams to perform to their full potential with a focus on outcomes for the community.

This position may be required to rotate and perform the duties of other senior positions within the CCC, including the Senior Executive Officer (Crime).

About you

Appointments in the CCC are merit-based and will be assessed by looking at what you have done previously—the knowledge, skills and experience you have built, your potential for development, and your personal qualities which align with the leadership competencies and the CCC's values.

It is a **requirement of the role** to be admitted as a legal practitioner, Barrister or Solicitor. Possession of tertiary qualifications in other relevant disciplines such as criminology, governance or management will be highly regarded. Qualifications acquired from an



overseas educational institution will only be accepted where the qualification has been recognised to an equivalent level in accordance with the [Australian Qualifications Framework](#).

For this role, we will consider how well you demonstrate the following:

- Significant executive-level experience working in collaboration with an executive leadership team to drive and success in driving continuous improvement initiatives, particularly with respect to improving outcomes and experiences for stakeholders.
- Significant experience leading investigations and/or significant experience in criminal litigation.
- Significant executive-level experience leading the delivery of projects, ideally involving stakeholder engagement.
- Superior verbal and written communication skills applied to influence and persuade, including through drafting correspondence and reports, and highly effective stakeholder and customer service management skills.
- Proven experience building high performing teams, influencing positive workplace culture and supporting major change initiatives.
- Superior abilities with respect to interpreting and applying legislation, policies and procedures, and providing high level legal and strategic advice in relation to such interpretation and application.

How to Apply

Please provide the following information to the panel to assess your suitability:

- A supporting statement of **no more than two pages** which outlines your suitability for this position, referencing the “About you” section of this role description
- A detailed resume, including your work experience and at least two referees (one ideally being your supervisor from the past two years) who has a thorough knowledge of your work performance and conduct
- View more information on [applying for jobs with the CCC](#)
- Please apply via [smartjobs.qld.gov.au](#)

Conditions and benefits of the role

The CCC provides access to an employee assistance program and a range of learning and development opportunities. The CCC supports employee professional development and is committed to maintaining a healthy work-life balance.

Senior Executive Service officers are provided with a motor vehicle allowance as part of their remuneration package and are provided an allocated parking bay in the CCC’s secure on-site car park. The motor vehicle allowance for this role is \$27,000 per annum. As a Queensland government agency we offer superannuation co-contributions which can create an effective superannuation rate of 17.75% (based on 12.75% employer contribution and 5% employee contribution).

The CCC embraces flexible work arrangements. As a critical leadership role in the organisation, the Senior Executive Officer (Corruption) is required to be a full-time role, however other flexible working arrangements such as remote working, purchased leave and customised working hours will be considered.

Additional information

- Certified copies of all qualifications and professional memberships must be produced at time of interview.
- This role description does not necessarily detail the full range of duties required of the position.
- The CCC seeks to employ people from a broad range of backgrounds recognising the benefits that arise from engaging a diverse and culturally aware workforce.
- The CCC has a zero tolerance for fraud and corruption activities, whether initiated within the agency or externally, and promotes a culture that will not tolerate any act of fraud, corruption or dishonest behaviour.



- The employment of an appointee who is not currently a permanent officer of the CCC to a permanent or contract position will usually be subject to a probationary period of not less than three (3) months, after which time confirmation of appointment will be dependent upon satisfactory performance review.
- An applicant recommended for appointment who is a current or previous public sector employee is required to disclose previous serious disciplinary action taken against them.
- Applicants considered for appointment are required to provide evidence of their right to work in Australia. This includes Australian citizenship, or evidence the applicant resides in Australia and has permission, under a Commonwealth law, to work in Australia.
- Applications for this role may be used to appoint to similar vacancies for up to 12 months after the closing date of the initial vacancy.

Organisational structure



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ABN 32 164 714 360



Our Reference: 22/070134
Contact Officer: Jen O'Farrell

SENSITIVE

11 May 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners,

**RE: Request for additional information from the Commission of Inquiry into
specific matters relating to the Crime and Corruption Commission
(Commission of Inquiry)**

I refer to your correspondence dated 3 May 2022, in which you have requested additional information from the Crime and Corruption Commission (CCC), and our letter dated 6 May 2022 advising that we would be responding to this request by 11 May 2022. Each matter will be addressed separately.

The test to be applied when charging

Section 382 PPRA and direction under s4.9 of the PSA

1. Section 382 of the *Police Powers and Responsibilities Act 2000* (Qld) (the PPRA) permits a notice to appear to be issued if a police officer reasonably suspects that a person has committed or is committing an offence.
2. A "reasonable suspicion" in this context requires reasonable grounds for suspicion of guilt. The CCC accepts that a "reasonable suspicion" is, at law, less than a prima facie proof or reasonable and probable cause to prefer a charge. At common law, a "reasonable suspicion" of guilt was a prerequisite for a police officer to make an arrest: *Hussien v Chong Fook Kam* [1970] AC 942 at 948 and *Dumbell v Roberts* [1944] 1 All ER 326, 329.

3. However, it is clear from the terms of the QPS OPM issued under section 4.9 of the *Police Service Administration Act 1990* (Qld) (the PSA Act) that a notice to appear is not to be issued (and a criminal proceeding thereby commenced) unless the “two-tier” test is satisfied: para 3.4.1, QPS OPM; CCC submissions dated 1 April 2022, para 466. In other words, the QPS OPM requires police officers to have more than a “reasonable suspicion” (as that term is known at law) before issuing a notice to appear and thereby commencing proceedings.
4. The QPS OPM states a clear preference for officers to issue a notice to appear (rather than a complaint and summons) which is to be used to commence proceedings “wherever practicable”: para 3.5.3, QPS OPM.
5. In particular, notwithstanding that a “reasonable suspicion” at law might be based on inadmissible evidence, the QPS OPM requires the satisfaction on reasonable grounds that an offence has been committed to be supported by the admissible evidence: para 3.4.2, QPS OPM.
6. The “primary test” for the decision to prosecute is the “sufficiency of evidence” test which is based on admissible evidence to prove the charge against the defendant: para 3.4.3, QPS OPM. The “prima facie case” is essential but is not enough: para 3.4.3, QPS OPM. Before charging a person with an offence, the officer must ensure there is sufficient admissible evidence to prove the charge to the requisite standard: para 3.4.3, QPS OPM.
7. In this way, the power in section 382 of the PPRA to issue a notice to appear based on a “reasonable suspicion” is in practice applied in the light of the QPS OPM which requires a higher threshold to be met before commencing proceedings.”

Training of Queensland Police Officers

8. Your correspondence of 3 May 2022 asks several questions about the training received by police officers. The QPS, not the CCC, is responsible for police officer training and so the CCC is presently not able to provide answers to the questions asked. We understand, however, that the QPS will provide further information to the Commission of Inquiry about these matters. The CCC otherwise makes the following comments on the training of QPS officers.
9. The CCC engages appropriately qualified and experienced police officers to undertake roles relevant to the CCC’s purpose. Police officers seconded to the investigative teams must hold the appointment of detective.
10. One of the strengths of this resourcing model is that the CCC can leverage the QPS’ significant investment in training and development. This investment occurs both prior to, during and after the police officer’s secondment to the CCC.
11. It is for this reason that more detailed information about the training undertaken by police officers is more appropriately directed to the QPS.
12. The CCC facilitates the QPS’s continued investment in training while officers are seconded to the CCC. It does this by releasing police officers from their CCC duties to undertake the mandatory QPS training necessary to maintain capabilities and performance standards and assisting supervisors to monitor the completion of mandatory training (achieved via the Police Group Application, developed by the CCC in 2020).

Charging methods and the publicity generated

Charging methods

13. It is not CCC policy or general practice to alert the media that people will be charged.

14. After a seconded police officer has decided to charge, they will decide if they are to arrest the person or issue a notice to appear. They make this decision based on the provisions contained in Chapter 14 of the PPRA. This decision is not unique to police officers seconded to the CCC; all police officers follow the same legislation and are expected to give the same consideration whenever a charge is laid.
15. There is a key distinction between making an arrest and laying a criminal charge. An arrest does not commence a criminal prosecution whilst the laying of a charge does commence a criminal prosecution.
16. At common law, a police officer must act promptly to verify their suspicions or otherwise release the subject without charge. If a police officer charged the subject without prima facie proof of the offence charged, the officer would be at risk of an action for malicious prosecution: *New South Wales v Robinson*, [31]; citing *Hussien v Chong Fook Kam* at 948.
17. Section 365 of the PPRA sets out when it is lawful for a police officer to arrest an adult without a warrant provided the police officer reasonably suspects the adult has committed or is committing an offence and the arrest is reasonably necessary for one or more of the following reasons:
 - (a) to prevent the continuation or repetition of an offence or the commission of another offence;
 - (b) to make inquiries to establish the person's identity;
 - (c) to ensure the person's appearance before a court;
 - (d) to obtain or preserve evidence relating to the offence;
 - (e) to prevent the harassment of, or interference with, a person who may be required to give evidence relating to the offence;
 - (f) to prevent the fabrication of evidence;
 - (g) to preserve the safety or welfare of any person, including the person arrested;
 - (h) to prevent a person fleeing from a police officer or the location of an offence;
 - (i) because the offence is an offence against section 790 or 791;
 - (j) because the offence is an offence against the Domestic and Family Violence Protection Act 2012, section 177, 178 or 179;
 - (k) because of the nature and seriousness of the offence;
 - (l) because the offence is—
 - i. an offence against the Corrective Services Act 2006, section 135(4);
 - ii. an offence to which the Corrective Services Act 2006, section 136 applies.
18. Further, as provided for in section 364(2) of the PPRA, it is lawful for a police officer, without warrant, to arrest a person the police officer reasonably suspects has committed or is committing an indictable offence, for questioning the person about the offence, or investigating the offence, under chapter 15.
19. Section 382 of the PPRA provides for the issuance of a notice to appear. It is intended as an alternative way to commence a proceeding which reduces the need for custody associated with an arrest and reduces the delay associated with a complaint and summons.
20. Section 382 therefore is about commencing a prosecution rather than making an arrest and the two matters are distinct and separate.
21. Section 382(2) of the PPRA sets out when a police officer may issue a notice to appear, namely if the police officer:
 - a. reasonably suspects the person has committed or is committing an offence; or

- b. is asked by another police officer who has the suspicion mentioned in paragraph (a) to issue and serve the notice to appear.
22. There are limitations in the issuing of notices to appear rather than arresting and charging a person and requiring them to seek bail. In short, a notice to appear does not allow for a police officer to impose conditions on a person prior to their appearance in court.
23. There is a legislative difference between the bail conditions which can be imposed by a prescribed police officer (such as an officer-in-charge of a police station or police establishment or a watch-house manager) and the conditions able to be imposed by the court. For example, only a court can require a person to wear a monitoring device or attend a rehabilitation program.
24. It is important to note, as provided for in section 7(1)(c) of the *Bail Act 1980*, a prescribed police officer only has the legislative power to grant bail if they are satisfied it is not practicable to bring the person before a court promptly. For most cases, there is an ability to bring a person before the court promptly even though this may lead to a person spending a night in the watchhouse.
25. The considerations for the refusal and granting of bail are set out in section 16 of the *Bail Act 1980*.
26. The general conditions the seconded police officer often seeks (as allowed for by section 11 of the *Bail Act 1980*) from a prescribed police officer or court are intended to ensure the defendant:
 - a. appears in accordance with the person's bail and surrenders into custody;
 - b. does not endanger the safety or welfare of members of the public; and
 - c. does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to the person or another person.
27. Specific bail conditions sought by seconded police officers depend on the individual circumstances of the matter. Common conditions sought relate to conditions to ensure the defendant appears (e.g., surrendering passports and not attending international airports), conditions to prevent interference with witnesses (e.g., no contact orders), conditions regarding residence (e.g., residing at a particular address) and conditions to report to an agreed location at an agreed frequency.
28. With respect to the commencement of prosecution by way of arrest as compared to notice to appear, the CCC confirms that it is cognisant of taking the least intrusive action that is appropriate in the circumstances.
29. Since 2019, in the corruption jurisdiction, the CCC has commenced prosecution proceedings by issuing a notice to appear and arrest in 48% and 52% of instances respectively. While direct comparisons cannot be made between the approaches of the police officers seconded to the CCC and QPS because the nature of investigations is quite different, the approaches are generally consistent in broadly similar offence types.¹

Other matters referred to in the letter

30. Your letter refers, in general terms, to allegations raised by others in submissions, that the CCC has notified the media that a person will be charged and has unnecessarily arrested a person, causing them to be held in a watchhouse overnight and experience intensified media coverage, when less intrusive procedures (such as a notice to appear) would have sufficed.

¹ QPS Statistical Review 2016/17: Fraud offences - 43% offenders arrested, 42% issued with a notice to appear; Assault - 57% arrested and 25% issued with a notice to appear.

https://www.police.qld.gov.au/sites/default/files/2019-01/AnnualStatisticalReview_2016-17.pdf

31. It would be helpful and productive if any specific allegations could be provided to us so we can review and, if necessary, provide further relevant information to the Commission of Inquiry.

Communications more broadly

32. The CCC recognises that a tension exists between the need to be open and communicate and the need to protect confidential information that could compromise a person or an ongoing investigation. As an organisation with unique powers in Queensland, the CCC occupies a privileged position. With the exercise of these powers, the CCC needs to be accountable and communicate transparently with stakeholders about our activities.
33. Engaging with the community is necessary to communicate the work being undertaken by the CCC and outcomes being delivered to achieve general deterrence and increase public confidence in both the CCC and the integrity of the public sector. When integrity agencies fail to communicate they are often criticised for being unnecessarily secretive.
34. The *CCC Communications Policy and Procedure* confirms public communication occurs to promote transparency and confidence in the operation and effectiveness of the agency. It specifies the decision makers for different types of communication (see Attachment A).
35. Decisions are made on a case-by-case basis, having regard to operational and public interest considerations.
36. There are occasions where no media release is published following the charging of an individual. This typically occurs when the CCC does not wish to alert other individuals under investigation of associates being charged.
37. When the CCC decides to publicly communicate about an operational activity, that communication typically involves the release of a media statement. It is not common practice for the CCC to conduct a press conference following operational activity that results in criminal charges.²
38. A review of the CCC's media releases and press conferences since 1 July 2016 indicates only two press conferences have been held relating to the laying of criminal charges:
 - a. 18 February 2017 - Operation Altana – Organised crime investigation into a drug-trafficking syndicate
 - b. 26 April 2019 – Operation Front – Logan City Council councillor investigation.
39. In the same period, more than 100 media releases were issued relating to criminal charges in the CCC's crime and corruption functions (see Attachment B).
40. Media releases about an operational outcome involving criminal charges seek to balance transparency and privacy considerations, such that media releases routinely:
 - a. do not name the individuals who are the subject of the criminal charges.
 - b. reference the charges and alleged conduct in general and not specific terms, and conduct is typically characterised in terms such as 'allegedly' or 'it will be alleged in court' to indicate no finding of fact has been made.
 - c. indicating that the matters are now before the court so it is not appropriate to comment further.

² The CCC has participated in press conferences to communicate CCC reports tabled in parliament, prevention initiatives and outcomes of operational activity that has not resulted in criminal charge. Since 2016/17, the CCC has conducted press conferences on 13 occasions. The former Chairperson, at times, responded to questions following meetings with the Parliamentary Crime and Corruption Committee.

41. These considerations are consistent with how other law enforcement agencies such as the QPS, other state police services and the Australian Federal Police write their media releases on investigations that result in criminal charges.
42. It is also important to note that Queensland's system of open justice means that there are many opportunities for the identity of parties who are charged with offences to become publicly known, irrespective of the mechanism for commencing criminal proceedings.

CCC communication regarding Operation Front

43. Having reviewed the CCC's public communication about Operation Front to prepare this response, it is evident the approach followed was atypical.
44. Decisions made relating to the degree and type of public communication about Operation Front were made by the former Chairperson and former Senior Executive Officer (Corruption).
45. Early in the day of the arrests, the CCC became aware media commentary and speculation was increasing. The Executive Director Corruption Operations was advised that media was contacting QPS officers not seconded to the CCC seeking information about "councillors being detained" (prior to 9:28am), indicating the media was aware that arrests had been made prior to the release of the CCC media release at 10:08am.
46. The Mayor and councillors were scheduled to attend individual meetings at the CCC and were then processed at Fortitude Valley Police Station.
47. The media release was an attempt by the CCC to stop media queries coming into the CCC while the arrests were occurring and to provide confirmation that a press conference would be held later that day.
48. Consideration was also given to the importance of placing timely and accurate information on the public record. Media reporting was occurring and the CCC was mindful to balance the privacy of the Mayor and councillors and how the public interest would be served by identifying which councillors were arrested (and, importantly, which were not).
49. While the media release was disseminated before six councillors attended the CCC, all councillors had received prior notification and had agreed to attend the CCC offices with their legal representatives. The CCC had not provided details of where they would be processed to avoid that information being released to the media.
50. We have compiled a brief summary of the events occurring on 26 April 2019 in relation to Operation Front as it may assist the Commission of Inquiry's considerations.
51. On 26 April 2019, Operation Front investigators, the seven councillors and Mayor, and their legal representatives met at the CCC premises by prior arrangement. These meetings were scheduled in the days prior.
52. The meetings and arrests occurred individually, commencing at 8:47am and concluding around 1:53pm. All arrests were recorded in the QPrime system by 2:28pm.
53. The media statement and opening remarks for the former Chairperson to deliver at a press conference that would be scheduled and occur later that day, were approved by the Chairperson (8:39am) and SEO Corruption (8:42am).
54. At 10:08am, the CCC issued a media release.³

³ [Seven Logan councillors and the suspended Mayor to be charged today by the CCC | CCC - Crime and Corruption Commission Queensland](#)

55. At 12:39pm the CCC released the press conference details, which indicated the press conference would take place at the CCC at approximately 2:00pm that day.⁴
56. At the press conference the former Chairperson:
- a. commenced his remarks by immediately indicating that matters are before the court and that court is the appropriate place to hear the evidence and decide the merits of the allegations (there were four explicit references to the court being the appropriate place to test the charges)
 - b. stated “the people charged are presumed to be innocent until proven to be guilty beyond reasonable doubt”
 - c. reinforced that court processes will take their usual course, indicating the process that occurred was not out of the ordinary
 - d. recognised there was “significant public interest in these matters”, which was why he took the “rather unusual course of conducting this press conference today”
 - e. indicated that, subject to meetings with the Parliamentary Crime and Corruption Committee, the press conference would be the only time he would speak about the matters
 - f. confirmed Operation Front was a significant investigation that led to eight elected officials from Logan City Council being charged with 14 serious criminal offences
 - g. named the persons charged and charges
 - h. outlined the elements of some of the charges
 - i. distinguished between the CCC and Queensland Industrial Relations Commission proceedings
 - j. indicated he would brief the Local Government Minister on the charges so the Minister could consider any consequential action
 - k. raised concerns about corruption risk in the local government sector, reflecting on the CCC’s previous Operation Belcarra, law reform and the establishment of the Office of the Independent Assessor
 - l. recognised the impact of the charges on the Logan community.
57. A transcript of the press conference has been prepared (see Attachment C).

The CCC wishes to maintain confidentiality over Attachment A on the basis that it is an internal policy document.

⁴ <https://www.ccc.qld.gov.au/news/operation-front-press-conference-details>

Yours sincerely



Bruce Barbour
Acting Chairperson

Encl.



Communications Policy and Procedure

Objective

The purpose of this policy and procedure is to recognise that communication helps the Crime and Corruption Commission (CCC) achieve the objectives set out in our strategic plan and provide guidance to ensure that our communications are approved, accurate, timely, stakeholder-focused and well planned.

Application

This policy applies to all Commission officers, including officers seconded from the Queensland Police Service or other agencies.

This policy and procedure does not apply to routine business unit correspondence (including letters or other interaction with complainants or units of public administration) or other forms of internal business unit communications such as legal opinions, internal emails, briefing notes, reports or memos.

Legislative references

Crime and Corruption Act 2001

Public Records Act 2002

Definitions

Term	Definition
CCC material	Anything capable of distribution that carries the CCC logo or is authored by the CCC. This usually refers to publications, media releases, website content, social media posts and other corporate communications materials.
Communication	Activities and messages containing information which is used to engage and inform stakeholders and the broader community about the activities, functions and outcomes of the CCC.
Media	All forms of traditional media including print, broadcast (TV/radio), online news websites and digital media channels including online blogs.
Head of Division	A head of division who reports directly to the Chief Executive Officer.

In the course of employment	Work carried out by an employee in the normal course of their duties. This may also include work done outside of normal working hours and outside the CCC offices.						
Method of communication	The method of distribution of information in all its forms across all types of media and communication channels including public presentations.						
Public presentation	Any event or method of communication where information or CCC material is released or presented outside of the CCC's premises or to people who are not CCC officers.						
Published CCC materials	CCC material that is published electronically or in hard copy. This includes publication on a website, intranet and social media.						
Distributing CCC materials	A process where CCC materials are distributed or made available to special interest groups and other stakeholders external to the CCC.						
Special interest groups	Individuals and entities entitled to receive information as provided by the CC Act, memorandum of understanding, policy, or other legislation, which is not ordinarily provided to the broader community.						
Social media	Online social networks used to disseminate information and facilitate conversation. Social media is a broader term used to describe social networking sites such as Facebook, Twitter and LinkedIn. It also includes video and image/photo sharing websites such as Instagram and YouTube.						
CCC Social Media Accounts	Twitter: @CCC_QLD and https://twitter.com/CCC_QLD Facebook: http://www/facebook.com/crimeandcorruptioncommission						
Twitter Terminology	<p>The following definitions come from the official Twitter Glossary available at: https://help.twitter.com/en/glossary</p> <table> <tr> <td>Tweet (noun)</td><td>A Tweet may contain photos, videos, links and up to 280 characters of text.</td></tr> <tr> <td>Tweet (verb)</td><td>The act of sending a Tweet.</td></tr> <tr> <td>Direct Messages</td><td>Direct Messages are private messages sent from one Twitter user to other Twitter users.</td></tr> </table>	Tweet (noun)	A Tweet may contain photos, videos, links and up to 280 characters of text.	Tweet (verb)	The act of sending a Tweet.	Direct Messages	Direct Messages are private messages sent from one Twitter user to other Twitter users.
Tweet (noun)	A Tweet may contain photos, videos, links and up to 280 characters of text.						
Tweet (verb)	The act of sending a Tweet.						
Direct Messages	Direct Messages are private messages sent from one Twitter user to other Twitter users.						



	Follow / Following	Subscribing to a Twitter account is called "following."
	Hashtag	A hashtag is any word or phrase immediately preceded by the # symbol.
	Like / Liking	Liking a Tweet indicates that you appreciate it. A user can tap the heart icon to like a Tweet and the author will see that you appreciate it.
	Mention / Mentioning	Mentioning other users in your Tweet by including the @ sign followed directly by their username is called a "mention."
	Reply	A response to another user's Tweet that begins with the @username of the person or account you're replying to is known as a reply.
	Retweet (noun)	A Tweet that you forward to your followers is known as a Retweet. Retweets always retain the original attribution.
	Retweet (verb)	The act of sharing another user's Tweet to all of your followers by clicking on the Retweet button.
Facebook Terminology	Like	The act of using the like button to interact with status updates, comments, photos, links, advertisements and other content.
	Reactions	Reactions are an extension of the Like button to give users more ways to express themselves and share their reaction to a post. The collection of Reactions include Like, Love, Haha, Wow, Sad and Angry.
	Comment	The act of writing a comment on status updates, comments, photos, links, advertisements and other content.



	Share	The act of sharing status updates, comments, photos, links, advertisements and other content from your own profile with others.
	Message	The act of sending a message from one Facebook user to other Facebook users.
	Private Message	The act of sending a private message from a Facebook user to another user or Facebook page. This is also referred to as a Direct Message.
	Hashtag	A hashtag is any word or phrase immediately preceded by the # symbol.
	Facebook Profile	A personal Facebook profile.
	Facebook Page	A Facebook page that you administer.
QPS Workplace	QPS Workplace is a collaboration, engagement and communication platform developed by Facebook that is used by Queensland Police Service (QPS) employees to connect, collaborate, share, innovate and learn from other QPS employees and is aimed at enhancing their experience at work. QPS Workplace is managed by the QPS independently of the CCC. QPS recommends Workplace as the main QPS internal communications tool for QPS employees. QPS Workplace is intended for the internal discussions and sharing of business information related to the Queensland Police Service and it is not appropriate to use it in connection with personal matters or CCC matters.	
QPS Workplace Terms of Use	A set of rules and governance developed by the QPS that QPS employees are expected to follow when using QPS Workplace.	
CCC Corporate Page on QPS Workplace	The official CCC page on QPS Workplace where authorised CCC content is published.	

Policy statement

As an organisation with unique powers in Queensland, the CCC occupies a privileged position. With the exercise of these powers, the CCC needs to be accountable and communicate transparently with stakeholders about our activities.

The CCC values communication, both internally and externally.



To promote transparency and confidence in the operation and effectiveness of the agency, the CCC will actively seek opportunities to communicate with our stakeholders to inform and educate them about our work and to increase public confidence in the CCC.

In planning a communication event it is important to appreciate that, once released, anything said or done cannot be recalled. This loss of control may have unintended consequences for you and the CCC if your communications were to be reported beyond your intended audience or contain information that was not approved to be released.

In considering what we will communicate, we have legislative obligations to maintain confidentiality. Therefore, whilst we aim to maximise transparency by communicating the outcomes of our activities, the content of those communications must be balanced against all legislative obligations, including confidentiality provisions of the CC Act

Procedure

1. Alignment with Stakeholder Engagement Strategy

In order to assist you achieve balanced communication outcomes and to improve our stakeholder engagement, the following points are to be considered as part of preparations for your planned communication activity:

1. We communicate as 'One Commission' and only use divisional titles in external communications when it is necessary
2. Identify the stakeholder and plan the communication to meet their needs
3. Liaise with Corporate Communications to seek advice on the best method of communication
4. Give careful attention to planning the content, method and timing of your communication activity
5. All communications must be approved (**See TABLE 1**)

Corporate Communications can assist in the production of communication material and help you to plan messaging and maximise the reach of your communications to the intended audience.

2. Roles and responsibilities

Business units are responsible for:

- gaining approval for the communication from the approver (**See TABLE 1**)
- the technical accuracy of their communications
- obtaining permissions to reproduce any copyright material, including images, in their communications
- ensuring that the correct security classification is applied and/or dissemination authority is obtained
- selecting a creative commons if required by using the Intellectual Property policy and procedure. Corporate Communications can provide advice to business units.

Corporate Communications is responsible for:

- assisting business units to develop content. This includes authoring content, editing content and assisting with message development
- ensuring in-house style guides and brand guidelines are correctly applied to communications



- graphic design
- publishing CCC materials on websites, social media and other channels where necessary.

Table 1 – Approvers of CCC Materials and Communications

Type of communication:	Point of contact:	Authorised by:
Media responses and media releases	Corporate Communications	<p>Head of Division – all routine matters relevant to their respective division.</p> <p>If a matter is not routine, the Head of Division should consult the CEO and/or Chairperson.</p>
Social media - Publishing	Corporate Communications	<p>Head of Division – all routine matters relevant to their respective division.</p> <p>Corporate Communications staff – Standard responses in line with pre-approved posts or publishing of content consistent with an existing approval. For example, posting content consistent with media releases or content from reports or publications that are already approved by a Head of Division.</p> <p>If a matter is not routine, the Head of Division should consult the CEO and/or Chairperson.</p>
Social Media – Moderation including hiding posts, deleting posts and banning users.	Corporate Communications	<p>Director, Corporate Communications – Responding to private/direct messages or public posts with information that is already approved or available on the CCC’s website. Responding to private/direct messages or public posts using pre-approved content.</p> <p>Moderating, hiding or deleting posts that are obviously in breach of the CCC’s Social Media Terms of Use.</p> <p>General Manager, Corporate Services – Matters that are not routine or not obviously against the Social Media Terms of Use that require broader consideration.</p> <p>Banning of users not adhering to the Social Media Terms of Use following a recommendation by the Director, Corporate Communications.</p>



Type of communication:	Point of contact:	Authorised by:
		If a matter is sensitive or requires broader consideration, the General Manager Corporate Services should consult the CEO and/or Chairperson.
Public presentation	Head of Division	<p>Head of Division – all routine matters relevant to their respective division.</p> <p>If a matter is not routine, the Head of Division is encouraged to consult the CEO and/or Chairperson.</p>
Published CCC materials	Head of Division and Corporate Communications	<p>Head of Division – all routine matters relevant to their respective division.</p> <p>Corporate Communications – Approval of brand application if a corporate template is not being used.</p> <p>If a matter is not routine, the Head of Division is encouraged to consult the CEO and/or Chairperson.</p>
Distributing CCC materials	Head of Division and Corporate Communications Unit	<p>Head of Division – all routine matters relevant to their respective division.</p> <p>Corporate Communications – Approval of brand application.</p> <p>If a matter is not routine, the Head of Portfolio is encouraged to consult the CEO and/or Chairperson.</p>
Intranet content	Individual divisions and business units	<p>An Executive Manager or Senior Manager as defined in the Human Resources Decision Making Framework- Routine matters relevant to a business unit or division.</p> <p>Managers are encouraged to consult with their immediate supervisor or Head of Division before posting content on the intranet.</p> <p>Head of Division - all routine matters relevant to their respective division.</p> <p>If a matter is sensitive or will impact on staff outside their respective Division, a Head of Division is encouraged to consult with the</p>



Type of communication:	Point of contact:	Authorised by:
		other relevant Head of Division, CEO and/or Chairperson.
QPS Workplace - A post by a QPS officer containing content that is not CCC information and relevant to QPS business information.	General Manager Operations Support	<p>Seconded QPS officers to the CCC are authorised to post QPS related content on QPS Workplace.</p> <p>Seconded QPS officers are encouraged to seek advice from the General Manager Operations Support on the use of QPS Workplace and must adhere to the QPS Workplace Terms of Use.</p>
QPS Workplace – A post containing CCC information	Corporate Communications, Head of Division, General Manager Operations Support	<p>Head of Division and General Manager Operations Support</p> <p>All routine matters relevant to a respective division must be authorised by the respective Head of Division and General Manager Operations Support.</p> <p>If a matter is not routine, the Head of Division and General Manager Operations Support are encouraged to consult the CEO and/or Chairperson.</p> <p>Corporate Communications, Strategy and Performance Officer Operations Support and General Manager Operations Support</p> <p>Following authorisation, the Strategy and Performance Officer Operation Support, General Manager Operations Support or a member of Corporate Communications are authorised to publish the authorised content via the CCC's corporate page on QPS Workplace.</p>

3. Communication planning

All communications should consider the alignment to the functions of the CC Act, strategic objectives and areas of focus. Once it has been determined that the communication will provide the opportunities described in this policy, then that release must be appropriately planned.

Communicating operational outcomes can inform and educate our stakeholders, and improve public confidence in the work of the CCC. It is important to plan how operational outcomes will be communicated before the operational activity is finalised.

Where the proposed communication or release of CCC material is to be brought about as a result of a project plan, the plan should include details of how the project (e.g. its purpose, activities, outcome and impact) will be communicated to stakeholders, both internal and external.



For assistance with communications strategies to support a project, investigation or other operational activity, contact Corporate Communications.

4. Media

The media offer an important mechanism for communicating with the public and can provide a means of quickly providing information to a broad audience. The CCC will use the media to communicate our activities and outcomes, important messages and information about the agency.

Corporate Communications is the first point of contact for the media seeking information about the CCC. The CCC has a generic email address and phone number for media to use. These details must be displayed on the CCC's website. The Director Corporate Communications and the Senior Communications Officer are authorised to deal directly with the media to receive enquiries and provide approved responses. Other members of the Corporate Communications team can deal directly with the media to respond to media enquiries if they have relevant skills and experience, and are approved by the Director Corporate Communications.

Unless specifically approved to do so, CCC officers (other than the Chairperson, CEO or Head of Division) are not authorised to deal with or release information or CCC material to the media regardless of whether the officer is on or off-duty, or is inside or outside of the CCC's offices or premises. Any approach by the media to an officer must be referred to Corporate Communications.

5. Social media

The CCC uses social media as a communication channel to reach audiences who consume their information via social media. The CCC's official social media channels are administered and managed by Corporate Communications.

The CCC's official Twitter account is: @CCC_QLD - https://www.twitter.com/CCC_QLD.

The CCC's official Facebook account is: www.facebook.com/CrimeandCorruptionCommission.

Corporate Communications collaborate with business units to source and develop content. All social media posts and responses must be approved as per **TABLE 1**.

CCC social media posts will align with the messaging contained in other external communications, published CCC materials and media responses. In most cases, social media posts will not be made in isolation of other forms of communication. Publishing to social media will follow the considerations outlined in this policy in the "Published CCC material" section and, where appropriate, posts will link to more information available on the CCC website.

CCC officers are prohibited from personally interacting with any official CCC social media account from their own personal social media accounts. This is to limit the opportunity for other online users to identify you as a CCC officer, which may pose a risk to you and the CCC.

With respect to Twitter use, interactions that are prohibited include:

- Following the CCC official account
- Retweeting a tweet made by the CCC official account
- Liking a tweet made by the CCC official account
- Replying to a tweet made by the CCC official account
- Mentioning the CCC official account in a tweet from your personal account
- Sending a direct message from your personal account to the CCC official account



- Using a hashtag that has relevance to the CCC official account. Eg #CCC or #crimeandcorruptioncommission or #TaskforceFlaxton

With respect to Facebook, interactions that are prohibited include:

- Liking or following the CCC official Facebook page
- Liking, sharing or commenting on content posted by the CCC
- Using the reactions feature to react to content posted by the CCC
- Mentioning the CCC official Facebook page in a post from your personal Facebook profile or from a Facebook page you administer
- Sending a message from your personal Facebook profile or a Facebook page you administer to the CCC official Facebook page
- Using a hashtag that has relevance to the CCC official account. Eg #CCC or #crimeandcorruptioncommission
- Checking-in on Facebook at the CCC's headquarters from your personal Facebook account.

CCC officers are encouraged to contact Corporate Communications for further guidance and can refer to the [Social Media Guide for Staff](#) on the intranet.

6. Social Media Moderation

Corporate Communications must keep a record of any public post published by the CCC.

At times social media users may send the CCC private messages which are not publicly available to all users. These private messages, which are also known as direct messages, provide a forum for a social media user to engage in a one-on-one conversation as opposed to a one-to-many conversation via social media with the CCC.

All private or direct messages received and any response to those messages must be recorded by Corporate Communications.

Corporate Communications is responsible for monitoring the CCC's social media accounts during business hours to assess if any public or private messages require a response or moderation.

Corporate Communications is responsible for maintaining Social Media Terms of Use that clearly articulate the expectations of users when engaging with the CCC on social media. Where users breach the terms of use, their posts can be hidden or deleted. Repeated or significant breaches of the terms of use can result in a user being banned or blocked from engaging with CCC social media accounts.

Corporate Communications must maintain records for why a post was moderated or why a user is banned. A consistent template for this recordkeeping is to be adopted and used.

7. QPS Workplace

QPS Workplace is a collaboration, engagement and communication platform developed by Facebook that is used by Queensland Police Service (QPS) employees to connect, collaborate, share, innovate and learn from other QPS employees and is aimed at enhancing their experience at work. QPS Workplace is managed by the QPS independently of the CCC. QPS recommends Workplace as the main QPS internal communications tool for QPS employees. QPS Workplace is intended for the internal discussions and sharing of business information related to the Queensland Police Service and is not appropriate for use in connection with personal matters or CCC matters.



The CCC has a presence on QPS Workplace to post information about career opportunities, to highlight operational outcomes and to share other CCC information relevant to the QPS. The CCC's official page on QPS Workplace is administered and managed by the General Manager Operations Support, Strategy and Performance Officer Operations Support and Corporate Communications. Corporate Communications collaborate with business units to source and develop content. All posts containing CCC information must be approved as per **TABLE 1** and be published via the official CCC page on QPS Workplace.

QPS officers seconded to the CCC are prohibited from posting CCC information on QPS Workplace via their own QPS Workplace accounts. QPS officers seconded to the CCC are encouraged to speak to their respective Head of Division, General Manager Operation Support or Corporate Communications if they see benefit in publishing CCC information on QPS Workplace.

QPS officers seconded to the CCC are authorised to post QPS related content on QPS Workplace. Seconded QPS officers are encouraged to seek advice from the General Manager Operations Support on the use of QPS Workplace and must adhere to the QPS Workplace Terms of Use.

8. Public presentation

CCC officers may be required to represent the CCC and make a public presentation in a range of forums such as conferences, professional seminars or addresses to community or stakeholder groups.

All requests to provide a public presentation (either internally or externally generated) are to be approved by a Head of Division. A decision to provide a public presentation will be based on:

- The utility of the event, location, the expected audience, and the opportunity to educate and inform the audience about the work of the CCC, discharge our accountabilities or increase public confidence in the use of our powers
- An assessment of the sensitivity of the information and CCC material proposed for presentation, any confidentiality requirements of the group to which the information and/or CCC material is presented to, and the likelihood of harm to the CCC should the information or material be given to an unintended audience
- The networking opportunities arising from the proposed presentation

All presentations must use the approved corporate templates in line with the CCC's brand.

Corporate Communications should be advised where presentations are conducted external to the CCC, especially when in public forums or at conferences where media may be in attendance or the audience may use social media to report on the presentation. This enables the CCC to monitor any media or social media coverage of the event, or identify additional communication opportunities.

The Executive Assistant to the CEO is to be advised once a public presentation has been delivered for the purposes of updating the periodic reports made by the CCC, including reporting to the Parliamentary Crime and Corruption Committee (PCCC).

9. Published CCC material

Publishing information is the key element of the CCC's communication strategy. Decisions about what to publish and the best method of communicating are informed by a number of considerations, including:

- Obligations arising from legislative provisions
- Considerations of equity to all stakeholders who have an interest in a matter



- The commencement, progress or conclusion of any CCC matter
- How to promote the CCC and opportunities to increase public confidence about the use of our powers
- The opportunities to maximise our reach to the target audience
- Timeliness and cost

Guidance is provided from a range of sources, some of which are mandated by the State Government and others which have been implemented by the CCC.

Once a decision to publish has been made, the officer compiling the material for publication can contact Corporate Communications to consult and seek advice on the preparation of the material.

10. Government and corporate standards

- The CCC has adopted a digital-first approach to its communications, resulting in the majority of publishing occurring on the CCC website, social media and intranet. This is in line with Queensland Government publishing requirements to publish online rather than in hard-copy format. It also aligns with the Queensland Government's Chief Information Officer Website policy.
- Corporate standards and guidance is provided on the Corporate Communication's intranet page on a range of topics including information on writing and publishing, corporate templates and guidelines on how to use the CCC logo.

11. Publishing on the Intranet – Intranet content

Each Division has trained staff to publish content relevant to their division on the intranet. Resources to assist these officers are available on the "Intranet contributors" intranet page.

Corporate Communications is responsible for maintaining the homepage and training intranet contributors. Corporate Communications can also provide assistance to any business unit to help publish content.

12. Distributing CCC materials

Publishing on the CCC's website or intranet is the preferred method to distribute CCC materials.

Printing in hard copy is discouraged. However, instances may arise where hard copy documents will be produced. In order to minimise the cost of production, the size of the print run for hard copy documents is to be limited to only that number required to satisfy the identified audience or legislative requirements.

The number of hard copies printed must also satisfy our public record and archiving requirements under the Public Records Act 2002. More information about the retention and disposal of public records can be found on the website of the Queensland Government Chief Information Office – QGCIO).

Corporate Communications is to be contacted prior to the planned distribution date in order to seek advice about managing the media engagement, social media, website content and other corporate communications requirements related to the release of the publication.



13. Authorship, copyright and intellectual property

All CCC communications are made on behalf of the Commission and therefore must reflect the position of the CCC, not the personal opinions of the author or speaker.

Communications and other materials, images or designs developed by an employee of the CCC in the course of employment are owned by the CCC. All authorship of publications are to be attributed to the CCC. However, individual contributions may be acknowledged where this is a requirement for professional advancement.

The conditions under which the CCC grants permission to use its materials are set out on the [“Copyright”](#) section of our website.

Intellectual property is separately dealt with under the CCC’s [Intellectual Property policy and procedure](#).

14. Corporate identity and Brand

Corporate Communications are the brand custodians for the CCC.

Corporate identity is the look and feel of communication materials and encompasses all the visual aspects of our communications, including the CCC logo, graphical element, imagery, signage, preferred fonts, lay-out/design and writing style. The corporate identity is reflected in the suite of templates available on the intranet and in Content Manager.

The CCC logo is the unique symbol of the organisation and a central element of corporate identity, so it is important that it be used correctly.

Any use of the logo externally, or a request for its use by a third party, must be approved by either the respective Head of Division or the Director Corporate Communications.

Staff can consult Corporate Communications before publishing to ensure they are using the CCC’s brand correctly.

15. Marketing materials

Marketing materials for use at an event (e.g. during NAIDOC week) should be developed and budgeted for as part of the overall project plan for that activity. The plan and budget must be approved by the relevant Head of Division or Project Board.

Business units can engage with Corporate Communications as part of the planning process for assistance with developing and producing these materials.

Related Documents

[Intellectual Property policy and procedure](#)

[Use of ICT facilities and devices \(policy\)](#)

[Social media guide for staff](#)

Review triggers

This policy will be reviewed three years from the date of approval, unless changes in legislation or government policy affecting its operation occur before the three year period has expired. This policy will remain in effect until updated, superseded or declared obsolete.



Metadata

Responsible officer:	Director, Corporate Communications	Accountable officer:	Chief Executive Officer
Date approved:	4 March 2021	Review date:	4 March 2024
eDRMS reference:	21/044564	Human rights compatibility review eDRMS reference:	21/044578
Category:	Strategic	Keywords:	Communications, media, information, public presentation, publication, copyright, intellectual, social media, Facebook, Twitter, brand, logo, website, intranet, QPS Workplace



Attachment B

Media Release and Press Conference Breakdown

Time period (FY)	Total Media Releases	Media release – after criminal charges	Media release – other CCC activities	Total Press conferences	Press conference – laying of criminal charges	Press conference – other CCC activities
2016-17	55	37	18	4	1 ²	3
2017-18	74	52	22	3	0	3
2018-19	41	21	20	3	1 ³	2
2019-20	37	12	25	1	0	1
2020-21	27	11	16	2	0	2
2021-22 ¹	10	3	7	0	0	0
Total	244	136	108	13	2	11

Notes:¹ Time period 1 July 2021 to 4 May 2022² Operation Altana³ Operation Front**Press Conference Topics****2016-17 – 4 x press conferences**

- 18 July 2016 – Joint press conference on cold-call investment frauds – prevention focused
- 19 October 2016 – Joint QPS/CCC press conference on coercive hearings and drug investigations
- 12 December 2016 – CCC report recommends limits on publicising allegations tabled in Parliament
- 18 February 2017 – Details about Operation Altana – an investigation into an organised crime syndicate involved in drug production, supply and trafficking²

2017-18 – 3 x press conferences

- 22 September 2017 – Outcome following an investigation of Mark Bailey MP private email accounts
- 4 October 2017 – CCC report following Operation Belcarra tabled in Parliament
- 16 October 2017 – Joint press conference following MoU being signed for new police discipline system

2018-19 – 3 x press conferences

- 26 April 2019 – Details about Operation Front – an investigation into Logan councillors³
- 14 December 2018 – CCC report on Taskforce Flaxton tabled in Parliament
- 27 September 2018 – Completion of assessment of Robbie Katter MP complaint against Premier

2019-20 – 1 x press conferences

- 4 March 2020 – Joint press conference with ECQ/OIA about #FairForAll local government election

2020-21 – 2 x press conferences

- 2 July 2020 - CCC report on an investigation into a school principal recruitment allegation tabled in Parliament
- 12 May 2021 – CCC report on QPS recruitment strategies tabled in Parliament

2021-22¹ – 0 x press conferences

- Nil press conferences

**Transcript
Based on audio from Operation Front Press Conference
26 April 2019**

[Alan MacSporran]

Afternoon all. Are we ready?

All good. Well ah thank you for ah coming along this afternoon, I'll, I'll make a short statement before taking any questions. I'd like to say immediately that as a number of matters are now before the court, I'll be limited in what details I can be ah questioned about, the allegations are subject to criminal charges as you know. I'm sure you'll appreciate the limitations around these matters because the courts are now the appropriate place to hear the evidence and decide the merits of the allegations that we've ah we've investigated.

Today the Crime and Corruption Commission has charged the suspended Logan Mayor and seven current serving councillors with criminal charges following an investigation known as Operation Front. This is the first time to our knowledge in the 30 year history of the agency that eight elected officials from the same unit of public administration ah have been ah the subject of such charges. It is one of the most significant investigations this agency has ever carried out and is a reminder of the importance of having an independent agency dedicated to combating major crime and public sector corruption for the benefit of all Queenslanders.

There is a significant public interest in these matters and that is the reason I'm taking this rather unusual course of ah conducting this press conference today. Subject to the meetings I have with my oversight committee, the Parliamentary Crime and ah Corruption Commission Committee this is the only occasion I'll be speaking about these matters because the people charged are as you know presumed to be innocent until proved to be guilty beyond reasonable doubt. The court processes will now take their usual course.

The CCC commenced Operation Front in November 2017 following evidence uncovered during Operation Belcarra. Operation Front was originally focused on the then Mayor of Logan City Council but as our investigators progressed in their work, they identified other allegations that warranted further investigation. Operation Front has now led to eight elected officials from Logan City Council being charged with a total of 14 serious criminal offences. All eight have attended the CCC throughout today where they were arrested and formally charged and all eight have been granted bail and will appear in the Brisbane Magistrates Court in the coming couple of weeks.

I'd like to now step you through the charges that have been laid today. Councillors Russell LUTTON, Division 2, Stephen SWENSON, Division 3, Cherie DALLEY, Division 6 and Deputy Mayor, Laurence SMITH, Division 7, Phillip PIDGEON, Division 9, Trevina SCHWARZ, Division 11, Jennifer BREEN, Division 12 and the former Mayor, Luke SMITH have all been charged with one count of fraud contrary to section 408(C) of the *Queensland Criminal Code*.

The CCC will allege they dishonestly caused a detriment namely, the dismissal of employment of the former CEO Sharon KELSEY. The CCC will further allege the detriment was of a value of at least \$100,000 meaning the maximum penalty under the Criminal Code for this fraud is 20 years imprisonment. Former Mayor Luke SMITH was also charged today with two counts of misconduct in relation to public office contrary to section 92A of the *Queensland Criminal Code*. The CCC will allege that he interfered in a recruitment process with an intent to dishonestly gain a benefit for another person and secondly, that he commenced a dishonest probation process with an intent to dishonestly cause a detriment to another person. The maximum penalty for each misconduct in public office offence is seven years imprisonment.

You would be aware that Luke SMITH has previously been charged by the CCC with two counts of perjury relating to evidence he gave at Operation Belcarra. One count of official corruption and one count of failing to correct his register of interests. These matters are already before the courts and were also the result of the investigations undertaken by Operation Front.

As you would expect following amendments to the law recently I'll be providing a briefing to the Local Government Minister on these charges and he will have to consider the charges and other matters no doubt to decide what next steps he may or may not take in relation to Logan City Council. I'd like to take the opportunity to publicly thank the CCC officers who've worked as one team to bring this investigation to the point it's at. We have quality investigators, lawyers, forensic accountants, forensic computing experts, intelligence analysts and many other support staff that have been able to secure evidence allowing the CCC to proceed with these charges. They worked tirelessly for Queenslanders to rid this State of corruption and for that they should be congratulated, I'm extremely proud of the team that the ah the work they've done on this extremely difficult investigation.

The charges from Operation Front are a stark reminder of the problems in the local government sector. The Criminal Justice Commission, the Crime and Misconduct Commission and now the CCC have all examined issues relating to local government sector. In October 2017 following Operation Belcarra the CCC made 31 recommendations to strengthen transparency and integrity in local governments throughout Queensland. We've seen law reform in this space and recently the establishment of the Office of Independent Assessor. Much work continues and I know both the CCC and the Office of Independent Assessor have several investigations that remain ongoing.

Finally, I would like to provide a message to the rate payers and community of Logan and to the many good staff members at Logan City Council. I'd like you all to note that these allegations are not allegations against the Council per se, they are allegations against the currently suspended Lord Mayor and seven other councillors. Today's news may come as a shock to many in the community, it will undoubtedly cause some ah turbulence for the council and the community of Logan more generally. Whilst these allegations and the merit of the evidence will be tested in court in the coming months you as community members in Logan have the right to expect your leaders and/or elected officials will act with the highest levels of integrity, transparency and within the bounds of the many laws that govern how councils and councillors should operate. You deserve elected officials who put the needs of your community first.

I'm happy to take questions but without wishing to sound like a broken record, I do have certain constraints about what I can tell you about the current matters that are now before the Court.

[Journalist]

Chair most certainly but for those who ah don't have legal minds, can you just put these charges into some sort of context of just how serious they are?

[Alan MacSporran]

They're very serious ah as you heard with the ah the seven councillors and the suspended Lord Mayor a charge of one count jointly of fraud. The elements of that are that the Crown would have to prove that they acted together as it were, dishonestly and that's dishonestly according to the objective standards of ordinary people like you and I ah to cause in that case a detriment to another person being Sharon KELSEY. The detriment is the ah the causing of her dismissal from council. Ah that fits we think and our charges ah confirm it, we think that fits the definition of fraud under the Criminal Code. Because the detriment to Sharon KELSEY was the loss of her not insignificant salary, it's an amount greater than \$100,000 which is a one of an elements of aggravating factors that can be added to the charge.

[Journalist]

To the layman effectively they plotted.

[Alan MacSporran]

Yes.

[Journalist]

To, to have her sacked or removed

[Alan MacSporran]

That's the allegation yes.

[Journalist]

What do you say about the role of people like Lisa BRADLEY and Jon RAVEN um Darren POWER, what sort of role did they play as whistleblowers -

[Alan MacSporran]

Well I-

[Journalist]

how brave were they?

[Alan MacSporran]

I think ah the reason I made that comment during my opening remarks about it needed to be understood that these allegations aren't against the council per se, they're against the Mayor, the suspended Mayor and those seven councillors which leaves five councillors who were not involved according to the evidence that we've gathered and um they as you said made the various complaints in various forms, they stood up and made public statements about what they perceived to be ah misconduct by others, they were themselves the subject of complaints, they were routinely criticised publicly and privately and ah it's a fact as you all know that people in those positions have a public duty to stand up and report misconduct of that kind. So, in that light um I think those facts speak for themselves about the role played by those other councillors at Logan.

[Journalist]

Where does the CCC draw the line in getting involved in what could essentially be classed as an industrial dispute um where some, you know, certain members of an organisation are jockeying to have another removed?

[Alan MacSporran]

Ah we draw the line when the conduct merges into and passes a, a threshold test of corrupt conduct and/or criminal conduct which this we say clearly did. The Industrial Relations Commission proceedings are entirely separate, there's a separate standard of proof. In fact, part of their proceedings the councillors who we've charged here are required under the reversal of the onus of proof to show that they did not sack KELSEY for unlawful reasons. Those proceedings will be decided on their merits. Nothing to do with what we've done, our proceedings are not relevant to them, theirs aren't relevant to us, we expect as everyone would expect that the QRIC proceedings will be decided by the person hearing them independently and on their merits.

[Journalist]

Given what's happened at Ipswich and at Logan is there a fear of widespread corruption throughout local government in Queensland?

[Alan MacSporran]

Well I think ah given what we've uncovered, particularly as you say in Ipswich and now Logan, there would at least be a perception that the sector is on the nose. Can I say ah to put that in context, my impression, my personal impression for what it's worth is that the sector itself is not corrupt, there are corrupt individuals we've alleged, some of whom have as you know pleaded guilty already in the Ipswich case, the rest will be decided by the – on their merits – by the courts but there is a, a disturbing lack of capability and understanding of their obligations as ah as elected candidates.

[Journalist]

Are you looking at other councils now or other councillors?

[Alan MacSporran]

We're looking at other councils, yes. Our investigations in the sector are ongoing and we expect from what's been uncovered thus far they will remain a focus for quite some time yet.

[Journalist]

Can you tell us how many councils?

[Alan MacSporran]

Oh well it's publicly known that we have been investigating the Gold Coast, some of that's completed as you know we've said publicly. Ah Moreton Bay is under investigation ongoing and there are others that for operational reasons I won't be speaking about today but the sector generally is a focus of our attention for I think what are obviously good reasons.

[Journalist]

After one of the ah things that came out of the Belcarra report and the feeling it's a similar thing in this situation regarding property developers was that um the ban on donations from property developers, are you happy that that has um ex-sorry – extended at the State level and do you believe it should apply to ah Unions when some of those Unions have superannuation fund members whose dealings are in the property development sector?

[Alan MacSporran]

Well I think as you, as you know um in the Belcarra report we recommended there be a ban on developer donations in the local government sector, we cautioned against extending it simply because there was a legal point of contention in relation to freedom of political association and communication under the Constitution Commonwealth. We said that there needed to be consideration given and evidence looked at to establish a need to take the rather serious step of banning donations in that sector, that now has been decided as you know in favour of the ban placed on it by the Government ah by the High Court. The High Court hasn't yet published its reasons but we welcome the stance the High Court has taken because we think as we've always said, it's a nonsense to allow people to – people with interests before council and government for that matter – to have the ability to exercise influence by paying money.

[Journalist]

And what about the, does that extend to Unions?

[Alan MacSporran]

Well if there was evidence warranting that it was a corruption risk certainly um but that's a matter of whether the evidence would reveal that.

[Journalist]

Can you tell us how far your investigations going back into other councils, are we looking like 10 years, 15 years?

[Alan MacSporran]

Well there is no time limit ah but we have to be realistic and practical because the longer you – longer the allegation is from the evidence you're – ah or the investigation period you're looking at it gets harder and harder to find the evidence that can substantiate the allegations or the complaint. So we don't have a set period that we impose, it's just a question of how available, if at all, the evidence to substantiate the matter is.

[Journalist]

Does it surprise you the number of people, the number of councillors, the number of Mayors, the number of scalps you have claimed so far?

[Alan MacSporran]

Ah it disappoints me frankly because it indicates there's a problem but that's our job and I'm as I say very proud of the work we've done um and it just has to be, it's just a, a reflection of the need for a body such as ours to keep an eye on these things because you know when you think about, in fact this year it's 30 years since Fitzgerald reported about things like this and if you're not continually looking at them and monitoring the progress of these things people very quickly slip back into their bad old habits. So I think it's pretty obvious you need a – you need a watchdog like the CCC.

[Journalist]

Just quickly to the matter at hand– did you say you were expecting more charges out of this or that you think that's concluded?

[Alan MacSporran]

Ah it's difficult to say, the investigation isn't yet fully complete so I wouldn't, I wouldn't be confident in saying nothing else is going to come out of it because it hasn't yet wrapped up entirely but certainly this would appear to be the most serious aspect to it we've closed off on.

[Journalist]

Can you just clarify with the charge against SMITH relating to the recruitment process, does that also relate to Sharon KELSEY or is that relating to um a separate matter?

[Alan MacSporran]

Ah no, the second charge which is the um dishonestly, ah dealing with I should say the um the probation process that, that was a the start of the sacking of KELSEY. It's alleged that he put in place a, a check if you like, on her probationary period um quite um disingenuously. The benefit to the

other person which is the first charge of misconduct in public office relates to another employee he sought to benefit by placing that employee in a senior position without going through the proper recruitment process. So in both of those cases he misused his office to achieve a result to benefit a employee and to cause a detriment to another.

[Journalist]

I just ask a question of process, where - the seven do they come here to be charged?

[Alan MacSporran]

They did by arrangement, it was by a um arrangement through their lawyers, they, they came today, they've all been processed, they've been arrested, charged formally um they were granted bail on conditions and they have been bailed to appear in May in a couple of weeks' time at the Brisbane Magistrates Court.

[Journalist]

What was their reaction {UI}?

[Alan MacSporran]

I wasn't present um I don't think anyone likes being charged with a serious criminal offence so I can only imagine what, what their reaction was.

[Journalist]

Thanks Chairman we appreciate it.

[Alan MacSporran]

Nothing else? Thanks very much.

END OF RECORDING

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SENSITIVE

10 June 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters
relating to the Crime and Corruption Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Via email: ccc-inquiry-admin@cccinqury.qld.gov.au

Dear Commissioners,

Further submissions to the Commission of Inquiry into specific matters relating to the CCC (Commission of Inquiry)

On 7 June 2022 the Crime and Corruption Commission (CCC) provided some further information to the Commission of Inquiry in response to some specific issues. The purpose of this letter is to request that information be treated by the Commission of Inquiry as an additional submission of the CCC. The specific issues and the response is set out below.

1. Your views regarding any general investigations capability gaps for police officers seconded to the Corruptions Division - specifically across areas such as administrative law, public sector management, understanding public sector frameworks, governance and policy. If the CCC considers there is a capability gap please provide information about ways to address these capability gaps including structural and governance mechanisms and mechanisms that focus on training and development for seconded officers.

2. Please indicate whether any capability gaps could be counter-balanced with an enhanced focus on 'prevention' to inform and strengthen corruption investigations. In this regard I note internal governance processes established by IBAC and NSW ICAC include investigator, legal and prevention perspectives as part of the checks and balances for corruption investigations.

3. In relation to training and developed mechanisms, what short-, medium- and long-term strategies could be effective to address any capability gaps for seconded officers at the CCC or within the broader corruption investigation sector.

Capabilities of seconded police officers and steps to address capability gaps

Police officers seconded to the Corruption Division are highly skilled investigators. However, the CCC agrees that generally sworn police investigators do not have deep knowledge across administrative law, public sector management, understanding public sector frameworks, governance and policy.

The CCC recognises that access to broader and deeper knowledge of public sector management, understanding public sector frameworks, governance and policy would help to ensure that CCC investigations were effective and have a broad focus on system impact.

The CCC agrees that, having successfully embedded the work practices outlined in the Operations Manual over the past three years, further steps will help to achieve the collaborative approach envisaged by the Operating Model. The CCC considers the following actions will ensure broader views about administrative law, public sector management, understanding public sector frameworks, governance and policy are embedded in corruption operations:

- The establishment of an additional operational management mechanism (see also below response to Q6) where the Executive Directors and Directors (at a minimum) in Corruption Division meet to review Feasibility Reports and Investigation proposals to ensure these broader perspectives have been considered and the scope and requirements of corruption investigations are appropriate. This mechanism would occur prior to ELT consideration and serve as a 'check and balance', similar to that which occurs at IBAC and NSW ICAC.
- The re-establishment of a comprehensive prevention/resilience capability to understand the environment and influence seconded police and civilian investigators who may have a background in more traditional investigative methodology. As outlined in our email response of 1 June 2022, building this capability will require additional budget.
- In the shorter term, the establishment of dedicated positions focused on evaluating the existing skill levels of seconded police officers and civilian investigators, identifying solutions to align skills with capabilities and developing responses to achieve enhanced skill levels.
- This additional capability would also focus on the implementation of an improved business-unit induction process to support seconded police transition from the QPS to the CCC. This induction should familiarise seconded police with the CCC's operating model and the principal pieces of legislation relevant to the corruption function, and include a training needs analysis to guide capability development while at the CCC. This capability would also manage the ongoing management of the operations manual and delivery of training on any changes to ensure that all staff, including seconded police officers, understand the impact of the changes on their practice. In the longer term, collaborating with external training providers to co-design training that develops administrative law, public sector management, understanding public sector frameworks, governance and policy capability across the public sector.

4. **In relation to the current positions occupied by seconded police, are there any positions, specifically at the Executive Director, Director and Senior Sergeant/A07 level which could be effectively filled by civilian investigators to bring a broader mix of skills and capabilities to the Corruption Operations team? Are there any benefits or disbenefits to adopting this approach? Are there any complexities or barriers to changing positions from being a position allocated to a seconded police officer to a civilian position, for example, any industrial complexities?**
5. **Are there any challenges experienced by the CCC in relation to the structure and the mix of positions and levels of positions for seconded police officers in the Corruption Division? Does the current structure provide sufficient flexibility to adjust the workforce to changing investigations needs?**

The CCC has control over its civilian workforce. Each vacancy presents an opportunity to re-assess the capability and classification required of the role. This assessment will consider the current and emerging work being conducted by the unit, and the existing capabilities in the team. In some instances, the establishment will change – temporarily or permanently – because of this review.

The CCC is not in total control of its seconded police workforce. To change the profile of the CCC police workforce, the CCC must negotiate with the QPS and relevant police union, which can take a considerable period of time. The CCC supports a resource model that allows the CCC to anticipate and respond to its operating environment, and to adapt its resource model to reflect its existing and emerging work and the profile of its workforce.

Notwithstanding the challenges faced by proposing to change the police establishment, the CCC agrees there are positions currently occupied by seconded police in the corruption operations business unit that could be effectively filled by civilians.

The Executive Director, Corruption Operations is currently filled by a police Superintendent. While a detective in that rank typically brings deep knowledge of investigation methodology, which is particularly useful in the context of investigations that lead to prosecution, a broader skillset which would be available in a senior executive will assist the Directors and corruption investigation teams to have a broad focus on system impact.

There are currently four Director positions in Corruption Operations; two positions are filled by Detective Inspectors and two positions are filled by civilians. The CCC suggests that this mixed approach effectively balances the skillsets of sworn officers and civilians. Further, some powers under the PPRA (eg surveillance device warrants) can only be executed by an Inspector of police.

As at January 2022, there were five Senior Sergeants, 10 Sergeants, one AO8 Manager, two AO7 Senior Investigators and six AO6 Investigators in the corruption investigative teams. In total, that comprised 15 sworn officers and nine civilian investigators. The CCC is of the view that the current balance between sworn and unsworn, and the police rank and civilian levels is reasonable, but recognises that having greater flexibility to manage the police establishment may facilitate different decisions about the capabilities (and potentially ranks) sought from the QPS. The CCC could also assess the work profile of the civilian investigators with a view to having a greater proportion of AO7 Senior Investigators, thereby creating a career development pathway for AO6 Investigators in the public sector.

6. What are the informal and formal governance groups/meetings in place within the Corruption Division at the SEO, Executive Director and Director levels?

In addition to the portfolio-level governance oversight undertaken by the ELT and the divisional leadership performed by the SEO (Corruption), there are a range of formal mechanisms in place that monitor the quality and timeliness of corruption investigations.

There is a Corruption Division Management Meeting, which is held monthly, and involves the SEO, Executive Directors (Strategy, Prevention & Legal; Operations; and Integrity Services) and the Executive Manager. That meeting focuses on management of the division at the high level. It does not deal with the progress of investigations.

There is also a Directors' meeting, which occurs weekly. That meeting is chaired by the Executive Director Corruption Operations (Superintendent position) and attended by the Directors (team leaders for each investigation team), Director Corruption Legal and Executive Manager. The discussion is focused on operational matters, including current status, challenges faced, resourcing implications (including legal resourcing). We consider there is value in bringing a broader range of voices to this meeting to enhance the focus on prevention and system impact.

Yours sincerely

A solid black rectangular box used to redact the signature of Bruce Barbour.

Bruce Barbour
Acting Chairperson

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SENSITIVE

17 June 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Dear Commissioners,

RE: Request for additional information for the Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry).

I refer to your letter dated 13 June 2022 in which you requested additional information from the Crime and Corruption Commission (CCC).

Arrangements for seconded police

i) Queensland Police Service establishment

Under the *Crime and Corruption Act 2001* the CCC CEO may arrange with the CEO of another department for the services of officers to be made available to the CCC.¹ To facilitate the secondment of police officers to the CCC and their return to the QPS at the end of the secondment, the CCC CEO and QPS Commissioner of Police established the QPS-CCC MOU and CCC Secondment of Police Officers to the Crime and Corruption Commission Policy (QPS Secondment Policy). These arrangements recognise the Commissioner of Police is responsible for the efficient and proper administration, management and functioning of the Police Service, including being responsible for the control of the human and financial resources of the QPS.² The efficient deployment of police officers seconded to the CCC is the joint responsibility of the CEO and most senior officer seconded to the CCC, currently the Chief Superintendent.³

¹ Section 255 (1) of the *Crime and Corruption Act 2001*,

² Section 4.8 of the *Police Service Administration Act 1990*.

³ Section 255 (4) of the *Crime and Corruption Act 2001*.

The police officers seconded to the CCC remain part of the QPS Full Time Equivalent (FTE) cap and continue to be strongly connected to the QPS. This arrangement is different to those enabling secondments in the general public sector. Public sector secondees typically take a leave of absence from their home agency while they are seconded into the host agency and are under no influence or control of their home agency.

Police officers seconded to the CCC under the EOI model relinquish their substantive positions and, when returning to the QPS, are considered as 'surplus'. Their return to the QPS at the end of their secondment to the CCC requires the officer to be placed into a vacant position that is consistent with the officer's skillset and in a geographically suitable location (possible for non-Commissioned Officers only under the Enterprise Bargaining Agreement that provides a mechanism for management facilitated lateral transfer). Police officers seconded to the CCC can, at any time, apply for a lateral transfer or promotion on merit.

From a QPS organisational structure perspective, the CCC Police Group sits within the Crime, Counter Terrorism and Specialist Operations (CCTSO) Portfolio. In addition to the CCC Police Group, the CCTSO includes the Crime and Intelligence Command; Domestic, Family Violence and Vulnerable Persons Command; Ethical Standards Command; and Security and Counter-Terrorism Command. While seconded to the CCC, the most senior officer seconded to the CCC – the Chief Superintendent – remains a member of the QPS Executive Leadership Team (QPS ELT).

The profile of the current establishment is:

Chief Superintendent	1
Superintendent	2
Inspector	5
Senior Sergeant	13
Sergeant	30
Constable / Senior Constable	34
Total	85 ⁴

ii) Funding, industrial arrangements and payroll process

Each year, the CCC CEO develops the budget for the Commission and submits this to the Minister, being the Attorney-General. Once approved by the Minister and Treasurer, the budget is entered into the whole of government Tridata reporting system, managed by Treasury, that includes five years of 'Forward Estimates' made up of 'base budgets' plus 'limited-life funding' (special appropriations) plus 'EB adjustments' (EBA increase to cover increased wage costs under various employment categories) less any reductions. The CCC receives its budget funding from DJAG quarterly in advance.

The funding for the 77 QPS officers is part of the CCC ongoing base budget. In 2020-21 the budget for the police establishment was \$12.842M. This includes base wages, allowances, standard overtime and oncosts including superannuation, long service leave and workers compensation insurance. The costs of additional overtime and travel allowances incurred because of CCC operational activity are not paid by the QPS. The CCC funds any shortfall from its other base funding allocation. In 2019-20 and 2020-21 the CCC funded an additional \$91,631 and \$42,556 in police overtime respectively.

⁴ These figures include the one sergeant and seven constables / senior constables which comprise the QPS funded Physical Surveillance Unit team.

The 77 police officers remain on the QPS payroll and are paid under the Queensland Police Service Certified Agreement 2019 and Queensland Police Service Employees Award – State 2016.

The liaison between the CCC and QPS payroll is coordinated by the Strategy & Performance Office supporting the Chief Superintendent (General Manager Operations Support). The Senior Sergeant in the Strategy & Performance Office advises QPS payroll of the staff establishment for the fortnight (including relieving arrangements). Based on this information, the QPS completes its payroll and raises an invoice for police officer employee costs, which it forwards to the CCC. The Senior Sergeant reconciles the invoice received from the QPS and, once confirmed, advises CCC Finance to pay the QPS invoice.

iii) Numbers of police officers who apply for CCC positions under the EOI model

The MOU between the QPS and CCC that established the current EOI and Partnership models was signed on 24 September 2020. The table below provides the number of applications for positions advertised prior to and following the implementation of the EOI model.

Pre implementation of the EOI model	Post implementation of EOI model
Detective Senior Sergeant July 2018 – 9 applications	Detective Senior Sergeant May 2022 – 3 applications May 2021 – 11 applications Nov 2020 – 10 applicants
Detective Sergeant Jan 2019 – 5 applications Mar 2018 – 11 applications	Detective Sergeant May 2022 – 10 applicants Oct 2021 – 11 applicants Nov 2020 – 18 applicants
Sergeant – Witness Protection May 2019 – 18 applications	Sergeant – Witness Protection Jan 2021 – 16 applications
Senior Constable – Witness Protection Nov 2019 – 15 applications Mar 2019 – 16 applications	Senior Constable – Witness Protection May 2022 – 8 applications Jan 2021 – 28 applications

iv) **Changing the profile of the CCC police establishment**

Because police officers seconded to the CCC remain part of the QPS establishment, any change to that establishment requires negotiation with the QPS. This negotiation occurs at the senior executive level between the CCC CEO and QPS Deputy Commissioner responsible for the CCC Police Group, at the operational level with respect to reintegration and lateral transfer arrangements, and with corporate business units including Human Resources and Finance. The CCC also engages with the Queensland Police Union where necessary.

The timing of when the CCC seeks to change the profile of the police establishment is significant. When the change occurs at the natural conclusion of the secondment period, the impact is minimised by processes embedded in the QPS Secondment Policy that seek to manage the officer's reintegration to the QPS. The CCC is then in a position to review its requirements, and either recruit a replacement of the same rank or negotiate with the QPS for a position of a different rank to be included in the QPS CCC Police Group establishment. Changes to ranks have previously occurred but have taken around six months to negotiate. Recent negotiations have seen improvements in this timeframe.

When the CCC seeks to make a change during the term of a secondment, the impact is more significant. Because the officer is surplus to QPS requirements, the CCC understands the premature return of a police officer means the QPS has to find the officer a position or hold the position above establishment for a period of time until a suitable vacancy arises (exceeding its FTE cap and budget).

If the CCC seeks to increase the number of police officers at the CCC, this can be achieved by the QPS directly funding additional officers, as is currently occurring with the provision of eight physical surveillance officers seconded to the CCC, or via a short secondment arrangement for a joint-investigation.⁵

If the CCC seeks to change its establishment in a way that civilianises a police position, the impact of that change is the return of a police officer to the QPS and establishment of a non-police role at the CCC. The CCC does not come within the whole-of-government public service FTE cap, so the return of positions to the QPS does not have an impact on the FTE for either organisation.

During consultations to prepare this response, the Queensland Police Union recognised that it is the CCC's business to determine the most appropriate establishment for its purpose, but also indicated that it will consult more broadly to determine whether there are industrial issues that need to be considered.

The CCC is of the view that the current architecture, comprising the MOU and QPS Secondment Policy, is working quite well and is an improvement on historical approaches. To enable the CCC to more flexibly adjust the workforce to respond to emerging trends or changes in demand or types of investigations being conducted, the CCC would support the following amendments:

- the QPS CCC Police Group establishment be an FTE cap defined by budget not number of positions or rank.
- the MOU and QPS Secondment Policy explicitly recognise that determining the CCC's workforce is a matter for the CCC and the QPS role as a service provider of human resource capabilities.
- references to particular positions and ranks in the QPS Secondment Policy are removed.

⁵ Section 255 of the *Crime and Corruption Act 2001*.

Statistical information

- v) **Statistical information for the previous five financial years in relation to matters referred to the CCC, matters investigated by the CCC and matters resulting in criminal charges being laid broken down to show matters involving police, local councils and other units of public administration.**

The statistical information requested is provided in the following table. For clarity:

- “Complaints received” is the number of complaints of corrupt conduct (may involve more than one allegation of corrupt conduct; does not include matters received by the CCC that do not meet the definition of corrupt conduct) received by the CCC
- “CCC investigations” is the number of investigations commenced by the CCC
- “Matters resulting in charges” is the number of investigations where at least one charge was laid.

To assist interpretation, in 2016-17, the CCC received 3104 complaints of corrupt conduct. Sixty-five per cent of those complaints related to the QPS. That year the CCC commenced 72 investigations. Most (n=35, 49%) of those investigations related to local government, with the remainder spread equally between the QPS (n=19, 26%) and public sector (n=18, 25%). Of the 19 investigations relating to the QPS, at least one charge was laid in nine matters (47% of CCC investigations involving the QPS).

With respect to trends across the period, the CCC makes the following observations. The number of CCC investigations has reduced over the five-year period. Over that time, the CCC has focused on the most serious and complex matters, on improving the timeliness in of its investigations and ensuring that its investigations deliver significant outcomes.⁶ The CCC’s Areas of Focus also influence the investigations undertaken and can contribute to variation over time. The proportion of CCC investigations that result in criminal charges is relatively and consistently low (ranging from eight to 31 percent of CCC investigations).

⁶ An outcome resulting in a criminal charge, a report to the Director of Public Prosecutions, a recommendation for disciplinary action, a prevention recommendation, the release of a public report, or referral of a matter to a Unit of Public Administration for further investigation.

See performance information on page 22 of the CCC Annual Report:

<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/CCC-Annual-Report-2020-21.pdf>

	2016/17	%	2017/18	%	2018/19	%	2019/20	%	2020/21	%	2021/22 to 31 May	%
Complaints received	3104	100	3180	100	3118	100	3328	100	3499	100	3585	100
Queensland Police Service	2020	65	1807	57	1497	48	1399	42	1566	45	1837	51
Local government	297	10	346	11	442	14	438	13	341	10	279	8
Public sector	787	25	1027	32	1179	38	1491	45	1592	45	1469	41
CCC Investigations	72	100	77	100	51	100	29	100	26	100	27	100
Queensland Police Service	19	26	11	14	8	16	10	34	6	23	4	15
Local government	35	49	37	48	27	53	11	38	9	35	8	30
Public sector	18	25	29	38	16	31	8	28	11	42	15	56
Matters resulting in charges	14	19	17	22	10	20	9	31	2	8	3	11
Queensland Police Service	9	47	3	27	1	13	1	10	0	0	3	8
Local government	3	9	6	16	4	15	5	45	1	11	0	0
Public sector	2	11	8	28	5	31	3	38	1	9	0	0

Notes:

The CCC records corruption data in its COMPASS database. COMPASS is a live database which explains why there may be small discrepancies between reported data at different points in time as the data is cleansed and settles.

Charges can occur at multiple points across the lifecycle of an investigation. Charges made may relate to a matter commenced in a previous year.

- vi) **Statistical information identifying the number of matters that do not proceed from feasibility to delivery stage, the number of matters that do proceed from feasibility to delivery and the number of matters that then result in criminal charges being laid.**

The CCC is collating this information, which is occurring via a manual process, and we envisage being in a position to provide this information by Tuesday 21 June 2022.

Yours sincerely



Bruce Barbour
Acting Chairperson

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Our Reference: 22/095808
Contact Officer: Jen O'Farrell

SENSITIVE

20 June 2022

The Honourable Tony Fitzgerald AC QC
The Honourable Alan Wilson QC
Commission of Inquiry into specific matters relating to the Crime and Corruption
Commission
State Law Building
50 Ann Street Brisbane
GPO Box 149
Brisbane QLD 4001

Dear Commissioners,

RE: Request for additional information for the Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (Commission of Inquiry).

I refer to your letter dated 13 June 2022 in which you requested additional information from the Crime and Corruption Commission (CCC). Further to our response of 17 June 2022, the CCC provides the following additional information.

Statistical information

i) Statistical information identifying the number of matters that do not proceed from feasibility to delivery stage, the number of matters that do proceed from feasibility to delivery and the number of matters that then result in criminal charges being laid.

The Operating Model and Operations Manual chapter MM01 *Matter management, planning and conduct* became fully operational in December 2019. It should be noted that not all matters require a feasibility assessment. In instances where additional information is not required to determine the investigation is required or justified, and is technically feasible and cost-effective, the matter will progress from the assessment to delivery phase (with the appropriate approvals).

Since the introduction of MM01, the CCC has commenced 67 corruption investigations. Matters progressed directly to delivery in 25 matters, a feasibility assessment was conducted in 34 matters and eight matters are actively being considered. Of the 34 matters where a feasibility assessment was conducted, 26

progressed to delivery, the CCC took no further action in six matters and referred two matters to another agency to deal with. In instances where a feasibility assessment was conducted, the CCC determined that under one quarter of those matters did not warrant CCC investigation ($n = 8$; 24%).

With respect to the six matters where the CCC decided to take no further action, the CCC made this decision because the:

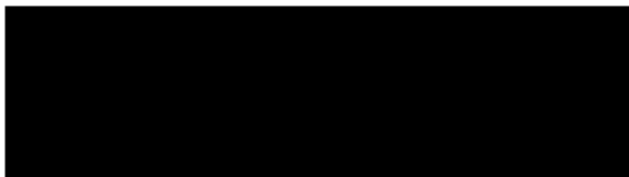
1. investigation was not a justifiable use of the CCC's resources (the CCC disseminated information obtained during the feasibility assessment to the UPA).
2. allegations did not raise a reasonable suspicion of corrupt conduct (the CCC disseminated information obtained during the feasibility assessment to the UPA).
3. investigation was not a justifiable use of the CCC's resources (the matter was quite aged and records were no longer accessible).
4. allegation was not substantiated.
5. investigation was not a justifiable use of the CCC's resources.
6. allegations were not capable of substantiation (the CCC advised the UPA about issues it encountered conducting the feasibility assessment).

With respect to the two matters referred to another agency, the CCC:

1. referred the allegations to a UPA to deal with and made recommendations about the actions the UPA might consider taking. The CCC did not monitor how the UPA dealt with the matter.
2. referred the allegations to (1) the Office of the Independent Assessor (OIA) and (2) the UPA to deal with. The CCC did not monitor how the UPA dealt with the matter.

Of the 67 corruption investigations commenced, 24 remain under active investigation. The remaining 43 investigations are either entirely closed ($n = 21$) or the investigation stage has closed ($n = 22$). This means that an outcome of 'criminal charge' was possible in 43 investigations. Of those 43 investigations, three investigations resulted in criminal charges (a feasibility assessment was conducted in one of those matters).

Yours sincerely,

A large black rectangular redaction box covering the signature area.

Bruce Barbour
Acting Chairperson